

Towards The Development of a Marital Property Regime for Nigeria: A Case for Socio-Legal Research for Gender Justice

O. M. Adekile

*Department of Private & Property Law
University of Lagos, Akoka*

Abstract

This work interrogates research needs for the development of a marital property rights in Nigeria and raises the question whether there shouldn't be a move into socio-legal investigation of social norms through family market research with a view for law to internalise family realities. It is an effort to stimulate a different approach to imperative legal reform. It suggests that doctrinal legal research may not be adequate to provide an acceptable inclusive marital property regime. Socio-legal research might help Nigerian law reflect the de facto financial/property arrangements in marriage. The objective is to move questions and concerns of property rights from doctrinal content analysis into quantitative empirical evaluation. It argues that social dialogue and family market research into the developmental implications of the absence of a cohesive property regime in Nigeria and the form of legal intervention in a culturally and religiously diversified society is needed. The research finds while culture and customary laws recognise separate property rights and no spousal interests, modern legal systems including human rights regimes and national laws stipulate equality of rights in marriage. Without empirical social-legal research which documents marriage and social realities through family market research there will continue to be a creation of gap between the law in the books and the law in practice. The paper concludes that culture and gendered definitions of the division of marital work are limiting factors to the scope of property rights, but the dynamism of culture is a call for its constant interrogation.

Key words: *law, marital property, culture, socio-legal, family market, gender justice*

1.0 Introduction

Nigeria's scattered principles on division of property on divorce are a mix of local laws and international commitments. At customary level, it continues to reinforce traditional family values despite changed marriage/social practices. At statutory level, the blanket provisions of Married Women Property Act 1882 and Married Women Property Laws in the various parts of the country institute a discretionary approach to questions of property rights of spouses.¹ Nigeria's discretionary

justice mandate has also produced ill- defined and at times subjective marital property rights.

Without direct and comprehensive legislation as in other climes,² customary laws and traditional property rights as well as religious views, permeate the quest to divide spousal property on divorce in Nigeria. This does not often reflect family realities and social change. Finding appropriate rules of redistribution is a critical exercise that cannot be treated lightly: such rules must be founded on proper ideological, cultural and social considerations. This is pivotal to the maintenance of family stability and social normalcy.

This work raises the question whether it might not be necessary to develop a socio-legal approach in Nigeria. The objective is therefore to inquire into the research focus of the template for legal reform, and shift focus from traditional doctrinal content analysis where there has been extensive work already.³

However the pertinent issue informing this work is the timidity of legal research in interrogating some fundamental assumptions that impact defining marital property rights. These must be addressed in order to inform legal reform that will internalise the current family ideology and practices in defining marital rules for redistribution of property on divorce.⁴ Accordingly, this paper is not a content analysis of existing laws and decisions but, calls for questioning and interrogating, by socio-legal family market research, into some fundamental assumptions about marriage, property, culture and social values. It is hoped that this would help future development of the ideal template for property redistribution on divorce in Nigeria.

2.0 Nature and Content of Marital Property Regime

Marital/matrimonial property has been defined as property acquired during the marriage other than gifts or inherited property given to only one of the spouses.⁵ Those things which are acquired by one or other or both of the parties, with the intention that there should be continuing provision for them and their children during their joint lives, and used for the benefit of the family as a whole.⁶ Such property is a property acquired by the parties after the marriage either jointly or in their sole names. A marital property system is a legal system regulating the marital property relationship between spouses. Its contents include the establishment, alteration and termination of all kinds of marital property systems, the owning, managing, using, profiting from and disposing of prenuptial and postnuptial property, the bearing of family expenses, the discharge of family

debts, as well as reckoning or distribution of marital property on dissolution of marriage.⁷

There are four common types of marital property regimes: separation of property, whereby all property acquired by the spouses before they marry, as well as all property acquired during the marriage, remain the separate property of the person who bought it; partial community of property, by which assets acquired prior to marriage are regarded as the separate property of the person who bought them, and assets and income acquired after marriage are regarded as joint property of the couple; full community of property whereby all assets and income brought into the marriage, as well as those acquired during the marriage, become the joint property of the couple; deferred full or partial community of property, under which the rules of partial or full community of property apply at the time of the marriage's dissolution.⁸ Prior to this time separation of property applies to the couple.

Each marital property regime has clear implications for property rights and the management of property within and after marriage. Countries with full community of property operate a legal presumption of joint ownership of assets during marriage and in practice, joint titling of immovable property. In the countries with partial community of property, there is also the presumption of joint ownership of property same occurs. There is no *de facto* mandatory joint titling in any of the economies as regards separation of property.

The legal regime governing marital property rights in Nigeria borrows from customary laws, domestic legislation and international human right laws. Customary marriages are governed by customary laws of the various communities. Within these customary laws there is uniformity and convergence on the rights of spouses to the effect that there is no joint interest in marital assets, and any claim to an interest must be put to the strictest proof.⁹ For statutory marriages, by the combination of the provisions of the Matrimonial Causes Act 2014,¹⁰ the Married Women Property Act 1882¹¹ (MWPA), the Married Women Property Laws of the states in the Western part of Nigeria¹² and other laws, the courts are to exercise discretion on the settlement of property disputes. Under section 17 of the MWPA in any question between the husband and wife as to title to or possession of property, either party may apply to the court and the court may make such order with respect to the property in dispute as he thinks fit. The exercise of this judicial discretion has often been used to validate entrenched cultural and gender unresponsive strict property laws. Consistently judicial

discretion has validated separate property rights with strict property law principles.¹³ Accordingly, whether customary, Islamic or statutory marriage, the default regime is separate property regime, governed by strict property law principles.¹⁴ Such a regime ensures that title resides legally in the person named on the title deed. Consequently, couples are not treated as joint owners of marital assets such that there can be equal division of property on its dissolution.¹⁵ Any claim for beneficial interest in property by any of the ex-spouses must therefore meet with the requirement of strict proof of that ownership or interest by virtue of contributions to the asset in dispute. This legalistic property law perspective does not properly conceptualise the property interests of the parties. It also creates discrepancy between the expectation of women and men alike.¹⁶

Furthermore Nigeria's commitment to human rights standards has aligned it to global norms. Within its commitments to several human rights treaties, it has accepted, at least in principle, that there is equal access and rights attached to marital property during marriage and at its dissolution.¹⁷ The equality perspective, derived from international instruments¹⁸ would not necessarily give itself to exactitude in interpretation unless gender mainstreaming is done. Therefore, the interpretation of equality raises its own jurisprudence. One fundamental question for Nigeria and other nations in Africa is this: why should state actors in a country adopt standards that do not reflect social ideology and values? This question is pertinent in the efforts of law to force change of cultural values. In some aspects, especially private sphere, change that has empirical validation and basis will bear more fruits because it will be a change from inside rather than change that is external. To impose these values against patriarchal norms without socio-legal evaluation without more is usually difficult to entrench in highly patriarchal societies like Nigeria. Socio-legal research has informed legislation in other climes. Nigeria must develop its needed reform not merely from legislative plagiarism but from informed imperative. In fact it might be found that there is really no need for a change from the separate property regime as it stands today. This would then be gender justice. This work suggests an imperative for socio-legal family market research in order to capture the reasonable expectations of the parties towards gender justice.

3.0 Gender Justice

Research results from other climes into the economic consequences of divorce on men and women often reveal that following divorce women who are home makers/ primary child carer suffer a financial downturn while their husbands do not. For instance Weitzman's study of America¹⁹ found that men gain a 42%

improvement while women suffer a 73% decline. Bergman's research found that women do an average of 28.1 hours unpaid work per week in the home and men 9.2 hours per week.²⁰ In England, 40% of divorced women over 65 years were so poor that they qualified for income support from the state in 2003 compared with 1% of married women and 23 % of divorced men in the same group.²¹ According to the United Nations, women perform 66 percent of the world's work, produce 50 percent of the food, but earn 10 per cent of the income and own 1 per cent of the property.²² Marriage failure therefore seems disproportionately adverse to women's economic interest and social status.

With such staggering statistical differences in developed societies like the United States and England, the need for empirical socio-legal interrogation in Nigeria towards finding appropriate legal framework for redistribution of marital property rights is critical. This is because marital issues, not usually canvassed in development planning has economic implications on women and development. Undefined marital property rights result in gender injustice.

The problem is that human rights standards and social norms appear to be at a crossroad. Nwogugu aptly captured the scenario:

In Nigeria the realities of family property have changed substantially while the applicable law has remained the same. In the traditional Nigerian society, the husband was the breadwinner and provided not only the matrimonial home but also the resources for the upkeep of the family. The wife was in the main, the home keeper. With social changes the position has changed, particularly for the growing middle class. Wives not only keep the home but are, in many cases, employed, thereby making substantial contributions to the family income including the construction and maintenance of the matrimonial home, which is exclusively in the man's name. On the dissolution of the marriage the wife is jettisoned from the home and denied any interest therein.²³

Many of the problems that women encounter arise from their entrapment within a socio-cultural and economic milieu which makes them vulnerable to abuses which are neither exclusively political or solely caused by states.²⁴ Nigeria's gender neutral and socially unresponsive marital property system contributes to women's economic marginalisation and disempowerment. Empowerment is the expansion in people's ability to make strategic life choices in a context where this ability was previously denied to them, meaning they have agency, choices and resources.²⁵ Women's economic empowerment cannot happen without addressing

both the ‘money economy’ as it were, and the ‘care economy’. Recognition of women’s unpaid work to sustain households and communities is an integral part of women’s economic empowerment. This work argues that economic empowerment must include influencing decision making which understands domestic work as ‘productive work’ and gives room for proper valuation of domestic work. Giving voice to men and women to determine their reasonable expectations in family life is pertinent to socially responsive marital property regime. The question is, what are the challenges towards achieving this inclusiveness?

4.0 A Case for Interrogating Culture as Determinant of Social Values

One major constraint in this field of property rights is culture. Accordingly, this empirical socio-legal research should interrogate culture, as a key determinant of societal values and norms. When issues of law interrogating certain inequities in the family setting are raised one typical response in a Nigerian/ African society is that of cultural constraint or limitation. On this premise, it is thought that culture is autonomous, invariable and constant. Culture is part of the fabric of *every* society. It shapes “the way things are done” and our understanding of why this should be so.²⁶ Culture is the whole complex of distinctive spiritual, material, intellectual and emotional features that characterise a society or a social group. It includes modes of life, the fundamental rights of the human being, value systems, traditions and beliefs.”²⁷ When it becomes customary law, it is said to be a mirror of acceptable usage. Cultural value system, traditions and beliefs dictate the property rights of men and women with implications on the marital property system. Men and women alike are confined within cultural values that organise gender roles/ identities. These *inter alia* define how people relate in marriage. Cultural meanings given to male and female identities dictate what property or social rights can be exhibited in family settings. When the union disintegrates ‘money economy’ takes precedence over ‘care economy’. This does not recognise gender role delineation neither does it protect individual interests in most cases.

Culture gives people a gender identity. Gender identity stems from norms of behaviour imposed on women and men by culture and religion: this identity demands that women perform certain roles in society: Cultural interpretation of gender defines men and women’s responsibilities in the home and thus implicitly shape their development prospects. This is a human rights and development issue that is critical. Cultural perceptions of women as reproductive partners and home keepers and men, as productive partners are however not changing despite changes in family patterns, which change is a continuum. It is established that

family realities, finances and property interests are changing and variable in today's technologically driven age. The variables of this change in family patterns include both husband and wife working with the wife combining home keeping; the wife alone working or the wife earning more income than the man or vice versa; the parties may be in a monogamous or polygamous marriages or may just be cohabitating. In all of these variables, socio- cultural perceptions of the status of the parties to a marriage has experienced little change. This has continued to dictate the intra-marriage property relations.

The challenge of law in developing appropriate rules on property regime or assimilating global standards directly into domestic legal framework and judicial jurisprudence in Nigeria is that these issues strike at the heart of patriarchy across cultures. However this work argues that any attempt of law to enthrone a change of jurisprudence to the property rights of the parties needs empirical investigation, which must be internalised by all stakeholders. While legal jurisprudence recognises the changing values, entrenched patriarchal rules are usually accommodating of the individuality of the parties and the choices that they make. One move of jurisprudence for change is the symbiotic relationship/ partnership approach depicted as follows:

Men can only earn their incomes and accumulate capital by virtue of the division of labour between themselves and their wives. The wife spends her youth and early mobile years in bearing and rearing children and in tending the home; the husband is thus freed for his economic activities. Unless the wife plays her part the husband cannot play his. The cock bird can feather its nest precisely because he is not required to spend most of his time in sitting on it. In such a state of affairs a system of separation of goods between married people is singularly adapted to injustice. Community of goods or at the least in the acquisitions and accumulations is far more appropriate. And as one leaves the sphere of those who enjoy investment property to those whose property largely consist of the home and its contents, a regime of separation is utterly remote from social needs.²⁸

Changing realities, depicted in such statements like the above, demand a questioning of some cultural patriarchal and fundamental assumptions in order to give voice to the social actors. With the opening up of market economy, material and cultural lives have been enhanced continuously, the amount and type of marital property has been increased, third party interests are frequently in conflict with spousal rights and property relationships have become more complex.²⁹ To

continue to entrench group interest against individuality is singularly adapted to injustice. Law must respond to this in an engaging manner.

5.0 A Call for Socio-Legal/Family Market Research

Bearing the above issues in mind this work aims to draw attention to a different approach, a socio-legal approach in the development of marital property regime that will be properly internalised in Nigeria. Such approach, it is hoped, would assimilate the reasonable expectations of the parties to a marriage so as to develop an indigenous but socially up to date marital property system. To properly situate this call, it is desirable to briefly describe legal research. A typical legal research draws on legal literature for reflective, doctrinal and philosophical analysis. Legal research is typically autonomous, relying on its own contents to make deductions and interpret human behavioural patterns with such philosophical analysis, that it develops. This approach has been consistently done by scholars in family law to establish the research needs in this space. Unfortunately, the content analysis approach has not helped much, necessitating this call for a different approach.

Socio-legal research is the use of empirical social science disciplines, the way they relate and understand legal phenomenon and the role of law in the society, on the basis of both multidisciplinary and interdisciplinary work.³⁰ Socio-legal research will give teeth to a more rounded picture as it is a more scientific understanding of law, i.e. generation of knowledge by empirical investigation.³¹ Data would be needed to provide unparalleled motivations behind human behaviour. In generating statistical information, it is hoped that this would provoke cultural acceptance of social realities. Using the external approach to legal research will peel the onions from inside out exposing the aroma of justice or the odour of injustice.

By this approach researchers would interrogate social norms, cultural values, property practices and group expectations, value domestic work and family realities. Research would also examine the linkage between marital failure and socio- economic development of the parties in Nigeria and for Nigerians.

Can this call for interrogating culture and social norms be justified? Essentially it can because culture is not static and homogenous but dynamic and heterogeneous.³² Consequently cultural gender roles are not homogeneous, they are not immune to social realities and neither should culture be autonomous. Cultural dynamism is a call for its regular interrogation. Customary gender roles, which inform property rights among other things, must therefore be interrogated.

But what fears exist in this quest? Development experts often caution about legal conflict with cultural values. Threading on this part therefore demands empirical research into the experiences and expectations of men and women in order to steer the part of effective legal reform. Thus questions such as what is the acceptable usage of culture in this situation must be addressed.

Acceptability had traditionally been the prerogative of a social class. Due to the non-inclusiveness of customary legal systems, the emergent laws are truly not 'acceptable' being interpreted for all stakeholders.³³ The unmet research needs of today are to determine what is the 'mirror of acceptable usage'? Acceptable, in this context, would connote the entire fabric of society. Culture, social values and norms should no longer be voiced by any particular gender but the fabric of society. Accordingly, at this point in legal development, there is a need to interrogate that 'mirror of acceptable usage' taking account of the historical exclusion of women from defining culture. Perhaps it might even be possible for family law scholarship to develop the jurisprudence that human rights and gender analysis can comfortably coexist with religion and culture without friction. Simply replicating ideas in industrialised nations on equal rights may continue to be choked by the string of culture until empirical studies informs such move of change by identifying what has been internalised in this generation and what are society's reasonable expectations.

The present call for engaging research into the cultural values of Nigerians is not in isolation. The Committee on the Elimination of Discrimination against Women (CEDAW) adopted General Recommendation on Article 16 of CEDAW on the Economic Consequences of Marriage, Family Relations and Dissolution. The recommendation provides for elimination of discrimination against women at inception of marriage, during marriage and at dissolution by death or divorce. Other human rights treaty bodies also recognise women's entitlement within the family.³⁴ According to CEDAW family market research has found that family structures have debilitating implications on the property rights of women. Hitherto CEDAW had adopted other General Recommendations on Article 16.³⁵ The CEDAW Committee has consistently concluded that elimination of discrimination against women requires both provisions for formal and substantive equality.³⁶ Economic dimensions of family relations need a substantive equality approach which must address such matters as the impact of gender stereotypes and gender roles on women's economic capacity.

CEDAW has also recommended that States must strive to have unified family; there must be individual choice as to application of religion, or ethnic, or civil laws at any stage of the relationship; all personal laws are to embody fundamental principle of equality and to be fully harmonised with the convention provisions. Furthermore, CEDAW recommended that the legal recognition of non-monetary contributions during marriage in the division of property on divorce or death be strengthened and that head of household and related values that diminish women's legal capacity and autonomy should be interrogated. Unfortunately, there seems to be no synergy between global legislative change and entrenched cultural values.

What is the family market research about? The family market research is a socio-legal inquiry into social norms, patterns and expectations that should tease out individual choice in family relations. This call for socio-legal investigation will be a culmination of years of content analysis and an imperative for social justice.

6.0 Conclusion and Recommendations

Marriage forms show that parties form a real partnership in respect of their different but equal complementary contributions to the welfare of the family. The absence of a cohesive property regime in Nigeria and the form of legal intervention in a culturally and religiously diversified society is critical and calls for deep interrogation of marriage practices and ideologies towards a cultural reformation. The attempt by human rights law to promote change may be oiled if empirical socio-legal study is undertaken as foundation for any reform. The socio-legal research will be a family market field research which must involve a multidisciplinary approach. This work suggests that gender justice includes a proper valuation of family realities and individual choices and reasonable expectations.

The ideas in this paper are salient but critical towards overall national development. The concept of family property which operates in a society reflects its social and cultural values. In Nigeria, the realities of family property have changed substantially: this changes demand that scholarship must interrogate the change towards the development of an ideal property regime. Social justice that will promote individual, group and national development demands that this should be done. As catalyst for development, family market socio-legal research which interrogates the extant value system of the society, social change in marriage, the extant culture, reasonable expectations in marriage is needed. Reservations on the ground of culture should no longer be accepted on face value as escape routes for none conformity to global human rights standards. The acceptability norm of

culture demands that it be inclusive, not exclusive. Accordingly, this work recommends as follows:

1. There should be socio-legal family market research which would provide conceptual clarity and specificity about the social norms, concepts and values towards the emergence of a marital property system in Nigeria.
2. Nigeria should enact a law to regulate marital property rights.

ENDNOTES

¹ Section 17 MWPA 1882 applicable in the Eastern and Northern parts of Nigeria and section 17 MWPLs of states in the Western part of the country.

² Most countries have direct legislation on marital property disputes resolution: for example even Ghana has constitutional provisions on this. See Ghana Constitution 1992, Article 22; England's Matrimonial Homes Act 1967.

³ Lord Nicholls in *Miller v Miller and Macfarlane v Macfarlane* [2006] 2 FLC 213; [2006] UKHL 24 201.

⁴ The research is limited to property division on divorce which alters the interests of the parties in property and is usually final. It does not cover other property orders like maintenance of spouse or children nor inheritance rights of women. In this respects see Adekile, O., (2007) "Property Rights of Women as Impediments of Full Realization of Economic and Social Rights" *UNILAG Journal of Human Rights Law* 1: pp. 19-27.

⁵ Above note 3.

⁶ Ibid.

⁷ Wei, C. (2006). "Recent Developments in the Marital Property System of the People's Republic of China" *International Survey of Family Law* (pp. 145-148) Bristol: Jordan Publishing Ltd.; Mc Crudden, C. "Legal Research and Social Sciences" *Law Quarterly Review*, 632-648.; Legal Research and the Social Sciences (2006). *Law Quarterly Review* 122: 632-637.

⁸ At the point of divorce or upon the demise of either party.

⁹ *Adaku v Edward Nwosu* [1992] 2. F.N.R. 78.

¹⁰ Matrimonial Causes Act cap M7 LFN 2004, section 72 of which provides that in proceedings under the Act the court may order either party to make for the benefit of all or any of the parties and children of the marriage settlement of property as the court considers just and equitable in the circumstances of the case. A statute of general application applicable to some states of the federation which are yet to enact their own MWPL.

¹² For example MWPL Lagos State, Laws of Lagos State 2003.

¹³ See *Nwanya v Nwanya* [1987] 5 NWLR (pt. 241) 373; *Mohammed Idrisu v Obafemi* [2007] 11 NWLR (pt. 884) 369; *Essien v Essien* [2009] 9 NWLR (pt. 1146) 306; *Egunjobi v Egunjobi* [1976] 2 FNR 78.

- ¹⁴ By strict property law the title to a property is placed in the legal owner as reflected in the title deeds.
- ¹⁵ The literature on this is rich and extensive see Ayua, M., “Land and Property Rights of Women in Northern States of Nigeria” in *Women and Law in West Africa: Situational Analysis of Some Key Legal Issues affecting Women* (Kuenyehia, A, ed. 1998) pp. 237, 239. Adekile, O., (2014) “Towards a Socio-Legal Approach to the Protection of Widows in Nigeria” *Journal of Public Law*, University of Lagos; Nwogugu, E. I., *What Next in Nigerian Family Law?* (NIALS, Lagos, 2006) p 26.
- ¹⁶ Occasionally resulting trust is used as the basis of reallocation of property rights. See Adekile, Property Rights above note 4.
- ¹⁷ See section 12 Constitution of the Federal Republic of Nigeria (CFRN) and the treaties converging from it including, Article 7(d) Protocol to the Convention on the Rights of Women in Africa; Articles 1, 2, 5 and 16 of CEDAW; the Universal Declaration of Human Rights 1948; Article 24 of the International Covenant on Economic, Social and Cultural Rights 1966.
- ¹⁸ See for example, article 15 and 16 CEDAW and article 7 (d) Maputo Protocol,¹⁸
- ¹⁹ Weitzman, L., *The Divorce Revolution*, (New York: The Free Press, 1985).
- ²⁰ Bergman, B., *The Economic Emergence of Women*, (New York: Basic Books, 1986).
- ²¹ Herrin, J. (2007) *Family Law*, England: Person Education Ltd; cf. Stationery Office (2000) *Social Inequalities* (London: The Stationery Office).
- ²² United Nations, *The Global Gender Gap Report 2016* www.weforum.org last accessed 20 Oct. 2016.
- ²³ Nwogugu above note 15.
- ²⁴ Schneider, E., (1992) “The Violence of Privacy” *Connecticut Law Review* 23, 975 and Bunch, C. (1990) “Women’s Rights as Human Rights: Toward a Revision of Human Rights,” 12 *Human Rights Quarterly* p 487.
- ²⁵ Kabeer, N. Resources, agency, achievements: Reflections on the measurement of women’s empowerment, in *Discussing Women’s Empowerment- Theory and Practice*. In A. Sisask (Ed.) Sida Studies (No.3, pp. 17-59). Stockholm: Swedish International Development Agency.
- ²⁶ It is recognised that culture has many perspectives: it often represents intellectual and creative products, including literature, music, drama, and painting; culture” is used to describe the beliefs and practices of another society, particularly where these are seen as closely linked with tradition or religion. However the meaning is not exhausted.
- ²⁷ Adopted at the World Conference on Cultural Policies, Mexico 1982 and used in on-going discussions on culture and development.
- ²⁸ Nwogugu, above. Note 15.
- ²⁹ Wei, C., above note 7.

³⁰ Mc Crudden, C. (2006). Legal Research and Social Sciences. *Law Quarterly Review*, 122, 632-648.

³¹ Ibid at p. 637.

³² For instance such practices like the killing of twins and slavery as customs that have had to change to reflect modern trends despite their cultural and religious connotations.

³³ Earlier scholarship have identified some factors militating against elimination of discrimination in aspects of family to include public policy, reservations to international obligations on grounds of cultural and religious relativity especially to Article 2. See Adekile, Property Rights above note 4.

³⁴ See Human Rights Committee Gen. Comment 19 on protection of the family, the rights to marriage and equality of the spouses; ECOSOC Committee GR No, 16 on equal rights of men and women on the enjoyment of all economic, social and cultural rights; the Beijing Plat Form of Action and the MDGs also refer to equality within the family as a fundamental goal.

³⁵ In 1994 it adopted General Recommendation 21 which expanded upon many aspects of Article 16 and its relationship with Article 9 and 15. Recommendation 21 notes that Article 16 (1) (h) specifically refers to the economic dimensions of marriage and its dissolution.

³⁶ Substantive equality will be achieved by examining the application and effects of laws and policies and ensure that they provide for equality in fact.