# Withdrawal/Redaction Sheet
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| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|---|---|---|---|
| 001. list | Attachments [partial] (1 page) | 05/25/1998 | P6/b(6) |
| 002. letter | Unnamed spouse to Ruksana [Mehta] (partial) (1 page) | 05/21/1998 | P6/b(6) |

**COLLECTION:**

Clinton Presidential Records
First Lady's Office
Domestic Policy Council (Nicole Rabner)
OA/Box Number: 15423

**FOLDER TITLE:**

Child Support-International Organization Issue [2]

2012-1035-S
kc1091

## RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

JANET E. ATKINSON

May 4, 1998

Mr. Scott Busby
National Security Council
Office of Democracy and Human Rights
White House
Washington, D.C. 20504

Re: International Organizations Immunity – Family Support

Dear Mt. Busby

It was indeed a pleasure to meet you. The March 25th meeting, which you conducted, was extremely helpful. International organization spouses and attorneys, with whom I am in contact, deeply appreciate the interest President Clinton and the First Lady have shown for the tragic financial and emotional consequences, suffered by many current or former spouses of staff members of international organizations headquartered in the United States.

I look forward to meeting with you again on May 13, and to working with you to end the abuse of international organizations' immunity in family support cases.

Sincerely,

Janet E. Atkinson

Cc: Hillary Rodham Clinton
The President
Senator Barbara Mikulski
Senator Connie Morella

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SUMMARY OF POLICIES OF INTERNATIONAL ORGANIZATIONS

Requests for salary information:

UN - Normally seeks consent of staff member before releasing information of a personal nature outside the UN. In spouse/child support cases, UN "will cooperate with the appropriate authorities, when and in the manner it deems appropriate, even without the consent of the staff member, in order to facilitate the proper legal or judicial resolution of the family member's claims." UN rep. noted orally that while UN Secretariat routinely provides information salary info when requested by courts (but not in response to requests by attorneys) implementation problems exist outside New York. UN aware of the problem; working to get word out both to those who seek information and those who control it. Began releasing pension info to courts one year ago.

IADB - Does not provide info to courts; staff members have access and they can provide it to courts. Court can order them to do so.

IMF - Informs requesters that they do not provide info absent consent of employee spouse. Notes however, that courts can order non-immune staff member to produce info and the staff member has access to it.

Bank - staff records including payroll info, generally not made available to persons outside Bank unless staff member authorizes disclosure of the info in writing. Bank states that two mechanisms remain available to spouses 1) make use of discovery procedures to require staff member to produce payroll information; 2) seek an order compelling the spouse to complete Bank form authorizing the spouse access to the info.

OAS - in response to subpoenas, informs court that while OAS does not submit to judicial process, will provide info on voluntary basis.

Garnishment of Wages

UN - Administrative instruction of 14 Dec. 1994 -section specifically on child and spouse support payments. States where non-support has been judicially established, and the staff member either disclaims the obligation or indicates that he/she intends to appeal the judgment, the Secretary General may decide to authorize deduction from the staff member's salary emoluments or deduction of an amount equivalent to the dependency related allowance, and direct payment of this amount to the dependent. In practice employees are first counseled and give chance to voluntarily comply. Have to provide proof that payments are being made.

IADB - Code of ethics requires that staff pay just financial obligation in proper an timely manner. There are remedial and disciplinary actions that can be taken against those who fail to comply.

IMF - Disciplinary measures, including termination of employment may be imposed for "unlawful acts or other professional or personal actions or behavior that are contrary or inconsistent with the standards of conduct prescribed in the Rules and Regulations of the Fund or that may reflect adversely on the integrity or reputation the Fund." Code of Ethics under consideration contains specific reference to employees obligation to fulfill private legal oblations including, for example child support payments.

W. Bank - Principle 3 of Staff Employment - the Bank's privileges and immunities "shall not excuse staff members from the performance of their private obligations. Pursuant to Principle 3, whenever the Bank receives a final order of a court re obligation of a staff member to pay support to spouse or child, the Bank refers it to the Office of Professional Ethics after informing the court/counsel that the Banks' privileges and immunities preclude enforcement of garnishment orders. OPE calls the matter to the attention of the staff member and informs member that disciplinary action may be imposed if the legal obligation is not fulfilled. The employee is required to provide documentary evidence for three months that payments are being made.

OAS - Advises employee of obligation to comply with laws of host country including court orders. If no compliance by employee, OAS will waive immunity for limited purpose and will garnish wages.

Pension Plan

UN - Expects to adopt new pension plan similar to that of World Bank and IMF this summer.

IADB- has examined ways in which benefits under its Staff Retirement Plan can be partitioned and shared with current and former spouses. Has prepared an amendment to the Plan which would permit partitioning of benefits and expects to present this to the Bd of Executive Directors for adoption in the near future.

IMF - provides for pension payment to former employees of fund retirees by recognizing qualified domestic relations orders.

Bank - the Retirement plan was amended in 1995 to permit payments to divorced or legally separated spouses from either a commuted sum or a normal or early retirement pension payable to a retired staff member. There must be a final court order imposing an obligation of support arising out of the marital relationship for the provision to apply.

OAS - Pension plan change in 1981 to prohibit alienation of pension rights (applicable to persons who joined after 1981). As none of these persons have yet retired no issue has arisen.

General

Within past five years IADB has received no more than a half dozen formal request for personal financial information or order for the payment of alimony of child support.

The Bank reports that in the period 1993-1997, twenty-two cases involving court ordered support have come to the attention of the Office of Professional Ethics, all twenty two were successfully resolved, although the Bank reports one difficult case which took a year to resolve. Has 36 qualified domestic relations orders on file, eight are in payment and the remainder relate to persons who have not yet retired.

UN currently has four unresolved cases with Secretariat.
Upon separation of employee, UN makes deductions from final payments to pay staff member's legally established third party indebtedness; judicially established family obligations, including repatriation travel, have first priority.

INTELSAT and PAHO also attended meeting at the State Department. Both organizations reported that they had very few cases of this type and none which had been difficult to resolve.

Attachments: Tab 1 - UN Administrative Instruction, Dec. 14, 1994
Tab 2 - IADB letter of April 22, 1998 to Kaye Boesel
Tab 3 - IMF letter of April 10, 1998 to Kaye Boesel
Tab 4 - World Bank letter of April 16, 1998 to Kaye Boesel
Tab 5 - OAS letter of April 9, 1998 to Kaye Boesel

UNITED NATIONS

ST

Secretariat

ST/AI/399
14 December 1994

ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: The Assistant Secretary-General for Human Resources Management

Subject: FINANCIAL AND OTHER OBLIGATIONS OF STAFF MEMBERS*

1. The purpose of the present instruction is to remind staff members of their obligation under staff regulations 1.1, 1.4 and 1.8 to regulate their conduct at all times in a manner befitting their status as international civil servants, and also to set out, in broad terms, the Organization's policies for responding to cases of personal indebtedness.

2. Staff members are expected, as a matter of proper conduct, to meet their legal and financial obligations without involving the United Nations. The standards of conduct of international civil servants (COORD/CIVIL SERVICE/5) require that staff members bear in mind that their conduct, whether connected or unconnected with official duties, must be such that it will not infringe upon any demonstrable interests of the Organization, bring it or their colleagues into discredit or offend the community in which they live. The honouring of private financial obligations and compliance with national laws are among the requirements that derive from this general principle, which is explicitly stated in staff regulation 1.8.

3. Staff members who are experiencing financial difficulties should consult the Staff Counsellor or a personnel officer about possible help from the Staff Emergency Fund or its equivalent outside Headquarters.

* Personnel Manual index No. 1040.

*9449986*

The Organization's obligations in cases of private indebtedness

4. The privileges and immunities attached to the United Nations are granted to officials in the interests of the Organization and not for the personal benefit of the individuals themselves. As such, these privileges and immunities do not provide the staff members who enjoy them, nor the staff members who do not, with an excuse for the non-performance of their private obligations. Although in principle the United Nations does not intrude upon the private life of a staff member, when it is brought to the attention of the United Nations that a staff member has failed to satisfy his/her legal obligations and/or resolve all matters relating thereto, the Organization may, when it deems appropriate, take action against the staff member. Pursuant to section 20 of the Convention on the Privileges and Immunities of the United Nations, the Secretary-General has the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. Furthermore, pursuant to section 21 of the Convention, the United Nations has an obligation to cooperate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice and to prevent the occurrence of any abuse in connection with the privileges and immunities of the Organization.

Personal debts to outside claimants

5. The United Nations, including its property and assets, is immune from legal process and from judgements of execution. United Nations salaries, therefore, are not subject to garnishment or attachment. However, staff members of the Organization have no personal immunity in respect of private acts and obligations, and the Organization's immunity is not intended to derogate from the rights of legitimate claimants. Claimants who communicate to the United Nations a legal obligation that has not been met are informed of the Organization's immunity and also of the policy of requiring staff members to meet their financial obligations. Staff members are provided with a copy of this correspondence relating to the legal obligation or judgement, together with a copy of the claim, levy or order, and are requested, in writing, to initiate steps to settle the matter promptly and to advise their personnel officer of the action that has been taken.

6. If, within three months from the date of receipt by the staff member of the personnel officer's request, the Organization is not satisfied that appropriate and effective action has been taken by the staff member, all correspondence will

/...

be placed in the official status file and disciplinary action may be initiated in accordance with chapter 10 of the Staff Rules.

Child and spouse support payments

7. Private family matters are not in themselves the business of the Organization. However, staff members are expected, as a matter of proper conduct, to support their dependants and to comply fully with legally established maintenance obligations. Failure to honour legally binding and other family support obligations violates the standards of conduct required of international civil servants and is inconsistent with the obligation of integrity. Staff members who are in receipt of United Nations allowances and benefits intended for the support of dependants, including dependency allowance and salary at the dependency rate, education grant and insurance subsidy, may be called upon at any time to provide evidence that these sums are being used for their declared purpose. Failure to honour support obligations, while at the same time receiving allowances and benefits premised on dependency, may constitute serious misconduct.

8. In cases where non-support has been judicially established, and the staff member either disclaims the obligation or indicates that he/she intends to appeal the judgement, the Secretary-General may decide to authorize, under the terms of staff rule 103.18 (b) (iii), deduction from the staff member's emoluments of an amount equivalent to the dependency-related allowances and direct payment of this amount to the dependant. Where there is an apparent conflict between jurisdictions, the Office of Legal Affairs will advise which court order will have precedence.

9. The Organization normally seeks the consent of a staff member before releasing information of a personal nature to persons or organizations outside the United Nations. In spouse and child support cases, however, the Organization will cooperate with the appropriate authorities, when and in the manner it deems appropriate, even without the consent of the staff member, in order to facilitate the proper legal or judicial resolution of the family's claims. The staff member will be notified that the information has been provided and the nature of the information.

10. Abuse of the privileges and immunities conferred upon the United Nations in order to avoid service of process, if established, may result in disciplinary action.

Deductions from final payments

/...

11. Although the salaries of serving staff members are not subject to attachment under the Convention on the Privileges and Immunities of the United Nations, final payments on separation are not immune. Accordingly, deductions from final entitlements may be authorized to pay the staff member's legally established third party indebtedness, including to dependent, former or estranged spouses and entitled children in regard to repatriation travel and grant payments.

12. Where deductions from terminal payments are authorized under the terms of staff rule 103.18 (b) (iii), the order of precedence for payment, after deductions for indebtedness to the United Nations and the United Nations Federal Credit Union (or similar institution at other duty stations), will be: first, unpaid judicially established family obligations, including repatriation travel and grant payments; and second, all other legally established indebtedness to third parties. In the event (a) the staff member does not consent to such payments in writing or (b) any dispute or other conflicting claims are made in connection with this provision, including, but not limited to, issues of priority, then the United Nations shall have the right, in its discretion, to withhold payments commensurate with the amount in question until such dispute or conflicting claims have been resolved by written agreement between the interested parties or the issuance of a final judgement by a court of competent jurisdiction.

Mission service

13. Staff members detailed to special missions should make suitable arrangements before departure for payment of ongoing obligations at the duty station. Absence on mission furnishes no excuse for non-payment of indebtedness. Because of the limited duration of special mission assignments and the Organization's responsibilities towards the host country, staff members are expected to settle all bills incurred at the mission area before departure. Evasion of responsibilities in this respect may result in ineligibility for future mission assignments, as well as in the application of any of the measures set out above, including those referred to in paragraph 6.

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Banco Interamericano de Desarrollo
Banco Interamericano de Desenvolvimento
Inter-American Development Bank
Banque interaméricaine de développement

Washington, D.C. 20577

<u>VIA MESSENGER</u>

April 22, 1998

Ms. Kaye Boesel
Department of State
IO/UNP
Room 6334
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ms. Boesel:

I would like to thank you and the State Department again for meeting with me and representatives of other international organizations on April 1. I think it was very constructive for us to be able to share views with the State Department on family issues that are important to all of us.

As I know the Department appreciates, international organizations operate under constraints that are unique to them, while attempting to be good neighbors in the countries in which they perform their missions. Sometimes they have to reach for goals by taking different routes than those that might be taken by the private sector or governmental entities.

You asked in the closing of the meeting that the organizations provide to you copies of written material that may bear upon how they deal with compliance with domestic support obligations, including requests for financial information. As I mentioned at the meeting, the Inter-American Development Bank relies principally on voluntary compliance by its staff, subject to the standards of behavior and sanctions set forth in its Code of Ethics, which has been in place since 1980.

Under the Code, staff are required to pay each just financial obligation in a proper and timely manner (Code section 3.902), and are subject to the general injunction concerning the conduct of their personal affairs in a manner which does not give even the appearance of attempting to benefit unfairly from their affiliation with the Bank (e.g. hiding behind the Bank's immunities) (Code section 3.401). Sections 5.100 and 5.200 of the Ethics Code address the remedial and disciplinary actions that can be taken against those who fail to comply with the guidelines set forth in the Code.

I attach excerpts from these sections of the Code of Ethics, as well as two complete copies of the Code for your reference.

As I mentioned at the meeting, the Bank has mechanisms available to assist staff in meeting their financial obligations through payroll deductions. These mechanisms are currently being used by staff to meet alimony, child support and other financial obligations.

Recognizing that pension rights often form one of the largest family assets, and that courts commonly consider both the right to a pension and its value in determining a division of marital property, the Bank has examined ways in which benefits under its Staff Retirement Plan can be partitioned and shared with current and former spouses. As a result, the Administration of the Bank has prepared an amendment to the Plan which would permit such partitioning, and expects to present it to the Board of Executive Directors for adoption in the very near future.

While I wish I had better statistics upon which to rely, it appears to me that within the past five years the Bank has, in connection with family support matters, received no more than a half dozen formal requests for personal financial information or orders for the payment of alimony or child support.

I hope this information is helpful to you. Naturally I will try to keep you advised of developments in these areas at the Bank in the future.

Sincerely yours,

Norman R. Williams

Norman R. Williams
Attorney

Enc.

**EXCERPTS FROM THE IDB CODE OF ETHICS**

*Concerning financial obligations*:

> A staff member shall pay each just financial obligation in a proper and timely manner, including, of course, any imposed by law such as taxes. For the purpose of this subsection, a "just financial obligation" means one acknowledged by the staff member or reduced to judgment by a court, and "in a proper and timely manner" means, in the event of any doubt, in a manner which the Bank determines does not, under the circumstances, reflect adversely upon the Bank as an employer. ... (Ethics Code, sec. 3.902)

*Also applicable is the general injunction concerning the conduct of one's personal financial affairs:*

> A staff member should feel free, generally, to conduct his or her personal financial affairs as he or she sees fit. However, a staff member, or any member of a staff member's immediate family, shall conduct his or her personal financial matters in such a manner as to avoid any reasonable basis for interpreting his or her actions as attempts to benefit from his or her affiliation with the Bank ... . (Ethics Code, sec. 3.401)

*Remedial and disciplinary actions:*

Section 5.100 of the Ethics Code provides that the President of the Bank may, after receiving the advice of the Ethics Committee, take any remedial action "which may be appropriate according to the terms of [the staff member's] contract of employment with the Bank."

Section 5.200 addresses additional, disciplinary action that may be taken:

> The President may, in addition to or in conjunction with the remedial action available pursuant to Section 5.100, take disciplinary action, including dismissal if appropriate, in cases involving staff members who violate the provisions of these Guidelines.

INTERNATIONAL MONETARY FUND
WASHINGTON, D. C. 20431

CABLE ADDRESS
INTERFUND

April 10, 1998

Ms. Kaye Boesel
International Organization Bureau, Room 6334
Department of State
Washington, D.C. 20520

Dear Ms. Boesel:

Further to the April 1, 1998, meeting with the international organizations regarding their policies and practices with respect to spouse and child support related proceedings, this is in response to the request that we provide copies of available written documentation.

As we mentioned at the meeting, the Fund's Staff Retirement Plan provides for pension payments to former spouses of Fund retirees by recognizing qualified domestic relations orders (QDRO's). Enclosed for your information is a copy of the relevant provision of the Fund's Staff Retirement Plan.

Under the Fund's current administrative regulations on the conduct of staff members (GAO No. 33), disciplinary measures, including termination of employment, may be imposed for "unlawful acts or other professional or personal actions or behavior that are contrary to or inconsistent with the standards of conduct prescribed in the Rules and Regulations of the Fund or that may reflect adversely on the integrity or reputation of the Fund".

In addition, attached are two pages out of a draft Code of Ethics that is under consideration within the Fund. Section 6 contains specific reference to employees' duty to comply with and satisfy their private legal obligations which, as specifically referred to in the example given on the second page, includes child support payments.

Unfortunately, the standard practices we described at the meeting that are used to ensure that staff members fulfill their personal financial and legal obligations are not written in any policy or procedures statement.

We hope that this is helpful to you and your colleagues in persuading concerned parties that the organizations are in fact doing a good job of ensuring that immunities are not abused or misused and that the organizations take seriously concerns about employees' fulfilling their obligations, particularly with respect to domestic relations matters.

Sincerely,

James A. Jones
Senior Counsel

cc: David Rivero
Kevin Craig
Joan Powers

**IMF**

**Staff Retirement Plan**

11.3 Notwithstanding the provisions set forth in Section 11.1, a participant or retired participant may, pursuant to a legal obligation arising from a marital relationship evidenced by an order of a court or by a settlement agreement incorporated into a divorce or separation decree, direct in writing to the Secretary of the Administration Committee that a benefit payable to him during his life under the Plan be paid to one or more former spouses or a current spouse from whom there is a decree of legal separation. A direction or payment incident thereto shall not convey to any person an interest in the Retirement Fund of the Plan or give any elective rights under the Plan to such person. A direction must be consistent with the provisions of the Plan, which in the event of conflict will be deemed to override the direction. Any direction shall be irrevocable; provided, however, that a participant or retired participant may request, upon evidence satisfactory to the Administration Committee based on a court order or a provision of a settlement agreement incorporated into a decree, that he be permitted to issue a new direction in writing, that would diminish or discontinue the payment or payments; and provided, further, that any direction shall cease to have effect following the death of the participant or retired participant. If a designee under a direction predeceases the participant or retired participant, the payments shall not commence or if they have commenced shall thereupon cease. In the event that the payment or payments under a direction have been diminished, discontinued or have failed to commence or have ceased, the amount of benefit payable to the participant or the retired participant shall be restored less the value of any amounts paid as withdrawal or commuted sums.

Is it legal?
Does it feel right?
Will it reflect negatively or positively on me or the Fund?
What would a reasonable person think about my action?
How would it look in the newspapers?
Would I be embarrassed if others knew I took this action?
Is there an alternative action that does not pose an ethical conflict?

## II. Basic Standard of Conduct

5. As a staff member, you are expected to observe the highest standards of ethical conduct, consistent with the values of integrity, impartiality and discretion. You should avoid even the appearance of impropriety in your conduct. In the performance of your duties, you have a duty of exclusive loyalty to the Fund, and to its objectives, purposes, and principles.

**Integrity**

6. You are expected to act with integrity in all your official activities, and to avoid any behavior that would reflect adversely on you or on the Fund. Integrity encompasses honesty, probity, and loyalty. You are expected to provide accurate and complete information needed by the Fund for the administration of personnel matters, and you must promptly report changes in your personal circumstances that affect your eligibility for benefits and allowances. In addition, while the Fund respects the privacy of staff members, you have a responsibility to ensure that your private conduct does not bring the Fund into disrepute. Therefore, you are expected to comply with your private legal obligations, including satisfying in good faith your financial obligations, and to observe local laws and regulations.

**Impartiality**

7. You are expected to act with impartiality. You should take care that your expression of personal views and convictions does not adversely affect or appear to others to affect the performance of your official duties or the interests of the Fund. Your official conduct must at all times be characterized by objectivity and professionalism. You should not allow personal relationships or considerations, including bias or favoritism, to influence the performance of your official duties and you should avoid situations that create a conflict of interest.

**Discretion**

8. You should exercise the utmost discretion in your actions and show tact and reserve in your pronouncements in a manner that is consistent with your status as an international civil servant. You should refrain from participating in any activity that reflects adversely on the Fund or that is in conflict with the interests of the Fund. You must respect and safeguard the confidentiality of information which is available or known to you by reason of your official functions.

**Examples**

*A staff member fails to pay his child support obligations, notwithstanding a court order to do so. Does this violate the Fund's rules on conduct?*

Yes. Staff members must comply with their private legal obligations, and may not take improper advantage of the fact that the Fund is not subject to mandatory wage garnishments in order to avoid their legal liabilities. For example, if a garnishment order on your salary is received by the Fund, the Fund will wish to satisfy itself that you are taking steps to resolve the matter before asserting its immunity to the Court.

*May I participate in a lawful public demonstration on an issue not closely related to the work of the Fund, for example, abortion policy or nuclear disarmament, without obtaining advance clearance?*

Yes, provided that you participate in a manner that does not publicly identify your connection to the Fund. If, however, you intend to make a public statement on a "national political question," advance clearance is required (see paragraphs 17 through 19 below).

**References:** Rules N–3 through N–10.

## III. Conduct Within the Fund

9. The basic values of impartiality, integrity, and discretion should govern all aspects of your conduct in your work.

**Duty of loyalty**

10. By accepting appointment at the Fund, you have promised to discharge your functions under the sole authority of the Managing Director. You must respect the international character of your position and maintain your independence by not accepting any instructions relating to the performance of your official duties from any national government or from any other sources external to the Fund.

**Courtesy and respect**

11. You should treat your colleagues, whether supervisors, peers, or subordinates, with courtesy and respect, without harassment, or physical or verbal abuse. You should at all times avoid behavior at the workplace that, although not rising to the level of harassment or abuse, may nonetheless create an atmosphere of hostility or intimidation.

**The World Bank**
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

1818 H Street N.W.
Washington, D.C. 20433
U.S.A.

(202) 477-1234
Cable Address: INTBAFRAD
Cable Address: INDEVAS

April 16, 1998

Ms. Kaye Boesel
I.O. Bureau, Room 6334
Department of State
Washington, D.C. 20520

Dear Ms. Boesel:

In follow up to the meeting on April 1, 1998, at your office attended by representatives of various international organizations, I am writing to confirm the procedures and policies followed at the World Bank in situations where the Bank receives court orders or requests for information in domestic relations matters. You identified three general areas of interest: (i) access to payroll records; (ii) court ordered support; and (iii) divorced spouse rights in respect of pensions.

Access to Payroll Information: Under the Bank's Staff Rules, staff records, including payroll information, are generally not made available to persons outside the Bank, unless the staff member authorizes disclosure of the information in writing. The Bank has prepared a form (Form 2298) that staff members may sign in order to authorize a spouse to access information contained in the staff records, including payroll information. A copy of Form 2298 is attached as Attachment 1. In situations where staff members have been unwilling to provide authorization, there are generally two mechanisms that remain available to spouses: The first is to make use of discovery procedures to require the staff member to provide the payroll information to the spouse. (Staff members have access to their own payroll information and may, upon request, obtain a written statement from the Bank confirming their earnings.) Alternatively, the spouse may seek to obtain an order compelling the staff member to complete and submit to the Bank Form 2298, in which case the information could be provided directly to the spouse by the Bank.

Situations of Court Ordered Support. Principle 3 of the Principles of Staff Employment makes it clear that the Bank's privileges and immunities "shall not excuse staff members from the performance of their private obligations or from the due observance of the law." A copy of Principle 3 is attached as Attachment 2. Staff Rule 8.01, "Disciplinary Measures" provides that "acts or omissions in conflict with the general obligations of staff members set forth in Chapter Three of the Principles of Staff Employment..." may form a basis for a finding of misconduct. A copy of the relevant provisions of Staff rule 8.01 is attached as Attachment 3. Also attached, as Attachment 4, is a copy of the Bank's Code of Professional Ethics.

Pursuant to Principle 3, whenever the Bank receives a final order of a court obligating a staff member to pay support, either to a spouse or a child, the Bank's practice

RCA 248423. WUI 64145 FAX (202) 477-6391

is to refer the matter to the Office of Professional Ethics ("OPE") after informing the court and counsel that the Bank's privileges and immunities preclude enforcement of garnishment orders. The OPE then calls the matter to the attention of the staff member concerned and informs him/her that the legal obligation must be fulfilled or disciplinary measures may be imposed. The staff member is required to provide OPE with documentary evidence that payments are being made for three months thereafter. Counsel for the spouse is free to contact OPE directly if, at any time, payments are not being made. According to OPE, in the period 1993-1997, twenty-two cases involving court ordered support have come to the attention of OPE. OPE advises that all twenty-two were resolved by the staff member meeting his obligations after intervention by OPE, although in one case OPE did have to work with the staff member's manager to prevail upon the staff member to fulfill his obligations.

Divorced Spouses and Pension Rights. In 1995, the Staff Retirement Plan of the Bank ("SRP") was amended to include a provision that allows the SRP to make payments to divorced or legally separated spouses from either a commuted sum or a normal or an early retirement pension payable to a retired staff member. There must be a final court order imposing an obligation of support arising out of the marital relationship for the provision to apply. The Bank requires a certified copy of a final court order in order to apply the provision of the SRP relating to divorced or legally separated spouses. Attached is a copy of a circular distributed to all staff describing the provision (Attachment 5) as well as a copy of the Plan provision itself (Attachment 6). You will note that the circular includes a memorandum intended principally for use of counsel that explains the SRP provision in greater detail. The Pension Office informs me that at present it has thirty-six court orders on file, of which eight are now in payment.

I hope you find this information and documentation helpful in understanding the seriousness with which the Bank regards these matters and the efforts the Bank makes to see to it that concerned staff do no abuse their positions as international civil servants to avoid personal legal obligations in the domestic relations area. Please do not hesitate to contact me if you require additional information.

Sincerely,

David R. Rivero

David Rivero
Chief Counsel, Administration Unit
Legal Department

Enclosures

Attachment 1

THE WORLD BANK GROUP

## AUTHORIZATION FOR SPOUSE/DOMESTIC PARTNER TO BENEFITS INFORMATION

INSTRUCTIONS -- *Complete this form and submit it to Benefits Administration Unit, PSCBE.*
-- *Keep a copy for your records.*
-- *Inform your spouse/domestic partner accordingly OR give him/her a copy of this completed form.*
-- *Type or print.*

| Staff Member's Name (Last, First, M.I.) | Staff No. | Spouse's/Domestic Partner's Name (Last, First, M.I.) |
|---|---|---|
| | | |

1. I authorize my spouse/domestic partner, whose name appears above, to have access to the following information:

   - -- Life Insurance
   - -- Pension
   - -- Beneficiaries
   - -- Dependency Allowance
   - -- Field Assignment Benefits
   - -- Other Benefits (e.g. home country travel, education, financial assistance, resettlement)
   - -- Salary

2. I may revoke this authorization at any time by delivering written notice to my Benefits Counsellor to that effect. (I will give a copy of this revocation to my spouse/domestic partner). In the event that my spouse/domestic partner subsequently requests information s/he will be advised of the revocation. This authorization is effective as of the date receipt is acknowledged by the Benefits Administration Unit, PSCBE.

| Staff Member's Signature | Date |
|---|---|
| | |

**For Benefits Administration Unit, PSCBE, Use Only**

| Benefits Counsellor's Signature | Date |
|---|---|
| | |

2298 (7-93)

# Staff Manual



## GENERAL OBLIGATIONS OF STAFF MEMBERS

3.1 The sensitive and confidential nature of much of their work requires of staff a high degree of integrity and concern for the interests of the Organizations. Moreover, as employees of international organizations, staff members have a special responsibility to avoid situations and activities that might reflect adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest. Therefore, staff members shall:

(a) discharge their duties solely with the interest and objectives of the Organizations in view and in so doing shall be subject to the authority of the President and responsible to him;
(b) respect the international character of their positions and maintain their independence by not accepting any instructions relating to the performance of their duties from any governments, or other entities or persons external to the Organizations unless on secondment to them or employed by them while on leave of absence from The World Bank or the IFC. Staff members shall not accept in connection with their appointment or service with the Organizations any remuneration, nor any benefit, favor or gift of significant value from any such governments or other entities or persons, nor shall they, while in the service of The World Bank or the IFC, accept any medal, decoration or similar honor for such service. Staff members may retain reemployment rights or pension rights acquired in the service of another organization;
(c) conduct themselves at all times in a manner befitting their status as employees of an international organization. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organizations. They shall avoid any action and, in particular, any public pronouncement or personal gainful activity that would adversely or unfavorably reflect on their status or on the integrity, independence and impartiality that are required by that status; and
(d) observe the utmost discretion in regard to all matters relating to the Organizations both while they are staff members and after their service with the Organizations has ended. In particular they shall refrain from the improper disclosure, whether direct or indirect, of information related to the business of The World Bank or the IFC.

3.2 All rights in any work produced by staff members as part of their official duties shall belong to The World Bank or the IFC unless such rights are explicitly relinquished.

**Privileges and Immunities**

3.3 Staff members shall enjoy, in the interests of their Organizations, privileges, immunities, and facilities to which the Organizations, their officers and employees are entitled under their respective Articles of Agreement or other applicable treaties or international agreements or other laws. Such privileges, immunities, and facilities shall not excuse staff members from the performance of their private obligations or from the due observance of the law. Having regard to the particular circumstances, the Organizations may decide whether, in the interests of the Organizations, an immunity shall be waived or invoked.

# Staff Manual

## DISCIPLINARY MEASURES

### 1. SUBJECT AND APPLICABILITY

**Subject**

1.01 This Rule governs the use of disciplinary measures by the Bank Group and sets forth the forms such measures may take. This Rule, as revised, is effective July 1, 1997.

**Applicability**

1.02 This Rule applies to all staff members.

### 2. RELATION TO RULE 9.03 (APPEALS COMMITTEE)

2.01 Any disciplinary measures taken pursuant to this Rule shall be a "formal disciplinary action" for purposes of Rule 9.03, "Appeals Committee."

### 3. MISCONDUCT

3.01 Disciplinary measures may be imposed whenever there is a finding of misconduct. Misconduct does not require malice or guilty purpose. Misconduct includes, but is not limited to, the following acts and omissions:

(a) Failure to observe Principles of Staff Employment, Staff Rules, and other duties of employment (e.g., failure to observe Bank Group health and safety regulations or personnel information policies; failure to observe Bank Group information disclosure policies; unauthorized use of Bank Group electronic data bases; unauthorized use of Bank Group offices, equipment, and computer resources; abuse of authority; the condonation or willful failure to disclose knowledge of the misconduct of other staff members, where it is subsequently determined the staff member could reasonably have been expected to come forward; intentional or reckless disregard of duty; gross negligence in the performance of assigned duties; absence from duty without justifiable cause; abuse or misuse of Bank Group benefits and allowances);

(b) Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct; failure to perform assigned duties or performance of assigned duties in an improper or reckless manner; failure to know, and observe, the legal, policy, budgetary, and administrative standards and restrictions imposed by the Bank Group; undertaking an activity where authority to do so has been denied; failure to exercise adequate control and supervision over the execution of assigned tasks; and use of Bank Group funds or property for improper purposes; retaliation against those who in good faith bring allegations of misconduct to the attention of management or who avail themselves of the Bank's grievance system; willful misrepresentation of facts intended to be relied upon;

(c) Acts or omissions in conflict with the general obligations of staff members set forth in Chapter Three of the Principles of Staff Employment and Rule 3.01, "Outside Activities and Interests";

(d) Misuse of Bank Group funds or other public funds for private gain in connection with Bank activities or employment, or abuse of position in the Bank for financial gain;

(e) Acts that violate applicable criminal law (e.g., theft, fraud, felonious acts, use or possession of illegal drugs, physical assault); and

(f) Harassment, including harassment on the basis of age, race, color, sex, sexual orientation, or national origin.

## 4. DISCIPLINARY MEASURES

4.01 Disciplinary measures imposed by the Bank Group on a staff member shall be determined on a case-by-case basis, taking into account the seriousness of the matter, extenuating circumstances, the situation of the staff member, the interests of the Bank Group, and the frequency of conduct for which disciplinary measures may be imposed, except that termination of service shall be mandatory where it is determined that any of the following misconduct has occurred:

THE WORLD BANK GROUP

CODE OF PROFESSIONAL ETHICS

Being a staff member of the World Bank Group offers a unique opportunity to contribute to the institution's mission: to reduce poverty and improve people's living standards throughout the world. Bank Group service also entails certain obligations: to promote the objectives of the World Bank Group; to serve with probity, integrity, and impartiality; and to hold oneself to the highest standards of professional ethics.

Staff members of the World Bank Group are expected to perform their assigned duties with the highest level of technical competence and efficiency. They are also expected to treat fellow staff members in a courteous, professional manner--free from any form of harassment or discrimination--and thus benefit from working in a diverse, multinational workplace. Staff members who serve as Managers should provide staff reporting to them with honest, clear and constructive evaluations of work free from bias or favoritism.

To meet the highest standards of professional ethics, staff members should:

-- observe the policies, rules and procedures adopted by the World Bank Group, including rules relating to situations of conflict of interest, and report to supervisors any departure by other staff members from such policies, rules, or procedures;

-- pay due regard to the appropriate use of World Bank Group resources;

-- undertake official actions without being influenced by personal relationships or considerations;

-- act within the scope of their authority;

-- retain full accountability and responsibility for tasks delegated to other staff and exercise adequate control and supervision;

-- consult appropriately with fellow staff and managers to ensure that decisions are based on full and accurate information consonant with the weight of the decision, and provide decision-makers with candid analysis;

-- respect the dignity and privacy of colleagues in their personal lives.

Staff members should adhere to the same standards of professional ethics in their dealings with member governments and all others with whom they come in contact by virtue of their work.

In fulfilling these obligations, staff members should be mindful of the requirements imposed on staff by the Articles of Agreement, the Principles of Staff Employment, and the Staff Rules which apply to the Bank, IFC, and MIGA, in particular, of Chapter 3 of the Principles which relates to the general obligations of staff members and Staff Rule 3.01, Outside Activities and Interests, which implements that Chapter.*

Staff members encountering a situation that may pose an issue of professional ethics may seek advice from their manager and/or consult with the Ethics Officer or the Ombudsman.

---

* Staff members should refer to the Staff Manual for familiarization with all requirements of Staff Rule 3.01, "Outside Activities and Interests," which includes provisions on disclosure and use of inside information, on disclosure of financial and business interests, and where applicable on financial disclosure statements of senior staff. Provisions of the Articles are set out in Attachment 1 and Chapter 3 of the Principles of Staff Employment in Attachment 2.

**Attachment**

## Articles of Agreement

Article V, Section 5(c) of the Articles of Agreement of the Bank (and corresponding provisions in the charters of other Bank Group institutions) provides that:

*"The President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties."*

## Principles of Staff Employment

Chapter 3 of the Principles of Staff Employment (which applies to MIGA as well as the Bank and IFC) provides as follows:

*" The sensitive and confidential nature of much of their work requires of staff a high degree of integrity and concern for the interests of the Organizations. Moreover, as employees of international organizations, staff members have a special responsibility to avoid situations and activities that might reflect adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest. Therefore, staff members shall:*

*(a) discharge their duties solely with the interest and objectives of the Organizations in view and in so doing shall be subject to the authority of the President and responsible to him;*

*(b) respect the international character of their positions and maintain their independence by not accepting any instructions relating to the performance of their duties from any governments, or other entities or persons external to the Organizations unless on secondment to them or employed by them while on leave of absence from The World Bank or the IFC. Staff members shall not accept in connection with their appointment or service with the Organizations any remuneration, nor any benefit, favor or gift of significant value from any such governments or other entities or persons, nor shall they, while in the service of The World Bank or the IFC, accept any medal, decoration or similar honor for such service. Staff members may retain employment rights or pension rights acquired in the service of another organization;*

*(c) conduct themselves at all times in a manner befitting their status as employees of an international organization. They shall*

*not engage in any activity that is incompatible with the proper discharge of their duties with the Organizations. They shall avoid any action and, in particular, any public pronouncement or personal gainful activity, that would adversely or unfavorably reflect on their status or on the integrity, independence and impartiality that are required by that status; and*

*(d) observe the utmost discretion in regard to all matters relating to the Organizations both while they are staff members and after their service with the Organizations has ended. In particular they shall refrain from the improper disclosure, whether direct or indirect, of information related to the business of The World Bank or the IFC.*

*All rights in any work produced by staff members as part of their official duties shall belong to The World Bank or the IFC unless such rights are explicitly relinquished.*

*Privileges and Immunities*

*Staff members shall enjoy, in the interests of their Organizations, privileges, immunities, and facilities to which the Organizations, their officers and employees are entitled under their respective Articles of Agreement or other applicable treaties or international agreements or other laws. Such privileges, immunities, and facilities shall not excuse staff members from the performance of their private obligations or from the due observance of the law. Having regard to the particular circumstances, the Organizations may decide whether, in the interests of the Organizations, an immunity shall be waived or invoked."*

**Attachment**

**MEMORANDUM: Support Payments to Former and Legally Separated Spouses**

(This memorandum is intended principally for the use of counsel.)

1. Section 5.1(c) of the World Bank Staff Retirement Plan provides for two ways of authorizing the payment of amounts for support to former or legally separated spouses from periodic pensions payable under Section 3.1, 3.2, and 3.3 of the Plan. These pensions are the normal retirement pension, the early retirement pension, and the reduced early retirement pension. Section 5.1(c) also provides for the payment of such amounts from a lump sum payment commuted under Section 4.4(a) of the Plan by the same means. These payments, to the extent authorized, will be paid only if and when the pension or lump sum becomes payable to a retired participant. The amount authorized to be paid to the former or legally separated spouse may not exceed the amount otherwise payable to the retired participant.

2. Section 5.1(c) permits the payment of these amounts in cases where the retired participant is under a legal obligation arising out of the marital relationship to provide support to the former or legally separated spouse. Section 5.1(c) provides for the authorization of the payment either by direction of the participant or the retired participant or pursuant to a final decree of a court of competent jurisdiction. The Bank will not interpret agreements between spouses or former spouses, directions to pay or decrees of courts in cases of ambiguity or resolve questions where there is a bona fide dispute about the efficacy, finality or meaning of a decree. In these cases, the Bank will retain the amount disputed pending the resolution of outstanding questions by the parties themselves. Where the Bank is requested to give effect to a decree of a court by a person other than the participant or retired participant, no payment will be made sooner than 60 days after the Bank has received notice of the request accompanied by a certified copy of the decree. During such 60 days, the Bank will notify the participant that, on a specific date, payment to the spouse or former spouse will be made or commence in the absence of credible objection received by the Bank before that date.

3. The payment will be made only to the spouse or former spouse (or a personal representative) and may not be assigned or pledged. The Bank will not make payments to assignees, mortgagees or other pledgees. A payment from a lump sum under Sec. 4.4(a) of the Plan will be made in United States dollars only. Other payments will be paid in single currency, which will be the currency specified in the final court order, if any; or a currency in which the pension of the retired participant is paid if it is also the currency of the country where the spouse maintains the spouse's principal residence; or if there is no such currency, in United States dollars.

4. All rights in assets of the Plan, including amounts payable under the Plan, belong to the Bank as provided in the Plan. The Bank will not give effect to provisions of agreements, directions or decrees which purport to divide the pension pursuant to a division of marital or community property or otherwise to establish or convey an interest in the assets of the Plan, pensions or other benefits. Once a series of continuing payments commences, it will not be terminated, nor, where the amount of the payments is level, the amount reduced unless it is demonstrated to the Bank's satisfaction that the underlying obligation has terminated or its level diminished. The adoption of Section 5.1(c) or the payment of amounts pursuant to it does not create a fiduciary obligation from the Bank to a spouse or former spouse nor make the spouse or former spouse a beneficiary of the Plan. The Bank undertakes no obligation of notice or responsibility regarding a retired participant's compliance or failure to comply with other provisions of agreements, orders or decrees.

M:\ADMIN\PENSION\SRPATT.FYI
April 2, 1996 11:57 AM

Attachment 5

# FOR YOUR INFORMATION

TO ALL STAFF

FYI/94/029
November 15, 1994

## STAFF RETIREMENT PLAN REVISIONS

**Support Payments for Ex-Spouses**

1. I am pleased to advise that the Executive Directors have approved an amendment to the Staff Retirement Plan to permit payments from the Plan for the support of divorced or legally separated spouses of retired Plan participants. The amendment, which becomes effective January 2, 1995, was supported by the Staff Association, the 1818 Society and the World Bank Volunteer Services.

2. The amendment provides for these payments as follows:

(a) Support payments to former and legally separated spouses can be made out of normal or early retirement pensions and from lump sum commutations. Such payments become payable only if and when the pension or lump sum becomes payable to a retired participant, and their amounts may not exceed what would otherwise be payable to the retired participant.

(b) These support payments may only be made in cases where the retired participant is under a legal obligation to provide support to the former or legally separated spouse. Payments can be authorized by either the written direction of the participant or retired participant or pursuant to a final decree of a court of competent jurisdiction.

(c) If the Bank is requested by a person other than the participant or retired participant to give effect to a final decree of a court ordering support payment, it will notify the participant or retired participant. Where the Bank is in doubt about direction to pay a decree, it will retain payments pending its resolution by the action of the principals, the retained sum to be paid without interest when the doubt is resolved. The Bank will not give effect to provisions of agreements, directions or decrees intended to convey an interest in the assets of the SRP, pensions or other benefits.

Any such payment payable after the death of the person to whom it otherwise would have been paid may be paid to a spouse surviving the deceased person.

(c) A participant or a retired participant, pursuant to a legal obligation arising from a marital relationship to support one or more former spouses, or a spouse from whom there is a decree of legal separation, may direct that a specified amount or part of a pension payable under Section 3.1, 3.2, or 3.3, or of a lump sum payment commuted from such a pension under Section 4.4(a) shall be paid to one or more such former spouses or the spouse. If the participant or retired participant is obligated by a final order of a court to direct that such a payment be made, the Benefits Administrator shall pay the pension or lump sum payment accordingly after receipt of the order; provided, however, that neither the participant, retired participant, nor the Benefits Administrator may convey an interest in the Retirement Fund of the Plan or in the pension or other benefits of a participant or retired participant to any person. The amount or part of a pension payable pursuant to such an obligation may be increased at any time by a participant or retired participant. The payment may be decreased when the obligation diminishes, and the payment shall terminate when the obligation terminates, provided, in each case, that the participant or retired participant furnishes evidence satisfactory to the Administration Committee of such diminution or termination. No payment hereunder pursuant to a final order of a court will be payable sooner than the end of the month which is at least 60 days after the Benefits Administrator has received an authenticated copy of the order.

(d) Distribution of the entire benefit payable on account of a participant or retired participant shall commence no later than the beginning date required under applicable governmental regulations. Distribution may continue over a period no longer than the longest of (i) the life of the retired participant, (ii) the lives of the retired participant and a designated beneficiary, (iii) the life expectancy of the participant or retired participant or (iv) the joint and last survivor life expectancy of the participant or retired participant and a designated beneficiary.

(e) If a retired participant dies after distributions to him have begun, all death benefits shall be distributed at least as rapidly as under the method of distribution being used on his death.

(f) If a participant or retired participant dies before distributions to him have begun, the death benefits shall be distributed (i) over a period no longer than the longer of the life or life expectancy of a designated beneficiary (and distribution shall begin no later than December 31 of the calendar year after the year of the participant's or retired participant's death or a later date prescribed in applicable governmental regulations), or (ii) in

(d) Once a series of continuing payments commences, the amount will not be reduced unless it is demonstrated that the underlying obligation has diminished.

3. It is worth emphasizing that, by allowing for the direction of pension payments to former spouses, the amendment changes only the distribution of payments of existing benefits. It does not create any new benefits, nor a fiduciary obligation to a spouse or former spouse, nor make the spouse or former spouse a beneficiary of the SRP.

4. Attached is a memorandum prepared by the Legal Department for use in framing directions to pay or court decrees consistently with this new provision. This memorandum is intended principally for the use of counsel. Staff members, retirees and their spouses who are initiating proceedings for divorce or legal separation should draw it to the attention of counsel.

Effective Date and Termination of Pensions

5. Prior to this amendment, the Staff Retirement Plan provided that most pensions would become effective on the first of the month following the month in which the participant retired. Thus, for a participant who retired in the middle of a month, there would be a gap between the payment of salary and the payment of pension. This amendment provides that pensions can become effective on the day following retirement, with a fraction of the monthly amount payable for the month in which the pension becomes effective. Similar provisions apply to the month in which the pension ceases.

Questions

6. Copies of the revised Plan document reflecting these changes can be picked-up from MC4-438 or by sending an All-in-One message to PENSION. If you have questions about these changes, please contact the Pension Department on Extension 82977.

E Wessels

Everardo Wessels
Director
Personnel Services & Compensation

Attachment

Organización de los Estados Americanos
Organização dos Estados Americanos
Organization des États Américains
Organization of American States

17th and Constitution Ave., N.W. • Washington, D.C. 20006

Date: 04/09/98

Ms. Kay Basil
Bureau of International Organizations
United States Department of State
Washington, D.C. 20520

RE: Request for Information on Policies and Procedures for Providing Information on Salaries and Benefits of GS/OAS Staff Members to Courts, for Garnishment of Staff Remuneration, and for Spousal Access to Pension Benefits

Dear Kay:

As we discussed at last Thursday's meeting in your office, the OAS General Secretariat ("GS/OAS") has a long-standing policy of prohibiting staff members from hiding behind the Organization's privileges and immunities to avoid their personal responsibilities to the community, and in particular, to their families. In that regard, I am enclosing a copy of GS/OAS Staff Rule 101.9, which sets out that policy in greater detail.

At the close of the meeting, you asked me to confirm in writing the specific practices followed by the General Secretariat in responding to specific requests from courts for information on a staff member's salary and benefits; garnishment orders; and qualified domestic support orders ("QUADRO"). Our response follows below:

1. <u>Judicial Requests for Information</u>

The General Secretariat responds to all judicial requests for information on the salary and benefits of its staff members by providing the information requested, provided the request is reasonable. Requests are generally considered reasonable if they are not overbroad and will not require the Secretariat to devote an inordinate amount of staff time and resources for the response. In responding to requests for information, GS/OAS advises the Court that it is immune from judicial process, but that it will provide the information requested voluntarily in light of its general policy of cooperating with local authorities on matters of this nature. It adds that in no way is its voluntary response to the court's request to be construed as a waiver of its privileges and immunities. Subsequently, GS/OAS informs the staff member concerned that it has received and answered the request.

2. Garnishment Orders

When GS/OAS receives a garnishment order, the Department of Human Resources ("DHR") calls the staff member in to advise him of his obligations to comply with the laws of the host country, including court orders. It further tells the staff member that if he does not voluntarily pay what is ordered, the Secretariat will waive immunities regarding any assets it holds for his account and will comply with the order. GS/OAS will also remind the staff that it considers failure to comply with a court order a breach of the Organization's loyalty oath and of the standard of conduct required of international civil servants, and that his persistent refusal to comply with those orders will result in disciplinary action, including the possibility of dismissal.

To this date, GS/OAS has not had to garnish or discipline a staff member for noncompliance with a court order. To the best of our knowledge, all delinquent staff members have taken the above-mentioned GS/OAS warnings seriously and have complied with their obligations.

3. GS/OAS Pension Benefits

Under the terms of the OAS Retirement and Pension Plan, only those employees who entered the Plan prior to 1981 are allowed to assign their pension benefits. All other employees are prohibited from assigning those benefit and their survivor benefits are paid out automatically to the surviving spouse and/or minor and/or disabled children. Presently, the OAS Retirement and Pension Committee, which serves as the Plan's Trustees, is evaluating proposed Plan amendments which would permit post-1980 Plan participants to assign pension benefits as part of a domestic relations settlement or for the limited purpose of complying with a domestic relations order.

To this date, GS/OAS has had no complaints regarding post-1980 participants in the Plan and their spouses. Problems regarding the pre-1981 Plan participants involved in domestic relations disputes have been settled by convincing them to assign irrevocably plan entitlements as required.

If the Plan is not amended to permit assignment of benefits by post-1980 participants, the Plan Trustees will have to determine, when and if it receives the first QUADRO for those participants, whether it will waive the Plan's immunities and submit to the Order. The ultimate decision will rest on the Committee's assessment of the probability that the OAS Administrative Tribunal would find that compliance with the QUADRO a violation of the Plan. Our preliminary opinion is that the probability of such a finding is remote. Nonetheless, the issue has not yet been fully evaluated and we have yet to render a final opinion.

I hope that the foregoing information will be helpful for your response to the National Security Council on these issues. Should you require further assistance, please do not hesitate to ask.

Very truly yours,

William M. Berenson
Director, Department of Legal Services

Cc R. Avila
N. Laporte
L. Lizondo
L. Zark

Rule 101.9 Conditions Governing Privileges and Immunities

(a) Any and all privileges and immunities accorded to staff members by the Member States by way of agreement, legislation, or custom and practice, are granted in the interests of the General Secretariat and not for the personal benefit of the individuals themselves. The Secretary General may waive the immunity of any staff member in any case, where in the Secretary General's opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization.

(b) Without prejudice to the above-mentioned privileges and immunities, it is the duty of each staff member to respect the laws of his duty station or of any Member State in which he is on Mission or to which he is otherwise assigned.

(c) Prior to leaving his duty station, retiring, or otherwise separating from service, a staff member who is not an immigrant or citizen of the duty station country and against whom a civil action is pending in any court in his duty station in relation to activities for which there is no immunity under the corresponding agreements and laws, or for which immunity has been waived, must appoint an agent resident in the duty station. The staff member shall authorize that agent to receive process relating to the civil action, and in the event a final judgment is issued against the staff member, to receive salary, pensions, and other remuneration due him from the General Secretariat, so that such salary, pensions, and other remuneration may be available to satisfy the judgment. In the event the staff member fails to appoint that agent, the General Secretariat shall have the authority to appoint an agent for him and may do so. Any agent so appointed pursuant to this paragraph shall be resident in the duty station, or in any other locations which the General Secretariat deems appropriate.

3599

NCSEA

# National Child Support Enforcement Association



May 7, 1998

The President
The White House
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

Re: Request for Executive Order

Dear Mr. President:

The National Child Support Enforcement Association (NCSEA) joins the American Bar Association Section of Family Law in requesting the removal of immunity of international organizations to state court jurisdiction in family support cases involving their employees.

Since 1952, the primary mission of NCSEA has been to protect the well-being of children through effective law enforcement. This mission has been effectively thwarted by organizations invoking immunity from child support enforcement under the International Organizations Immunities Act (1945) *22 U.S.C. 288* (IOIA). Despite a growing arsenal of enforcement tools, this Nation's 55,000 child support workers are powerless against over 70 international organizations designated by Executive Order to enjoy the absolute immunity offered by the IOIA. As a result child support cases involving employees working for IOIA are either closed or never opened on IV-D agencies automated systems. Fortunately, the IOIA also gives the President the power, by Executive Order to modify, limit, condition, or revoke these organizations' immunities.

In the interest of our children, NCSEA requests that you exercise your authority under the IOIA to issue appropriate executive orders immediately removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees.

Respectfully,

Gary Caswell
Vice President, International Reciprocity
Assistant Attorney General, Texas

H18 8-30


Hall of the States o 444 North Capitol Street o Suite 414 o Washington, DC 20001-1512
Phone: 202-624-8180 o FAX: 202-624-8828

3577

AMERICAN BAR ASSOCIATION

Section of Family Law
750 North Lake Shore Drive
Chicago, IL 60611
(312) 988-5603
FAX: (312) 988-6800
E-MAIL: familylaw@abanet.org
http//www.abanet.org/family



May 13, 1998

Reply To:

The President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. President:

The American Bar Association's Section of Family Law submits these comments in support of removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees. The views expressed herein are presented on behalf of the Section of Family Law. They have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the position of the Association. However, the comments are consistent with current policy which supports the use of garnishment to secure payments of family support.

The Section of Family Law urges use of the power granted you by the International Organizations Immunities Act, 22 U.S.C. §288 et seq, to issue an executive order removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees.

International organizations appear to be deeply committed to the long-standing policy of protecting their employees from legal obligations to support former spouses and children. They have responded to recent State Department inquiries by claiming that, although the spouses and children used to have difficulty in obtaining income information needed to process support petitions, and were often unable to collect child support and alimony from international organization employees, various policy changes made in 1995 eliminated the problem. In fact, family law attorneys, child support caseworkers and those actively involved in the process have experienced otherwise.

The positions taken by international organizations have prevented state courts from ordering the release of information necessary to identify income and assets of employees and, as a result, the ability to fashion equitable and enforceable orders has been severely diminished. Additionally, courts have been powerless to secure assets to prevent their unilateral dissipation by a litigant or to compel the payment of family support awards through garnishment.

For example, the National Child Support Enforcement Association was asked in Summer, 1997 to support private litigation in the federal court in the District of Columbia based on the effort of an individual litigant to collect past due child support and enforce a judgment arising from the divorce through a garnishment process. Because the defendant, the Inter-American Development Bank, routinely wired the payor's wages directly to a foreign bank account, enforcement of the judgment was extraordinarily difficult. The practical result is that families and children are left without adequate means of support and the family court is powerless to effectuate its orders.

As you know, the House of Representatives agreed on March 26, 1998 to the Conference Report on State Department Authorization bill, HR 1752. Sponsored by NY Congressman Lazio, this bill addresses the sense of Congress regarding compliance with child and spousal support obligations by United Nations personnel.

The Section recognizes the emotional and economic suffering of children and former spouses caused by nonpayment of family support or distribution of assets upon which a dependent spouse relies. For these reasons, we urge removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees.

Respectfully submitted,

Maurice Jay Kutner

Maurice Jay Kutner
Section Chair

*Caryn S. Lennon, J.D.*
Suite 400
1825 I Street, NW
Washington, DC 20006

Telephone:
202-429-2089

Facsimile:
703-318-0166

May 23, 1998

Faith Dornbrand
Sherman, Meehan, Curtin & Ain
1900 M Street, NW, Suite 600
Washington DC 20036-3565

Dear Faith,

As you know, representation of an international organization (IO) spouse in a divorce is one of the most difficult kinds of cases you can undertake. There are obstacles from beginning to end, such as:

> *Obtaining information*. The policy of the majority of IOs is to refuse disclosure of any information whatsoever. Citing the immunity granted by the International Organizations Immunities Act, 22 U.S.C. Sec. 288, requests for salary and benefits information on employees are routinely denied, and court orders are ignored. Without accurate data a spouse may be unable to obtain appropriate child or spousal support.
>
> *Enforcing obligations*. Even if an IO spouse is able to obtain a court order for child or spousal support, all IOs currently refuse to honor civil court orders that attempt to garnish the salary of the employee. Again, citing the IOIA, the 60+ international organizations in the U.S. will not force their employees to support their spouses and children despite a state court order that they do so.

The IOs have been representing to the State Department that there is no problem, because they aren't aware of any pending cases, and because they have adequate internal mechanisms for handling these situations. We know differently. The World Bank, for instance, prides itself on having granted spouses access to the Pension Plan for spousal support. You are no doubt aware of all the reasons that is completely inadequate, starting with the ability of the employee to avoid the court order simply by changing employers and taking his pension plan to any one of the other IOs that don't grant such access.

There is a proposal before the State Department to urge the President of the United States to issue an Executive Order removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees. This proposal has the support of the American Bar Association Section of Family Law, the National Child Support Enforcement Association, and many others. We are asking the State Department to support taking a very controversial action, and we need your help. Although these problems are well-known to family law attorneys, the State Department and other representatives of the federal government are hearing about them for the first time. They need to be convinced that the problems are serious and widespread, and that only drastic action will suffice.

Here's what I'm asking you to do: search your memory and your case files for examples of the kinds of difficulties I've described. Write a letter to the parties listed below describing in as much detail as you can what the problems were and how the IOIA affected the ability of your clients to obtain a fair outcome. Do not include names or identifying details, but the name of the international organization in each case would be helpful. Make your letter as long as possible. Copy and share this letter with your colleagues and ask them to do the same. Only by overwhelming the government with examples and details will it be possible to convince them to begin to remedy this situation.

I know you are busy and this is asking a lot, but any help you can give will be greatly appreciated!

Sincerely,

Caryn S. Lennon

Enclosures

CC: Scott Busby, National Security Council
Janet Atkinson, Esq.

5008 CLOISTER DR.
ROCKVILLE, MD 20852
301-530-0726
FAX: 301-530-9512

May 27, 1998

Ms. Kay Bossel
Host Country Relations
United States Department of State
Main State Department Building
Washington, D.C. 20520

Re: International Agencies Immunities Act - Family Support

Dear Ms.Bossel:

Enclosed, you will find case studies, collected in response to your request of May 13, 1998. These cases represent only a small fraction of the total number of injured spouses. Nevertheless, they eloquently describe the callous treatment international organizations routinely accord employees' spouses and children following separation or divorce. These brave spouses have surmounted well-founded fears of retaliation by former spouses and/ or their employers, with the earnest hope that sharing their own private, embarrassing and painful experiences would save others from similar fates. We urge you to keep the documents confidential.

The cases eloquently describe international organizations continued use of their institutional immunity to shield staff members from their personal legal obligations to support their families. You will note that each spouse has been impoverished, deprived of support and/ or unfairly divested of marital property, because : (1) She could not obtain reliable and complete information, concerning the staff member's salary, benefits and the value of the pension; (2) The organization refused to implement wage withholding; and (3) The divorce court could not attach the spousal share of an employee pension. Even when a court orders the staff member to maintain medical insurance, pay education benefits to the children or designate the spouse as life insurance beneficiary, the spouse has no means of enforcing that order, and cannot even verify whether or not the staff member is in compliance. If these institutions were subject to state court jurisdiction in family law cases, involving their employees, each spouse and child would now enjoy financial security.

Many spouses accepted unfair settlements, because they could not learn the actual value of the staff member's salary and benefits, and knew that they could not enforce court orders. Dependant spouses seldom have the resources to obtain adequate legal representation, in these difficult cases. Foreign spouses often are unable to remain in the United States long enough to enforce their legal rights, through the contempt power of the courts. Their visas expire 60 days after entry of the divorce decree. Several relate costly and futile attempts to collect court-ordered support, pension payments, or monetary awards. Spouses awarded or promised a portion of the employee's pension, "as, if and when" the staff member retires, frequently fail to receive promised payments. Spouses cannot determine whether or not they have received the proper amount. None of the organizations will notify a spouse or former spouse, when an employee commutes a share of the pension.

Efforts to document cases and determine how many families are affected are hampered by the fact that the organizations claim that they do not maintain such data. Most spouses and their attorneys say they are reluctant to discuss specific cases, lest the employee retaliate, by ceasing all support payments, refusing to authorize the children's education or health insurance benefits, depriving the children of home country travel benefits, or refusing to pay a monetary award. I will forward further information to you, as it is received. Nevertheless, I would like to think that the organizations, the Department of State and President Clinton were motivated by principle, not by numbers. Even one case, is one too many.

Yours very truly,

Janet E. Atkinson

cc: President Clinton*
First Lady Hilary Rodham Clinton*
Senator Barbara Mikulski*
Congresswoman Constance Morella*
Congressman Rick Lazio*
Scott Busby
Robin Leeds*
Princeton Lyman*

* Without attachments

# Withdrawal/Redaction Marker
## Clinton Library

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|---|---|---|---|
| 001. list | Attachments [partial] (1 page) | 05/25/1998 | P6/b(6) |

**COLLECTION:**

Clinton Presidential Records
First Lady's Office
Domestic Policy Council (Nicole Rabner)
OA/Box Number: 15423

**FOLDER TITLE:**

Child Support-International Organization Issue [2]

2012-1035-S
kc1091

### RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

**P1 National Security Classified Information [(a)(1) of the PRA]**
**P2 Relating to the appointment to Federal office [(a)(2) of the PRA]**
**P3 Release would violate a Federal statute [(a)(3) of the PRA]**
**P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]**
**P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]**
**P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]**

**C. Closed in accordance with restrictions contained in donor's deed of gift.**
**PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).**
**RR. Document will be reviewed upon request.**

**Freedom of Information Act - [5 U.S.C. 552(b)]**

**b(1) National security classified information [(b)(1) of the FOIA]**
**b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]**
**b(3) Release would violate a Federal statute [(b)(3) of the FOIA]**
**b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]**
**b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]**
**b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]**
**b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]**
**b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]**

## ATTACHMENTS

1. Letter to Ruksana Mehta from (b)(6) dated May 21, 1998. [001]

2. Letter, to Ruksana Mehta, marked "~~CONFIDENTIAL,~~" dated May 26, 1998.

3. Letter to Ruksana Mehta from (b)(6) dated May 24, 1998.

4. Letter to Alan Siff, Esquire, from Jeffrey Weinstock, dated March 13, 1998.

5. Letter from Alan J. Siff, Sr. Counsel, World Bank to Jeffrey C. Weinstock, dated August 20, 1997.

6. Letter from Helene King to Ruksana Mehta, dated May 20, 1998, including attachments.

7. "Pension benefits for divorced or former spouses; Note by the UN Family Rights Committee."

8. 'How the Privileges and Immunities of the United Nations Hurt Families."

9. Letter to Chairman of the Staff Association IMO, London, signed February 2, 1996.

10. Letter to Jennifer Roehl from Patricia Amundrud, dated March 17, 1998.

11. World Bank Volunteer Services, "President's Message" March 1990.

12. "Responses to the President's Message from the March Newsletter" - World Bank Volunteer Services - April, 1990.

13. Letter to Clerk of Court, Montgomery County, from David R. Rivero, Senior Counsel, World Bank, dated April 25, 1994.

14. Letter from daughter of U.N. Civil Servant- no date.

15. Letter from Eve Kouidri Kuhn, UN Family Rights Committee, Vienna, dated March 9, 1998.

16. Letter from Lata Deshpande to Ruksana Mehta, dated May 11, 1998.

17. Case Studies, prepared by Janet Atkinson - spring 1998

# Withdrawal/Redaction Marker
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| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|---|---|---|---|
| 002. letter | Unnamed spouse to Ruksana [Mehta] (partial) (1 page) | 05/21/1998 | P6/b(6) |

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[002]

1

[redacted] P6/(b)(6)
Chevy Chase, MD 20815

May 21, 1998

Dear Ruksana,

I am writing this letter to tell you about the troubles I have experienced in getting a divorce from my husband who is a Bank employee. I refer to the policies of the Bank which seem to disregard the spouse completely.

When I needed to get information about my husband's salary or benefits from the Bank, it was extremely difficult to get any answers. I had to rely solely on my husband to provide me with information. The reason for divorce is generally due to the spouse's dishonesty and uncooperative behavior. To expect cooperation when a divorce is in the works is unrealistic. I got no cooperation from my spouse, and even my lawyers were unsuccessful in obtaining information for me.

We spouses belonging to the Bank Group support and cooperate with our husbands. We do not get any direct benefit, and find it near impossible to get information regarding those benefits. Some of us cannot even enter the Bank buildings because our spouse withdraws our name! This type of treatment is humiliating and unfair. In these modern times of equality, we should be given more security and rights. After all we seek our human rights.

In my own divorce, when I understood how difficult it was for me to obtain a fair settlement, when the Bank's immunity to court orders gave me no guarantees for a court ordered stream of payments, I took the settlement my husband offered me and did not fight for my fair share.

Sincerely yours,

[redacted] P6/(b)(6)

P.S. My divorce was made final on the 23rd February 1998. [redacted] P6/(b)(6)

2)

[redacted]

*****************************************************************************

[redacted]

*****************************************************************************

May 26, 1998

~~CONFIDENTIAL~~

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
Initials: KBH Date: 9/29/2022
2012-1035-S

Ms Ruksana Mehta
Chairperson spouse Issues,
W.B.V.S
Washington D.C.

Dear Ms. Mehta,

I am responding to your request for spouses who have suffered due to the Bank Groups immunity to court orders, to give their story as a case study.

I am one such spouse. I was married to [redacted] for 28 years. We have two children. I have been a Bank spouse for 16 years prior to my divorce which took place on April 28, 1993.

My husband walked out on us, his family one day, and I was shocked to be served divorce papers from him soon thereafter. He closed our joint bank account and removed my spouse I.D. Soon thereafter he left on Bank's mission. I was unable to contact him, and received no assistance from the institution in knowing his whereabouts.

The Bank gave me no information or knowledge on how I was to deal with my situation. Since they gave me no information of his salary or pension I did not know how to set about getting my financial rights. I hired an actuary at a cost to myself to get some figure to work on.

As realization came to me of my vulnerable state, knowing I could not "garnish" his salary if I went to court and got a judgment, I had to accept an unfair settlement . I was powerless I knew, and I had no way of getting the knowledge required to fight for my rights. At the present time I am terrified as to what will become of me if he were to stop paying me my monthly support. I have no way of enforcing a steady stream of payments, which would cease if he were to die. I have no pension or insurance to secure me in my old age. Since our divorce, my ex husband has remarried.

I would like to have "confidentiality" for my case, as he could use exposure of our case as a reason to stop my monthly payments.

My ex husband did not keep to his agreement to pay for my children's education regularly, and sent money irregularly. I fear he has hurt my children badly, and damaged them psychologically. Our agreement says he will pay "Reasonable cost" for the children. The interpretation of reasonable cost rests with him!

As I look back on my life, I realize that I gave up my career as an art and education instructor for this man. I left my country [redacted] to be supportive to my family. At the end of the day I have next to nothing financially from the end of my marriage. Yes, I gave up the fight before it drove me crazy - but I knew that I was not able to fight an institution which had no sympathy for the spouse, or a man who was violent and abusive from time to time. Even my lawyers held out no hope for me.

A sad story has been told here - and it is my earnest desire that a cure be found for situations such as mine. Give us a level playing field, and help us keep our dignity and security at the end of the say!

In closing I thank you for your endless fight for ending injustice.

With best regards,

[redacted]

NOTE - The original signed copy is with me. I can make the original available to you on request.