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## **The social status of seamen's wives as assisting spouses : from a recognition of abstract legal status, based on women's action, to a legal ineffectiveness of the status**

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Recognition of the social status of seamen's wives as assisting spouses was the result of the unrelenting determination of some of them :

*"I have also fought for fishermen's wives associations, so I was chairman of the coastal Brittany women's association which was founded at the time of the fishing crisis, and I have been chairwoman of the national women's federation, and then I moved on to something else. Afterwards, with a little group of women, I worked a lot and fought a lot to get the assisting spouse status. And now I am a trainer in maritime secondary schools in Brittany. I was talking about it only yesterday, I gave out the assisting spouse status brochure to the students, so it is true that it is something I know about. I know the status well because I was really its initiator. There were very few of us, I was the chairwoman of this women's movement. I have worked a lot with women farmers... to learn from their example, and with crafts women and the women in shellfish culture. It was a ... very great moment."*<sup>1</sup>

Recognition was the result of a long and patient 'struggle' to acknowledge not only the wife's involvement in the running of a maritime business in a male-dominated industry, but also and more importantly, the fact that women also have the ability to be seafarers. Recognition was sought through the route of social law, and more specifically, through the principles of equality and the fight against discrimination, which are embodied in social law. These principles were acquired at least in a cultural sense and were used to support legitimate claims. Looking back, everybody agrees that the lack of recognition for the wife's role when she was actively involved in the business was unfair.

The injustice seemed all the more blatant because the wives had to face a great deal of rational and irrational social and economic resistance. The occupation is closed to women because it is considered to be a man's occupation. This gendered perception of the profession stems from its physical nature and the risks involved. On a more general level, it is part of the gendered distribution of tasks which is predominant in the crafts and trades. The reasons are economic and family-related. Simplistically, the husband sets up a business, earns a living from the business to sustain the family unit. Because his activity requires the husband to be totally available, the wife takes on the family duties (meals, education etc.).

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<sup>1</sup> Oyster producer, former President of the Local Committee Turballe (Mareyeuse, ancienne Présidente Comité Local de la Turballe).

This family-centred business model means that in practice the wife does not have an occupational status, either because she does not work outside the business, or because she spends some of her time working in the business, sometimes obtaining the certificate of competency in fishing<sup>2</sup> (brevet de capacitaire). However, some wives, especially those who have an entrepreneurial spirit, manage to develop an activity outside of the business or to earn some recognition by working in the company.

The wives' statements are very instructive and they show that the social inequality condemned on a social level was restored on a civil and even legal level. Because her husband is away, the woman has some measure of de facto power which arranges or rearranges the family as a kind of matriarchy:

*“What is undeniable in the fishing industry is that the smaller the industry becomes, the fewer people there are around it. It's obvious, the smaller the industry becomes the fewer boats and fewer seafaring families there are. So in the new generations, women work, so they have less time to spend in endless talk in meetings where they are only women. The new generations... the good thing about them is that they can't conceive of women-only meetings, they want men-women meetings as well. Now look, here we are one, two, three, five women. We are five women. It is significant as well that men don't choose to do secretarial-type work. That's a barrier. If we manage to break through that barrier and to work together on an equal footing... that would be a step forward, but we need to hang on to it. You could say that we've got a foot in the door. It might be a bit squashed, but if you take it out, the door will close again (laughter). And, we'll have to open it again. (12.49).... So in Brittany you could say that we're lucky because we've got matriarchy.” [Question of the interviewer : “You think so?”] “Yes, absolutely. There might be some friction, but in the end, women will manage to get their voices heard a bit.... because it's in us, we're Bretons. I mean.... Well you see in the seafaring world. Because the men are often not there - which is not a problem - we can't wait, like for 12-13 days. So if a decision needs to be made, we make it, we don't even think about it... You are not going to fetch your husband who's on a boat somewhere in the south of Ireland. You are not going to get on a helicopter, you can't even always call him. They've got mobile phones now, but the husband needs to be close by. If there's an important decision to be made on land, a sick child, big...., you do it,...even change the gas bottle, well actually no I can't... So when decisions need taking, well you just have to do it.”<sup>3</sup>*

In the women's statements it is also apparent that the situation is also 'painful' for the husbands, because they can't help the wives as much as they would like to:

*“At the end of the day, a relationship works well when there's mutual respect. I have always had respect for my husband's job but he has always shown the same respect for mine and my life on land. It's true that when he comes home, he doesn't necessarily feel at home. There are so many of us in our family. That's what my husband told me once. I was upset, but afterwards I thought, you're right. He said: - “You've got everything sorted. But where do I go? How do I count? You ask me for a cheque to buy a sideboard or sofa, I'm not going to choose it.” (51'51) I said that he was right. I wanted everything to be good, perfect even. That put me in my place. I need to try and make an effort. I haven't changed anything as far as I'm concerned. It wasn't right. The problem was that I was resentful. When my husband came back from sea, we had so little time that I didn't want to share him with anybody. Even sometimes after my children had grown up, I made sure that it was just the two of us. One day he said to me, I don't see anybody anymore, not even my own children. I said it was true. I was in fact excluding him from the family. I really paid attention to what he was saying, he was right. Paying attention. Because I am a beautician and I see lots of people, I realised that I was in the same situation as the wives of men in the Navy and the Merchant Navy. I thought some of the women were exaggerating. I used to say to them, don't you think you exaggerate a little. We need to pay attention*

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<sup>2</sup> Old sailing, student School of Marine Affairs, inspector training ship safety (Ancienne navigante, élève Ecole des Affaires maritimes, formation inspectrice de sécurité des navires).

<sup>3</sup> Oyster producer, former President of the Local Committee Turballe (Mareyeuse, ancienne Présidente Comité Local de la Turballe).

*to our husbands. They work to make sure we have a comfortable life, we need to accept this as some kind of compensation. Seamen are a bit like that. Their home is a bit like a haven. They need to feel good when they go home, without mess everywhere or the telephone ringing all the time. This was the criticism I had of seamen's families before I knew them, but I was the same. Because our husbands are rarely at home, when they are, we are over-protective of them. In our families we tend to stick together a bit too much. I have known women who slept with their child when their husband was away. I said you need to be careful, when your husband comes back, he'll want his bed back, and the child won't understand. We had relationships to share about amongst the women. To improve ourselves. It's hard for seamen's wives, people on the outside don't understand how it works. My sister is a civil servant, she thinks I'm crazy. She doesn't understand. I said to her that my life was like that, that each day I adjusted to what was. I can't talk to her. Not about that. We don't need to go very far. Because we have created these associations, we have been able to share lots of things, births, weddings, communions, deaths. When there is a shipwreck, we get very emotional even if it's at the other end of France, even if it's somebody who's not close to us. These things could happen to us."*<sup>4</sup>

This approach prompts us (at least it should) to be more cautious with the equality principles and the recognition of rights based on these principles, lest we should fall into the trap of political exploitation. The principles have been necessary to obtain recognition for an assisting spouse status. This was the choice made, even though retrospectively, it may not have been the most effective. Action should perhaps have focused on the status of maritime companies<sup>5</sup>.

## 2 – Recognition of the social status of seamen's wives as assisting spouses

The social status of the spouse was recognised in 1982<sup>6</sup>. It was introduced to recognise the involvement of the spouse of a crafts or commercial company director in the company activity. This status did not apply at first to maritime operations. This shortcoming was corrected by the Fisheries Framework Act No. 97-1051 of 18 November 1997<sup>7</sup> under the pressure of seamen's wives associations. This act extended the application of the Act of 10 July 1982 to the spouses of fishing or marine culture companies.

Despite being essential, this tool was not at all mandatory. Spouses who participated in the running of the company did not have to choose a status. They were free to get the status or not and they could choose between three options: employee, assisting spouse listed in the register of trade and companies or in the professions directory, or partner.

Act n°. 2005-882 of 2 August 2005 for small and medium enterprises has made the choice of a status compulsory. Spouses who participate in the company activity are now required to choose a status. However, they retain the freedom to choose the most appropriate status option (assisting spouse, employee or partner) for their situation.

Article L. 121-4 of the Commercial Code defines the reference legislation. It stipulates that "the spouse of a crafts, commercial or professional company director who carries out a regular professional activity in the company shall elect one of the following statuses: 1) Assisting spouse; 2) Spouse employee; 3) Spouse partner." (Art. L. 121-4. I.C. du Commerce)<sup>8</sup>.

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<sup>4</sup> President, Association "Fishing and Development" (Présidente, Association "Pêche et Développement").

<sup>5</sup> "Now that I see where the fishing industry is heading, I'd say that this isn't what we should have done. And yet we did think about it. We should have worked on the fishing company status." - Oyster producer, former President of the Local Committee Turballe (Mareyeuse, ancienne Présidente Comité Local de la Turballe).

<sup>6</sup> Act n°. 282-256 of 10 July 1982 on the spouses of crafts or commercial company directors.

<sup>7</sup> G. Proutière-Maulion, « La loi d'orientation des pêches et des cultures marines », *Droit maritime français*, 1998, n° 579.

<sup>8</sup> Choosing one of the three statuses is not easy. See Christine Boudineau, Faut-il salarier le conjoint du chef d'entreprise ?, PA. 30 juillet 1999, n° 151.

The implementation rules for this Act have been specified in Decree No. 2006-966 of 1 August 2006<sup>9</sup>, Decree No. 2006-1313 of 25 October 2006 on assisting spouses pursuant to Act No. 2005-882 of 2 August 2005 for SMEs (Official Journal dated 3 August 2005), and with regard to maritime activities, in the ENIM Circular 15/06 No. 2006 of 22 December 2006.<sup>10</sup>

### 3 – Access and rights attached to the status

Most seamen's wives associations have supported the assisting spouse status. Access to the status requires that a set of conditions as to content and form are met<sup>11</sup>.

#### 3.1 - Requirements as to content

With regard to content, “the spouse of a commercial, crafts or professional company director, who carries out a regular professional activity in the company without receiving payment for this work and who is not a partner as defined in Article 1832 of the Civil Code, is deemed to be an assisting spouse. – [Decree No. 2006-966 of 1 August 2006, Art. 1]” (Art. R. 121-1 of the Commercial Code).

Five requirements need to be met: 1/ be a spouse; 2/ be the spouse of a commercial, crafts or professional company director; 3/ carry out a regular professional activity in the company; 4/ not be paid for this work; 5/ not be a partner as defined in Article 1832 of the Civil Code.

1/ be a spouse – The status is accessible to a married spouse regardless of the matrimonial regime. The status has been extended by the Act of 4 August 2008<sup>12</sup> to individuals who have entered into a civil partnership agreement (pacte civil de solidarité, or PACS).

2/ be the spouse of a commercial, crafts or professional company director – Director can mean sole trader or company director. Fishing companies are included, even though the description is not specifically aimed at them. The company must not have more than twenty employees<sup>13</sup> at any time or over a period of 24 consecutive months<sup>14</sup>.

3/ carry out a regular professional activity in the company – The assisting spouse should actually be involved in the company activity. The activity should be regular as if it was a professional occupation. Spouses carrying out on land tasks such as sales, management, bank and customer liaison activities fit this description. Their involvement in the running of the company should not be in a capacity as partner. It should not be in a capacity as employee<sup>15</sup> either. There are thus two excluding conditions. The assisting spouse cannot be a company employee. The assisting spouse cannot have an occupation outside the family company that takes more than half of his/her working time. As provided by Article R. 121-2 of the Commercial Code “[...] spouses who carry out a salaried occupation or a

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<sup>9</sup> S. Castagné, *Le statut de conjoint collaborateur : presque une réalité !* : JCP N 2006, 1389.

<sup>10</sup> ENIM Circular 15/06 No. 2006-100 of 22 December 2006, text not published in the official journal. Department of Transport, Equipment, Tourism and the Sea, Official Bulletin for 1 to 15 January 2007, 25 January 2007, p 79-80.

<sup>11</sup> See the following references for a comprehensive overview : Jocelyne Vallansan, *Commerçants et artisans - Statut du conjoint*, Jcl. commercial, Fasc. 49, 2010 ; Suzel Castagné, *Statut du conjoint de l'entrepreneur*, Jcl. Entreprise individuelle, Fasc. 520, 2007. V. Also : Hervé Lécuyer, *Le conjoint collaborateur après le décret du 1er août 2006*, *Droit des sociétés* n° 12, Décembre 2006, étude 20 ; Rémy Raffi, *Statut de conjoint collaborateur : évolution récente et difficultés d'application*, PA. 5 août 2009, n° 155, p. 6.

<sup>12</sup> Article 16 of Act No. 2008 776 of 4 August 2008.

<sup>13</sup> Art. R. 121-3 In the companies specified in II of Article L. 121-4, the assisting spouse status is open to the spouses of directors of companies with staff not exceeding 20. The staff is counted in accordance with Articles L. 117-11-1 and L. 620-10 [*L. 1111-2 and L.1111-3 new*] of the Labour Code. [*Decree No. 2006-966 of 1 August 2006, Art. 3*].

<sup>14</sup> Art. R. 121-4 : “When, over a period of twenty four consecutive months, the number of employees exceeds the limit specified in Article R. 121-3, the company director shall request the deletion of the assisting spouse entry within two months under such conditions as set out in paragraph 3 of Article R. 121-5”.

<sup>15</sup> Gilles Auzero, *Le conjoint salarié victime de la recodification ? Semaine Sociale Lamy*, 2008, n°1372.

non salaried activity outside of the company for half of the legal working time or more are deemed not to carry out a regular professional activity in the company”.

4/ not receive payment for their work – The assisting spouse status is incompatible with that of employee. Therefore, work as an assisting spouse cannot be paid. If his/her work is paid, the assisting spouse will have the status of spouse employee.

5/ not be a partner as defined in Article 1832 of the Civil Code – The assisting spouse status is also incompatible with that of partner.

### 3.2 - Requirements as to form

A spouse eligible for acquiring the assisting spouse status is required to submit an application<sup>16</sup> to Maritime Affairs<sup>17</sup>. In his application for registration, the spouse must, in particular, declare her name, use name, nickname, surname and domicile ; her date and place of birth ; her nationality. Spouse must also declare the identity, activity and adresse of the enterprise, the date of the beginning as assisting spouse in the enterprise

### 3.3 - Rights attached to the status

The assisting spouse status grants access to a set of rights. First, the assisting spouse obtains an administration mandate. This entitles the spouse to act on behalf of the company. The mandate enables the spouse to perform all management and administration actions required for the operation of the company (Commercial Code, Art. L. 121-7). These actions are deemed to be carried out on behalf of the company director. By carrying out these actions, the wife does not engage her responsibility<sup>18</sup>.

Secondly, the status enables the beneficiary to vote and stand for professional elections, to participate in the general assemblies of maritime cooperation, mutual plan and credit organisations. The status also entitles the beneficiary to receive professional training and accreditation of prior experiential learning.

Finally, the status entitles the beneficiary to social security benefits and national insurance. The assisting spouse is thus not a right holder but she is insured. She voluntarily acquires pension rights. Spouses may choose between two options<sup>19</sup>. However, the first option is only open to company directors who “work on their own in the company and whose spouse works exclusively for the company”. The company director’s pension contributions are not increased, but shared between himself and his wife. The company director will get two thirds of the pension rights and the spouse a third. The pension rights are paid to the spouse at the same time that they are paid to the company director regardless of the age of the spouse. The pension can be drawn concurrently with a widower’s pension. In the second option, the assisting spouse receives a specific pension provided that the company director has paid supplementary contributions. Its amount is calculated on the basis of 8% of the fixed salary for Category 3 in the classification of seamen. The company director pays these contributions. The pension is paid to the wife when she is 55 if she is no longer working in the

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<sup>16</sup> Art. R. 123-88 “The application to be registered as an assisting spouse is submitted by the person required to be registered in accordance with (*Decree No. 2007-750 of 9 May 2007, Art. 2*) paragraph 6 of Article R. 123-37”.

<sup>17</sup> ENIM brochure.Statut du conjoint collaborateur ([http://www.enim.eu/default0/portail/presentation/publications/fichiers/notices/conjoint\\_collaborateur.pdf](http://www.enim.eu/default0/portail/presentation/publications/fichiers/notices/conjoint_collaborateur.pdf)).

<sup>18</sup> This mandate may be supplemented by a special mandate, which enables the spouse to perform an action beyond the legal limit (Civil Code, Art. 218, 1431 and 1539). However, “the mandate shall not take the form of a general capacitation which would create a situation in which the company is co-run, because the spouse would lose the professional and social advantages associated with his/her status”. See also :Suzel Castagné, *Le statut de conjoint collaborateur : presque une réalité !* JCP. Ed. Notariale et Immobilière, 2006, n° 51, 1389.

<sup>19</sup> See the brochure “Statut social du conjoint collaborateur de chef d’entreprise”, available on the ENIM website.

company. The pension amounts to 1% of the fixed salary for Category 3 per valid year within the limit of 37.5 years.

The assisting spouse is the right holder of the company director spouse in respect of the health and maternity insurance cover for non employees. As such, the spouse is entitled to a replacement allowance if she takes maternity or adoption leave. This benefit is only granted to assisting spouses whose husband has chosen the second pension option (specific pension). Assisting spouses who are covered by the state system are not entitled to this benefit. In order to get the benefit, they must also stop all work in the company for at least a week and be replaced. The replacement allowance is paid for 56 days maximum and must be drawn during the period starting 6 weeks before the due date and up to 10 weeks after the birth. In the case of adoptions, the replacement allowance is paid for 28 days maximum and must be drawn in the 10 week-period following the child's arrival in the family<sup>20</sup>. The spouse is also entitled to compensation for the death of the company director.

#### 4 – Social, economic and legal ineffectiveness of the status

In fact, even though the women are involved in the running of the company, the majority of them have not chosen to have assisting spouse status. The number of women concerned is high. Maritime companies are mostly small family concerns. A study<sup>21</sup> has shown that only 20% of spouses had assisting spouse status before a choice of status became compulsory, and that this was to get pension rights. The survey also showed that a third of skipper spouses were actively involved in the company. On 31 December 2008, out of 9,600 women working with their husbands, 863 chose the assisting spouse status<sup>22</sup>; this represents 8.9%. 96% of women who chose the assisting spouse status chose the pension option with supplementary contributions<sup>23</sup>. Accession numbers are variable depending on the region: 262 in Charente-Maritime, 128 in Finistère, 103 in Vendée and 77 in Morbihan.

This may seem surprising. It reflects a discrepancy between the legitimate desire to aspire to a status and a policy of access to rights based on gender, and the diversity of family life, which is made up of a mixture of factors, such as the personality and education of each individual in the couple, the life of the couple as a whole, the family unit and the economic and educational choices necessary for the unit to make a living:

*“In the tourist office. He started in a bar. Right next to the tourist office. He used to come and see me. Of course in Carnac in winter, there wasn't a soul around. We met in the summer, we got married the following year. I was still in the tourist office. He set up in business with the birth of my first child. That was 22 years ago. Then we realised that my life in the tourist office and his were completely different. So if we wanted our family and our relationship to work, somebody had to give. So I became an assisting spouse. I finished with the tourist office. I helped him with the supplies, deliveries and accounts. He used to work with somebody, a sailor who deserted him overnight. The problem is that we have decisions to make about numbers on boats and in this case the decision was 2 people. Two people were necessary on board otherwise we couldn't go out to sea. So I went to Maritime Affairs and asked if I could work and they gave me permission. I had to fill in some document. I needed to get some fishing qualifications. So I went back to fishing school. I started with the CIN (nautical induction certificate), the basic certificate which allows you to go on a boat. After that I passed my CAPMC (vocational certificate in maritime shellfish farming) which authorises*

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<sup>20</sup> Ditto.

<sup>21</sup> LEN CORRAIL, La création d'entreprise de pêche artisanale en France, Le projet CAP Création pêche, avril 2003, 4 p.

<sup>22</sup> Y. Gaubert, « Pêches et cultures marines : les conjoints aussi ont un statut », *Le marin*, 14 mars 2008, n° 3166 p 2.

<sup>23</sup> Ditto.

*marine and oyster farming, and I finished with the certificate of competence in fishing in order to get a commanding certificate. It took 3 years. So I have been working since 2000.*"<sup>24</sup>

A policy of access to rights based on equality would find its limit in 'politics' or in the challenges specific to each family unit. This socio-economic factor is not the only limiting factor.

The legal arrangement despite being based on equal rights perpetuates the discrimination. The assisting spouse status is not as attractive as it seems or has been presented. Its positive features stem from its transparency, because condemnation of an unfair and discriminatory situation and recognition of a status have been made possible. But it also has the faults associated with transparency. On one hand, the assisting spouse is not paid for her work. The financial situation of the company may clearly not always allow this. But if this criterion is critical then the focus should be on developing tools enabling the spouse to find employment outside the company or for the company to expand. On the other hand, the assisting spouse contributes to the smooth running of the company. Despite the mandate, the spouse does not have decisional power in law.

On the whole, the assisting spouse has an ineffective right, which does not give her freedom on a day-to-day basis, but implicitly perpetuates her economic dependency and in a way maintains a hierarchy in the couple in favour of the company director spouse.

These legal restrictions specific to the assisting spouse status explain its limited success. This poor take-up of the assisting spouse status did not automatically involve a greater take-up of the spouse employee and spouse partner statuses provided by Article L. 121-4 of the Commercial Code. The reasons for this are similar to above.

The spouse employee status is interesting in theory because it recognises the role of the spouse in the company, who gets paid and is covered by the social security and national insurance system. In practice, to be effective this status requires that the company generates a sufficiently high turnover to pay for the spouse's salary<sup>25</sup>. In order for this to happen, the spouse needs to participate in the production (fishing) or in the distribution (sales). For the first activity, the spouse needs to have access to the boat. This means that she needs to have an access title and that solutions are worked out for the family unit. For the second activity, the spouse should be able to sell the fishing produce. This requires that there is a specific distribution location other than the fish auction. This status, like the assisting spouse status is ineffective. The same can be said of the spouse partner status.

Nevertheless, the spouse partner status has many advantages. First, it makes the spouse a company partner in her own right. As a partner, the spouse can participate in decision-making. She is not legally dependent. The status is acquired easily. It only requires a contribution in kind. As opposed to the assisting spouse and spouse employee statuses, the spouse partner status has a degree of flexibility. The assisting spouse status excludes any payment. But the spouse partner may receive payment in dividends if the company makes enough profit. The amount paid can vary, unlike in the case of the spouse employee status. Finally, the spouse partner gets social security benefits and national insurance.

This status which appears the most suitable on a social and economic level is not accessible in practice. According to traditional fishing company law, fishing companies need to be created and

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<sup>24</sup> Old sailing, student School of Marine Affairs, inspector training ship safety (Ancienne navigante, élève Ecole des Affaires maritimes, formation inspectrice de sécurité des navires).

<sup>25</sup> But the company is vulnerable to bad catches and to market fluctuations causing falling prices: "It's a calculated risk 44'26. I also believed at first. *Laughter*. I thought we would make it easily. But no. You never know what's coming. Every day things happen. You don't catch much but you don't expect the prices to be so low. You think you'll get some financial support. But no, not much really. Every day brings surprises" (Old sailing, student School of Marine Affairs, inspector training ship safety (Ancienne navigante, élève Ecole des Affaires maritimes, formation inspectrice de sécurité des navires)).



managed by fishermen. There are two requirements: to have direction of the company in law and to work on board the vessel<sup>26</sup>.

These legal requirements apply to the fishermen category. The fishermen category should not be restricted to the male gender because of the principle of equal rights before the law and the non-discrimination principle. The fishermen category includes the people, men or women, who practice fishing. A woman may legally have the direction of a company and work on board a vessel.

Access to this status requires in practice that women complete the necessary training. In 2010 in the whole of France, two women out of one hundred and forty candidates sat the vocational certificate for maritime fishing, one out of forty-two sat the vocational baccalaureate specialising in the direction and management of maritime companies and no women sat the master's certificate<sup>27</sup>.

This under-representation of women in the preparation stage to a fishing occupation renders the status inaccessible. The issue of whether the wording of the text reflects, implicitly or otherwise, an exclusive male understanding is quite irrelevant<sup>28</sup>. The fact is that women do not receive the necessary education. This fact needs to be investigated independently from the law<sup>29</sup>.

Regardless of how specific and how inspired by equality and non-discrimination the legal rule may be, it cannot singly change behaviours. The rule of law cannot be easily assessed<sup>30</sup>.

The review of the spouse status in maritime companies has shed the light on a possible excessive belief in the law. The status was in fact created to repair a social injustice. The quest for a protective status, no matter how legitimate and necessary, is not sufficient.

Access to these rights needs to be questioned and rethought. Two routes could be explored. The first is access to knowledge. The statements accurately emphasize that the man re-applies the knowledge of his forebears, completes training and goes to sea while the woman stays on land. And if the woman decides she wants to go to sea, she learns on the job. She then needs to learn not only actions but also how to adopt a set of behavioural rules of a customary nature. The husbands' knowledge was acquired mainly through observing the actions and behaviours of the elders as well as in silence, which also meant concealing their difficulties and painful feelings:

*[Question of the interviewer : "In relation to the job, you share everything, how do you decide who does what?"] Answer : "I got told off loads of times. Because he was sure that as a fisherman's wife on board you'd know how to do everything. Steer, pilot, use the machinery. You'd know how to do everything. Except I knew nothing. Fortunately at sea there are no neighbours, no one around us because... When I got home, I was hoarse (Laughter). You have to learn to live with it. I had to learn, and to keep quiet. If you start arguing, it can go on for hours. All you want to do is go home. So I*

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<sup>26</sup> Article L. 931-2 of the Rural and Sea Fishery Code stipulates that : "A traditional fishing company is a company regulated by the fiscal regime of partnerships or a limited company in which 100% of social rights and voting rights are held by one or several fishermen who have the direction of the company in law and who work on one or two vessels of which the company has full or majority ownership, or shared ownership with a shipping company or a company pursuant to Article 238 bis HP of the General Tax Code, approved for gradual ownership in less than 10 years. For the purposes of this article, shares held by the ascendants, descendants or spouses of skippers are deemed to be owned by the latter".

<sup>27</sup> Reports of examination results (<http://www.ucem-nantes.fr>).

<sup>28</sup> In practice the content of standards reflects the position of men : "Who regulates fishing ? Blokes. Not many women" (Old sailing, student School of Marine Affairs, inspector training ship safety (Ancienne navigante, élève Ecole des Affaires maritimes, formation inspectrice de sécurité des navires).

<sup>29</sup> Now that time has come to take stock, it would seem that action should also have focused on the company status, as well as on the assisting spouse status: "Now that I see where the fishing industry is heading, I'd say that this is not what we shouldn't have done [assisting spouse status]. And yet, we did think about it. We should have worked on the fishing company status" (Oyster producer, former President of the Local Committee Turballe (Mareyeuse, ancienne Présidente Comité Local de la Turballe).

<sup>30</sup> Antoine Jammaud, Evelyne Serverin, Evaluer le droit, Recueil Dalloz 1992 p. 263.

*thought he could say what he liked, I would let it go. We'd see later. Because it's so obvious for him. He was five when he went on board his father's boat. He was born on it. All these problems about the current, the wind, how to position the boat in relation to the nets, he thinks it's obvious, I don't. I had to learn on the job. And I am so short I had to climb on crates to be able to steer properly. I really learned on the job you can't imagine. I really had a hard time! (Laughter) A really hard time.” [Question of the interviewer : “And now?”]. “I am more confident but he doesn't trust me completely. I can tell.”<sup>31</sup>*

This learning could take place differently through courses in professional secondary schools. But in these girls are few and far between. The absence of girls should be investigated. The access is legally possible. Girls can enrol and complete the training. They even show a competence which is appreciated and recognised by skippers. The second route concerns the status of the fishing company. The fact that such companies can only be founded by seamen who work on board a vessel should be questioned. In any case, the spouses are full of ideas. They have an overall view of the company and don't restrict it to fishing knowledge. Women because of their position can have a more balanced view:

*“ yes I am certain of it. Yes, innovation in respect of the type of fishing, the manner in which it is done, which could be environmentally friendly with site and fish conservation... (inaudible), so there, there's lots to be done. Lots to do. But then they need resources and we need to support them. We can't just come up with things and expect them do them... Because I'm going to say something very simple, a boat uses lots of fuel because they are old boats which are 20 years old, so of course 20 years ago, but we at home we didn't think about these issues. But then we tell them that we can't do new boats. Yes OK. We need to have a real business-like approach and project the image that we believe in ourselves and still believe in what we are doing. And then there needs to be people supporting us to make it happen.”<sup>32</sup>*

This change in the law is probably necessary. It is hard to say at this stage whether it will provide a sustainable solution. It will put the spouse on an equal professional footing. In practice, equality is already there. The statements show that husbands and wives support each other. Social inequalities find an equilibrium in equal civil rights for each spouse. Therefore, the effectiveness of spouse law will not find a resolution in adjective law based on action<sup>33</sup>, but at the couple level:

*“And I won the battle at least, because I'm not someone who gives up easily. So I won the battle and so we got married and I'm the one who manages my husband's shipping company and we work well as a pair, I think. We have found an interesting balance. He does what he has to do every day and I have my way of doing things from a land perspective and so I pay more attention to what is going on... “V: I am mostly the one liaising with maritime affairs and the regional committee, because we are starting to go with the regional committee again. I often deal with the bank, the accountant, the suppliers. There are a few that I don't deal with because Patrice follows up on them regularly, he meets with them regularly, so that's how it is.”*

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<sup>31</sup> Old sailing, student School of Marine Affairs, inspector training ship safety (Ancienne navigante, élève Ecole des Affaires maritimes, formation inspectrice de sécurité des navires).

<sup>32</sup> Sailor's wife in mediterranean sea (Femme de marin en Méditerranée)

<sup>33</sup> William Baranès, Marie-Anne Frison-Roche, Le souci de l'effectivité du droit, Recueil Dalloz 1996 p. 301.