

**WCC Research on Divorce in Penang High Court**  
**Background & Recommendations**  
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**BACKGROUND**

**Women and Divorce**

The Women's Crisis Centre, Penang (WCC) has over the last 17 years worked with women in crisis situations, often giving legal advice and seeing women through court proceedings for interim protection orders, divorce, maintenance and custody claims.

We would like to highlight the difficulties and various issues faced by women seeking divorce. By sharing WCC's experience together with recent research into the types of the claims made by women seeking divorce, WCC hopes to promote a better understanding on the position of women seeking divorce among individuals dealing with these women, including members of the judiciary.

**Why would a woman opt for a divorce?**

There are many reasons why a woman would opt for a divorce. Whilst the only ground for divorce is irretrievable breakdown of marriage, the breakdown can be proven by: 2 years of separation, unreasonable behavior, desertion, adultery or conversion to Islam. If both parties agree that the marriage has irretrievably broken down, then a joint petition may be filed, without citing the proof of the breakdown of the marriage. It has been WCC's experience that a common reason a woman files for divorce is her husband's unreasonable behavior, for example, domestic violence. In 65% of contested petitions, separation and/or unreasonable behavior was cited as proof of breakdown of marriage.

It is important to acknowledge that the woman has a right to choose not to stay in an unhappy marriage and not to opt for silent suffering in a relationship in which she no longer wants to belong.

Is divorce an easy option?

It is also important for us to realise that divorce is not an easy option for women, whether or not they initiate divorce proceedings. Women have been socialised into believing or thinking that marriage and family is the ideal one should strive for. The notion that a single woman (unmarried, divorced or widowed) is somehow a failure or unfulfilled or frustrated is very much alive in our society. So, when a marriage breaks down, not only does the woman have to deal with a (probably huge) loss of self esteem, feelings of guilt or failure and the coping of the anguish of her children, she also has to deal with the negative stigma attached to being a divorcee. If the marriage involves a religious contract, then the option of divorce is even harder to approach. There are also social and financial considerations when someone opts for a divorce.

In other words, we need to recognise that divorce is far more than just a legal procedure. It is a highly emotional time, and for many, it is actually an emotional nightmare.

This would lead us to the strong awareness that, by the time the woman appears in court seeking a divorce, she is likely to be experiencing (and has already experienced) much emotional turmoil.

### **What are issues that concern women when seeking a divorce?**

This awareness links in to our appreciation that there are difficult decisions to be made when one faces a divorce. If a woman has children, then the issues of custody and access to children are extremely important. Decisions will have to be made regarding the questions: Will she get custody of her children? What about their maintenance? Will she be able to provide for them adequately after the divorce?

There are decisions about work. Many women give up their jobs to look after their children. Now she may need the job to support herself and her children. Will she be able to get back into the job market? What are her prospects? How will she be able to care for herself and her children?

Further, there are decisions about property. What will happen to the matrimonial assets? Having spent considerable time and energy into making and nurturing a home for the family, often the trauma is now having to be faced such as selling off the matrimonial assets (e.g. the home) and dividing the monetary proceeds. The effort and emotions involved in maintaining (and selling) a home are rarely taken into consideration. Then there is the cost of legal proceedings for contested petitions and the length of time involved in contested petitions. Who will pay? Does the woman have access to fees? Can she bear the time and emotion it may take to properly settle the divorce?

### **What sort of bargaining power does a woman have?**

In addressing these issues and decisions, we need to be clear that all too often a woman has limited bargaining powers. This may be because of her desperation to keep her children and/or her poor financial status. It can be very difficult to obtain a fair settlement in either a joint or contested petition. When parties are hurt or angry, fair play is often thrown out of the window. The issues of custody, maintenance, and division of matrimonial assets can all be used as bargaining points. Life can be made unbearable until the one party concedes to the terms the other party puts forward. A woman may not want the court case to drag on because of her limited financial resources and energy: she may therefore concede to her husband's requests. Similarly, she may agree not to ask for maintenance if she is given custody of the children. Therefore (and this is important) the claims presented in court may be very different from what the women actual want, need or deserve.

## What about the effect of divorce on children?

While we would all rather that children come from homes where loving parents are present, we must acknowledge situations when a bitter or violent relationship between parents is detrimental to the well-being of the child. In divorces where children are involved, the issues of custody and access arise. Apart from parents' claims for custody, we need to listen carefully to children's wishes and take into account the detailed welfare report on the situation. We need to look into the child's safety, especially if there has been violence in the home. Given the hurt and bitterness often experienced by divorcing parties, we need to consider too the possibility of the child or children being manipulated as a means of retaliation by one parent against the other. The issue of access should also entail cautioning parents against poisoning the minds of their children against the other party.

## Research undertaken by WCC

WCC undertook to research claims made by women when seeking divorce. This research covers 1175 Joint Petitions (JP) and 357 Contested Petitions (CP) from the closed files of the High Court of Penang, taken over a five year period (1995-1999). See Table 1.

*Table 1: Divorce Cases From Penang High Court (1995-1999)*

Type of Proceeding	1995	1996	1997	1998	1999
Joint Petition	148	267	148	313	299
Contested Petition	55	96	54	87	65
Nullity	34	58	21	29	18
Struck off*	16	46	36	81	60
Pending	5	4	14	5	-
Total	258	471	273	515	442

\* Struck Off : cancelled, notice discontinued, retraction, reconciliation, judge refusal

## **Summary of Research**

Most of the individuals involved in these petitions were Chinese in origin, generally ranging between 25 to 45 years of age. Analysis into claims showed five basic categories: maintenance of spouse, maintenance of child, maintenance of spouse and child, property and lump sum claims.

1. Contrary to popular belief that women tend to make many claims, our analysis shows that the number of women making any form of claims was surprisingly low. Less than a third of the women made any form of claim in either JP or CP. Very few women claimed for maintenance for themselves: 27 of 1175 (2.3%) women in JP and 7 of 357 (1.9%) women in CP. Amounts claimed for maintenance of spouse were low, generally ranging between RM100 - RM300 in JP and between RM300 - RM600 in CP.

### **Comment :**

It must be said that by not asking for maintenance, the process of negotiation goes much quicker and the divorce is obtained sooner rather than later and with less acrimony. And faced with this fact many women choose not to ask for maintenance. Other reasons for not claiming involve having a short marriage (1-3 years) and no children. It is possible that a number of these women were financially independent or their husbands were unable to provide maintenance so there was no point in asking. Sometimes when a husband is self employed, the woman finds it difficult to prove how much he earns and whether or not he can afford to pay maintenance.

2. The majority of claims made by women were to do with child maintenance in both JP and CP. However contrary to expectations that all divorcing mothers claim child maintenance, analysis shows that child maintenance claims were made in only approximately half of the mothers claiming custody in JP and in only a third of the mothers claiming custody in CP. The majority of these claims were low, ranging between RM50 – RM300 per child.

### **Comment:**

Again it must be said that by not asking for child maintenance, the process of negotiation goes much quicker and the divorce is obtained sooner rather than later and with less acrimony. But very often the decision to go for a speedier settlement is not in the longer-term interests of the mother or the children. There may be a few cases, as above, where women did not claim because they were financially independent or their husbands were unable to provide child maintenance. Again, proving income when a husband is self employed may be difficult, meaning assessment of amounts of potential child maintenance is hard. In addition, the whole process of applying for maintenance is hampering in itself - many mothers feel that the enforcement proceedings take a long time to come into fruition for which they have to incur additional expense. into fruition for which they have to incur additional expense.

additional expense. Because of this, many mothers opt not to ask for child maintenance. When they do ask, the amounts tend to be low. This is worrying.

3. With regards to custody of children, more mothers than fathers requested custody of their children. Approximately 50.0% the mothers in JP and 70.0 % of mothers in CP claimed custody of their children. In general, the courts granted custody in accordance to the claims.

**Comment:**

More mothers than fathers got custody of their children. WCC's experience has been that children have sometimes been used as a bargaining tool in divorce, where one parent has given up custody of their child in order to obtain a divorce. Some women prefer to let their husbands have custody of the children provided they have easy and frequent access. Some women erroneously believe that custody automatically goes to the husband if he is financially well off.

4. Analysis of court orders made also showed court orders being granted when no initial claims were made in the file. These could have been either direct court interventions or further negotiations between the parties to which the court has agreed.

**Comment:**

A direct court intervention is an example of the judiciary taking a proactive role. This was seen in a number of child maintenance and lump sum claims. This is a positive step towards ensuring a fair deal for those concerned. In particular, by understanding the pressures that the woman may be feeling and how these pressures may influence her decisions (as described above), we hope that members of the judiciary may be more willing to be proactive. This may well help safeguard the longer-term futures of women and children.

**Conclusion**

Divorce is more than just a legal procedure. The choices made by women when they seek a divorce are likely to be heavily determined by the emotional trauma they have undergone and are undergoing, the practicalities involved (i.e. quick and inexpensive divorce) and the compromises they may be offered. In these circumstances, decisions are often short term and generally made under duress. It then becomes imperative for all of us to realise this, so we can give the best support, including for the longer-term. For the judiciary, this may mean being even more proactive, making direct interventions on behalf of women in court.

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May 2002

## **RECOMMENDATIONS**

### **Women And Divorce : Working Within Our Current Legal Framework Honey Tan Lay Ean\***

#### **Introduction**

The tough decision has been made – the marriage has irretrievably broken down, and divorce is the only way out of the marriage in order for the woman to rebuild her life. The end of her problems ? Many women feel that this is only the beginning. Upon consulting her lawyer, she finds that she is faced with an adversarial system where if all issues pertaining to her divorce are contested, the proceedings would be lengthy. It would also be emotionally and financially draining.

Recognising that we are now lagging behind many jurisdictions in our approach to resolving family law matters, the Government has agreed in principle to the establishment of a Family Court. Pending the setting up of the Family Court, the Women’s Crisis Centre, Penang (WCC) suggests that much can be done within the current legal framework.

#### **Encouraging Alternate Dispute Resolution (ADR)**

As a wise person said, “Although court judgements may end lawsuits, they do not end disputes”. ADR is an all encompassing term that explores settling matters without having to resort to a full blown trial e.g. through arbitration, mediation or judicial settlement. Whilst WCC welcomes the move towards ADR, it has to be borne in mind that it must be voluntary, and where there is domestic violence involved, the safety of the women and children must first be ensured.

#### **1. Mediation**

In this process, an impartial third party, the Mediator, assists parties involved in a dispute to resolve their differences in an amicable manner.<sup>1</sup> Needless to say, if successful, the time saved is a great advantage, and the emotional trauma minimised. As the emphasis is on consensus, there will neither be a “loser” nor a “winner” – both parties should come away knowing that they have made a deal they can live with. Mediation is not a western concept. In the past, disputing parties would seek guidance of respected members of their community : the Malays would resort to their Penghulus for mediation, and Chinese businessmen would turn to clan leaders. Mediation is extensively used in the Family Court system in Singapore.<sup>2</sup> Even if mediation cannot solve all the disputes in a divorce proceeding, the issues to be litigated may be narrowed down. However, it has to be emphasised that if a party declines to go for mediation, it must not be held against them. Lawyers are present during mediation, and may address the Mediator. This will be of comfort to the woman in the event she is less articulate and assertive. A hearing date should be fixed, so that the matter may be heard in the event the mediation is partially or

wholly unsuccessful, and in any event, to grant the decree nisi and record the consent order.

## **2. Judicial Settlement**

This is already being practised, albeit on an informal basis. Here, Judges play the pivotal role in attempting to get the parties to settle. As Judges are in a position of authority, the parties have a tendency to accept the Judges' suggestions. Bearing that in mind, Judges will have to be more cautious. It does not cost any extra as parties are already in Court, and there are no charges to pay as the Judges' services are free.

The communications made during the attempt at judicial settlement will be without prejudice, and will not be admissible during trial in the event the matter is not settled. Having said that, there is always a possibility that this process may be abused as a "fishing" expedition by the parties.

However, in the event the matter cannot be settled, the case must be transferred to another judge.<sup>3</sup> This will ensure that the new judge will not have knowledge of the matters discussed during the attempt at settlement.

## **Custody And Access To The Children**

Fighting for custody of the children is one of the most emotionally exhausting aspects of divorce. Hurtful accusations will be hurled, often obscuring the fact that the welfare of the children is the paramount concern, and not the behaviour of the parties. It is crucial that Judges receive appropriate training in how to deal with children, especially when some form of evidence, opinion or preference is being sought from them whether formally in the witness stand, or informally when meeting the judge in chambers.

### **1. Welfare Reports**

Judges are empowered to order the Welfare Officer to prepare a report to assist them in coming to a decision regarding the custody and access of children.<sup>4</sup> This is not very often done. Parties may also request the Registrar of the High Court to call for a report from a Welfare Officer. After completing her report, the Welfare Officer shall file her report with the Registrar, and the Registrar shall thereupon notify the parties that they may inspect it, and may obtain a copy of it on payment of the prescribed fee.<sup>5</sup>

Welfare Officers, when preparing such reports, should make a definite conclusion as to which parent in her opinion, would be more suitable as the parent to have care and control of the children. Cross-examination of the Welfare Officers' reports should be allowed. Some Welfare Officers are of the view that in coming to a conclusion, they are usurping the powers of a Judge. The Judge, of course, is not bound by such conclusions.

Judges should spend some time with the children in chambers, not in open court. Children should not be asked directly to choose with which parent they want to live, as it

places tremendous pressure on them. They may also feel guilty about not choosing the other parent, thus hurting that parent. A more indirect way of eliciting their preference should be employed.<sup>6</sup>

## **2. Counselling**

Parenting, never an easy skill in the best of times, now becomes a minefield during and after a divorce. Recognising this, Judges should consider ordering counselling for both parties, and if necessary, for the children too when it is in their welfare to do so.<sup>7</sup> This is especially important where the divorce proceedings are bitterly contested. Parties should be able to choose their own counsellors e.g. their priests or pastors, or they may go to professional marriage counsellors.<sup>8</sup> Otherwise, the Social Welfare Department also conducts counselling. Parents have to learn parenting skills to cope with parenting during and after the divorce, and anger management. They also have to come to terms with the breakdown of their marriage and to take responsibility for their actions and behaviour.

## **3. The Originating Summons Procedure**

When a parent commences custody proceedings without filing for divorce first, the originating summons is supported by an affidavit. Currently, many voluminous affidavits are filed in reply by both parties. Perhaps the Judges may consider allowing each party to only file 1 affidavit, then both the parents should be put on the stand and oral evidence given.<sup>9</sup>

## **Evidential Problems**

Whilst the marriage is subsisting, women seldom think of keeping documentary evidence of payments made or received. Why should they ? The men are their husbands, after all – someone they love and trust. Not keeping proper documentation will come back to haunt them when the marriage breaks down, and they have to prove the claims they make.

Judges could perhaps look more to the demeanour of the parties and make an assessment from the oral evidence.<sup>10</sup>

## **Judicial Intervention**

### **1. Enquiries**

The research undertaken by WCC on the closed files on the divorce files in the High Court of Penang from 1995-1999 yielded surprising results.<sup>11</sup> Women generally made claims for custody of their children (51.7% in joint petitions, and 69.2% in contested petitions). However, claims made for maintenance of their children were very low (27.2% in joint petitions, and 24.3% in contested petitions).

The amounts claimed were also low, with the majority between RM50-RM300 per child. There is no requirement in divorce petitions to reveal the occupations or the incomes of the parties. This information is crucial when making an initial assessment as to the fairness of the matters at hand. When divorces are contested, this information will surface. It is in cases of joint petitions that such imbalances may occur and pass through the legal system undetected.

WCC has observed, and it is our experience that oftentimes, in order to file a joint petition (cheaper, faster and less acrimonious), a woman would bargain away maintenance for the children and herself in order to get custody of the children.

We hope the Judges will be more enquiring when faced with obvious inequality : e.g. having custody of the children but having no maintenance, or very low maintenance. Whilst a lot of attention is paid to the children, women who have been out of the job market for a long time would have difficulties securing a job, or would only get a job which is low paying. They are deserving of the Court's attention, too.

In *Lim Bee Cheng v Christopher Lee Joo Peng* [1997] 4 MLJ 35 at p 42, Vincent Ng J quoted with approval the case of *Hyman v Hyman* [1929] AC 601 at p 614 : "... the power of the Court to make provision for a wife on the dissolution of her marriage is a necessary incident of the power to decree such a dissolution, conferred not merely in the interests of the wife, but of the public (my emphasis), and that the wife cannot by her own covenant preclude herself from the invoking of that jurisdiction".

## **2. Monitoring**

There are provisions in the Law Reform (Marriage and Divorce) Act 1976 for an application to vary orders for maintenance of wives and children, and for custody and access to the children.<sup>12</sup> Nonetheless, WCC suggests that a 6-month date be fixed in Court to monitor the viability of the orders made.

### **Domestic Violence**

Sadly, domestic violence is not uncommon in our society. Whilst both men and women may be survivors of domestic violence, the overwhelming majority are women. The Domestic Violence Act 1994 (DVA) was passed with the aim of addressing this difficult issue.<sup>13</sup>

There is no crime of domestic violence as such - the DVA is to be read with the Penal Code.<sup>14</sup> Despite some perceptions in certain quarters, the DVA applies to all Malaysians – Muslims and non-Muslims alike.

The implementation of the DVA is not without its problems.<sup>15</sup> After a woman makes a police report of domestic violence, if she wants to apply for an Interim Protection Orders (IPO), the Police will issue a letter to confirm that they are investigating the matter. The

woman then goes to the Social Welfare Department, and the Welfare Officer assists the woman to apply for the IPO from the Magistrate. This is the accepted practice. However, it should be noted that the DVA does not preclude a lawyer acting for the woman from applying for the IPO.

A medical report is not strictly required under the DVA as the condition for an application for IPO when domestic violence happens is that the matter be pending investigations.<sup>16</sup> The Deputy Public Prosecutor (DPP) will also have to decide whether or not to charge the husband for an offence under the Penal Code.

WCC understands that one of the biggest frustrations faced by the agencies involved in the whole process is the withdrawal or “tarik balik” of the police report by the woman. There are many reasons for this, not the least of which are economic considerations. There is also the natural tendency to want to forgive and to give her husband and the marriage another chance. WCC hopes that all the agencies involved will continue with their efforts to obtain IPOs to protect the women and other family members, when the needs arise.

It should be noted that the DVA recognises that domestic violence is not merely physical. Threats of physical injury, compelling a person to engage in any conduct, sexual or otherwise, from which the person has a right to abstain, confining or detaining a person against her will and causing damage to property knowing that it will distress or annoy her all constitute domestic violence. Women deserve an IPO to protect them when these incidents occur. However, in practice, WCC finds that only when physical injury occurs, are the Welfare Department and the Police more inclined to assist the woman in applying for the IPO.

The involvement of the Police and the Magistrates are very important. Many still perceive domestic violence as a private, family matter. When the Police and the Courts are involved, the husbands realise that their wives have recourse in law, and that their violent behaviour is unlawful. Sometimes, just calling the husbands into the police station to talk with them is a help. When women go to the police station, it is crucial that they are told they are eligible to apply for an IPO – whether the violence being perpetrated is physical or otherwise.

S426 of the Criminal Procedure Code allows for the Courts to order monetary compensation to be paid to the wife (the Complainant) by the husband if he is convicted of a crime when domestic violence occurs.<sup>17</sup> This provision is seldom utilised, and it is hoped that the DPP and the Police will make use of this provision more often.

If the woman cites the fact that her husband’s violent behaviour caused the irretrievable breakdown of the marriage, this is taken into account when the amount of maintenance is being awarded. <sup>18</sup>

## **Maintenance Application In The Magistrate's Court**

In the event a woman is uncertain whether she wants to file for a divorce, and the husband has already failed to maintain her and the children, she may make an application under the Married Women & Children's Maintenance Act, 1950 (the 1950 Act). Prior to the coming into effect of the 1950 Act, applications were made under the Criminal Procedure Code. It is still tried summarily. 19

A complaint is sworn before the Magistrate, and a notice is issued to the Respondent requiring him to show cause why an order should not be made against him. Magistrates do prioritise these applications. Perhaps Magistrates should also consider limiting the Respondent to filing only one reply, then the matter should be set for hearing.

### **Conclusion**

This is only a brief discussion of the possible avenues for women and children to better access justice within our current legal framework. WCC hopes that this marks the first of many meetings for us to build a better understanding in order to work closer together for the betterment of all.

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### Footnotes

\* I would like to express my gratitude to Ms Yuslinov Ahmad for her insights, and especially to Ms Lalitha Menon whose comments were invaluable.

1. Mediation is run by the Malaysian Mediation Centre (MMC), a body established under the auspices of Bar Council. A fee is imposed, both for the Mediator, and for the premises in which the mediation is carried out.

2. From July 1994 till October 1995, 49% of contested divorce and 38% of divorce ancillary matters in the High Court referred to mediation were settled : Mediation In The Singapore Family Court by Adrian Loke.

3. Order 92, Rule 3A, Rules of the High Court, 1980 : the approval of the Chief Judge of Malaya is required when there are transfers of proceedings. When judicial settlement is practised on a more formal basis, perhaps a Practice Direction could be issued to the effect that the consent of the Chief Judge of Malaya is automatically given when judicial settlement fails.

4. Section 100, Law Reform (Marriage and Divorce) Act 1976 : When considering any questions relating to the custody or maintenance of any child, the court shall, whenever it is practicable, take the advice of some person, whether or not a public officer, who is trained or experienced in child welfare but shall not be bound to follow such advice.

5. Rule 78(2) & (3), Divorce and Matrimonial Proceedings Rules 1980

6. Section 88(2), Law Reform (Marriage and Divorce) Act 1976 : “In deciding in whose custody a child should be placed the paramount consideration shall be the welfare of the child and subject to this the court shall have regard :

to the wishes of the parents of the child;

to the wishes of the child, where he or she is of an age to express an independent opinion.”

7. Section 24(d) of the Courts Of Judicature Act, 1964 : Without prejudice to the generality of Section 23 the civil jurisdiction of the High Court shall include -

(a) ...

(d) jurisdiction to appoint and control guardians of infants and generally over the person and property of infants ...

Order 92, Rule 4, Rules of the High Court, 1980 : For the removal of doubts, it is hereby declared that nothing in these rules shall be deemed to limit or affect the inherent power of the Court to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

See also Section 11 of the Domestic Violence Act.

8. An organisation which may be approached is the Penang Association of Counselling & Psychology, from whom a list of qualified personnel may be obtained.

9. Order 28, Rule 4(3), Rules of the High Court, 1980 : Without prejudice to the generality of paragraph (2), the Court shall, at as early a stage of the proceedings on the summons as appears to it be practicable, consider whether there is or may be a dispute as to fact and whether the just, expeditious and economical disposal of the proceedings can be accordingly best be secured by hearing the summons on oral evidence or mainly on oral evidence or partly on oral evidence and partly on affidavit evidence, with or without cross-examination of any of the deponents, as it may direct.

10. Wong Kim Foong v Teau Ah Kau [1998] 1 MLJ 359 at p 391 : “... As demonstrated, the marriage between the parties cannot be construed as a commercial venture. It was a marriage contract that should be viewed differently from a commercial contract...”

11. A Brief Report on Joint And Contested Petitions From The Closed Files Of The High Court Of Penang (1995-1999).

12. Sections 83 and 96

13. Section 2, Domestic Violence Act 1994 provides that :

“domestic violence” means the commission of any of the following acts:-

wiffully or knowingly placing, or attempting to place, the victim in fear of physical injury;

causing physical injury to the victim by such act which is known or ought to have been known would result in physical injury;

compelling the victim by force or threat to engage in any conduct or act, sexual or other otherwise, from which the victim has a right to abstain;

confining or detaining the victim against the victim’s will; or

causing mischief or destruction or damage to property with intent to cause or knowing that it is likely to cause distress or annoyance to the victim,

by a person against-

his or her spouse;

his or her former spouse;

a child;

an incapacitated adult; or

any other member of the family.

14. Section 3, Domestic Violence Act 1994

15. WCC’s Memorandum : Review & Proposals For Amendments of the Domestic Violence Act 1994 (6th March 1999)

16. Section 4, Domestic Violence Act 1994

17. Section 426 (1) provides :

The Court before which a person is convicted of any crime or offence may, in its discretion, make either or both of the following orders against him, namely:-

.... an order for the payment by him of a sum to be fixed by the Court by way of compensation to any person, or to the representatives of any person, injured in respect of his person, character or property by the crime or offence for which the sentence is passed.

18. Section 78 Law Reform (Marriage and Divorce) Act 1976 :

In determining the amount of any maintenance to be paid by a man to his wife or former wife or by a woman to her husband or former husband, the court shall base its assessment primarily on the means and needs of the parties, regardless of the proportion such maintenance bears to the income of the husband or wife as the case may be, but shall have regard to the degree of responsibility which the Court apportions to each party for the breakdown of the marriage.

19. Section 10, Married Women & Children (Maintenance) Act 1950 : All applications to a court under this Act shall be made and heard substantially in the same manner and in accordance with the same procedure as applications under any of the Enactments set out in the Schedule hereto were made and heard by such court immediately before the commencement of this Act.

A couple of books which may be of interest :

1. Becoming Whole : A Handbook For Working With Abused Women.  
Publisher : Women's Crisis Centre, Penang and The National Council Of Women's Organisations, Penang.
2. Parenting After Divorce : A Guide To Resolving Conflicts And Meeting Your Children's Needs by Philip M. Stahl, Ph.D