

European Observatory on National Family Policies

Developments in National Family Policies in 1995

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Employment & social affairs



European Commission

EUROPEAN OBSERVATORY ON NATIONAL FAMILY POLICIES

The European Observatory on National Family Policies was established by the Commission of the European Communities in 1989. It is now co-ordinated from the Social Policy Research Unit at the University of York, United Kingdom. Members of the Observatory are independent experts from each of the countries of the European Union. The aims of the Observatory are to:

- * monitor trends in the diverse development of family forms
- * monitor developments in policies which impact on families
- * monitor demographic, socio-economic and political changes which impact on families
- * analyse policy and evaluate the impact of family policies
- * stimulate high quality and independent research on families and family policies
- * advise the European Commission about family policies
- * inform public and academic debate about family policies.

Formal meetings of the Observatory take place in Brussels twice a year. Specialist meetings and conferences are organised by Observatory members throughout the European Union.

EUROPEAN OBSERVATORY ON
NATIONAL FAMILY POLICIES

DEVELOPMENTS IN
NATIONAL FAMILY POLICIES IN 1995

edited by

John Ditch, Helen Barnes and Jonathan Bradshaw

The University *of* *Notre*

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PREFACE AND ACKNOWLEDGMENTS

The European Observatory on National Family Policies was established by the European Commission to monitor trends and developments across all member states and to report on an annual basis. The Observatory consists of independent experts, directed by a small coordination team based at the University of York, United Kingdom. Each year two volumes are produced, one which describes changes in the circumstances of families and the policies which impact upon them and a second volume, more analytical and thematic in approach, which seeks to compare developments on a cross-national basis.

This volume, which describes developments in national family policies during 1995, is different in structure from previous Observatory Reports. Last year we organised the material received from Observatory members in such a way that each chapter was devoted to a particular topic, with national perspectives represented within that framework. This brought advantages (it facilitated a comparative approach) but was unsatisfactory in other respects: specifically, it fractured the representation of a coherent national perspective and took away from Observatory members the opportunity to express their own views. We have therefore, in this volume, presented this material in the form of an edited collection of national contributions.

The author(s) of each national report were sent a set of guidelines prepared by the Coordination Team and were asked to address the same questions and given opportunity (and encouragement) to reflect on developments. The reports were sent to the Coordination Team who engaged in a process of editorial review and refinement. Although each author was given the same 'starting advice' it is clear that the diversity of family experience is reflected in this volume; the content and tone of the chapters vary considerably. This is an inevitable reflection of national difference and disciplinary perspective. The editors have helped with translation and copy-editing but 'ownership' of each chapter rests with the individual authors.

The European Observatory on National Family Policies is a collaborative venture. The Observatory members are appropriately credited, and thanked, as authors in their own right. We must also acknowledge the help received from Ursula Hillbrand who is responsible for the Observatory within the European Commission. Barry Nicol, of Fretwells, has proved to be an invaluable and helpful printer; Loma Foster, Information Officer at SPRU, University of York, is a most thorough proof-reader and text editor. Hazel Parker, administrative secretary to the Observatory, ensures that the flow of information and text (in three languages) is handled with efficiency and good grace: we are very grateful to her.

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Helen Bames
Jonathan Bradshaw

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CHAPTER ONE

Introduction

Families, whether perceived as the passive objects of social upheaval, or as active participants in a changing society, are at the heart of transformations in demography, the advent of globalization and the multiplication of claims and interests in society. The problems faced by contemporary families cannot be solved without active intervention in all of these areas. Yet the question of European Union competency in respect of family matters remains a contested area. The family, as both a concept and objective for policy, was conspicuous by its absence from the founding treaties of the European Community. Indeed it was the Council of Europe, in its own Social Charter of 1961 which led the way by providing for the economic, legal and social protection of the family (article 16) and for the economic and social protection of mothers and children (article 17).

Although the Treaty of Rome talked of the need for improvement of working conditions and was committed to the principle of equal pay, there were no explicit declarations in favour of the family. Arguably (See Kiely, 1996) it was not until 1968 that there was the first explicit reference to the family in European Community legislation in Regulation (EEC) No. 1612/68 on the freedom of movement for workers with the Community and a second, somewhat different definition of the family in Regulation 1408/71 on the application of employed persons and their families moving within the Community. The implementation of the Social Action Programme in 1972 brought with it a recognition, for the first time, of the need to ensure that '... family responsibilities of all concerned may be reconciled with their job aspirations'. Such sporadic acknowledgements represented the fabric of Community commitments in this field.

In the late 1980s there was only passing reference to family issues in the European Charter of Fundamental Social Rights, mostly to do with social protection, equal treatment and reconciliation of work and family life. Similarly there were only oblique references in the Union Treaty. Indeed, the Social Protocol to the Maastricht Treaty, signed by 14 of the 15 countries of the Union, achieved its first real victory with the approval of a Directive on Parental Leave during 1996, and the social partners have additionally agreed to consider the implications of non-standard employment. However, the Social Protocol remains essentially a worker's charter, which does not address the concerns of those outside the labour market, whether temporarily or permanently, and does not consider wider issues of disability, race, health, housing and social protection for the non-employed. In response to these perceived deficiencies in the Social Protocol, and as part of a process which seeks to

place social issues on the agenda of the IGC, the Commission established a Committee of Experts (known as the *Comité des Sages*) in 1995. The report of this Committee, which was published in March 1996, proposes a European Bill of Rights, enforceable by the European Courts, to be incorporated in the revised Treaties at the IGC. In addition, it suggests that a core of minimum social standards should be required of prospective new Member States. The report draws attention to the implications of labour market and demographic changes for standards of living, the structures and costs of social protection. The report seeks to codify a number of social rights (including 'the right to protection for the family') in relation to the attainment of social cohesion within the Union. Among the many recommendations which seek to enhance a European model of citizenship, diminish exclusion and marginalisation, the report identifies the need for practical proposals which will enable men and women to reconcile family responsibilities with paid employment. The report also argues that enhanced family benefits should be used to boost the resources of those living on low incomes. Along a parallel track, and consistent with a recommendation made in last year's Observatory report, discussions are now taking place about a putative revision of COM (89) 363 - the Communication for the Commission on Family Policies.

The changing nature of work continues to have a major impact on the lives of families, with the proliferation of temporary and insecure work, and, in many countries, a growing divide between 'work-rich' and 'work-poor' households. The end of an era of full (male) employment which in reality occurred as long as twenty years ago in most countries is finally being accepted. The report of the *Comité des Sages* acknowledges a growing role for informal and unpaid work over the life course, and, whilst aware of the dangers of social exclusion, recognises a positive potential for new working patterns: '... better management by men and women of the time they spend in paid employment - not resulting from unstable forms of work, but from proper recognition of the social usefulness of deciding how to spend one's time - makes it easier to reconcile work and family responsibilities'. (Report of the *Comité des Sages*, p.5.)

New and flexible labour markets, however, require reformed systems of social protection which are able to provide flexible benefits for people moving in and out of the labour market, and which provide cover for periods spent in voluntary sector activity or caring for children, elderly or disabled people. The report of the *Comité des Sages* proposes as a minimum condition the inclusion in the revised Treaty of a minimum income guarantee in all Member states: the level and applicable conditions to be determined by the Member States themselves.

Social protection, which is addressed as a separate issue in the synthesis volume, has borne the brunt of the public expenditure cuts necessitated by the Maastricht criteria for monetary union in all the Member States. Like Tolstoy's famous unhappy families, however, countries vary enormously in their specific responses to similar economic and social issues. From the perspective of this Observatory a key issue for analysis is the extent to which families have been affected by the measures adopted relative to the population as a whole. The overall picture is of countries seeking to protect families from the impact of cutbacks, but with considerable differences of emphasis depending on whether family policy is viewed as a mechanism for *vertical* redistribution to poorer families or as a system

of *horizontal* redistribution to those with children from those without. The trajectories of welfare state development in the face of these challenges are also far from clear; Esping-Andersen (1996) argues that the conservative model of welfare state provision in continental Europe is stifling economic growth and exacerbating demographic trends, but finds little evidence that major reforms would be politically acceptable in individual Member States. The prospective accession of the states of Eastern Europe, with their unstable transitional economies, will pose further questions about the sustainability of existing welfare policies. Although welfare provision can contribute to increased efficiency, there is a general recognition that in many countries the tax base for social security must be changed if the unit costs of labour are to be reduced to competitive levels.

Whilst family policies and the impact of emerging trends on families are issues which remain at the heart of policy debate, it is also the case that there is a degree of tension between the discourse of supporting families and a tendency to individualisation of citizenship rights; as workers, women, children, and increasingly, fathers. There are tangible conflicts of interest between family members which are too rarely discussed in the context of family policy. The concept of the child as a citizen in his or her own right is a developing agenda across Europe. All the Member States of the European Union have ratified the UN Convention on the Rights of the Child, albeit with reservations in some cases, and a further convention, the European Convention on the Exercise of Children's Rights, was opened for signature on 25 January 1996. A four-year Council of Europe project on childhood policies drew to a close in 1996. Among a number of key recommendations were:

- the development and implementation of a European Strategy for Children by UNICEF and the Council of Europe
- the creation of a body responsible for the collection and dissemination of information on children and childhood policies, with the aim of increasing the visibility of children in society
- concentrating on the child as the unit of analysis when seeking to evaluate new and existing family, childhood and other social policies

(Council of Europe: CDPS CP (96) Conclusions)

Fathers' rights to continuing emotional and practical involvement in the lives of their children (as opposed to mere financial obligation) on the breakdown of relationships are also the subject of intense debate in a number of countries. One in three marriages in Europe now ends in divorce, and changing family forms are a feature of all the Member States. Cohabitation rates continue to rise, and an increasing number of children are born within cohabiting relationships. The issue of the legal status of the unmarried father is thus gaining in importance.

Alongside these changes in the structure of families there have been changes in the nature of civil society. As the classic boundaries between the public and private spheres have become less rigid, there has been a growth in both the number and influence of NGOs active in the international arena. The Platform of Social NGOs,

established in late 1995, includes 75 organisations concerned with family life. The European Social Forum, held in Brussels in March 1996, and attended by over 1,000 people, engaged the Commission publicly for the first time in dialogue with representatives of the voluntary, not-for-profit and non-governmental sectors, in an attempt to ensure that their concerns would be represented as part of the IGC process. The report of the *Comité des Sages* argues for a continuing and formal process of consultation with NGOs in the course of Treaty renegotiation. At the level of individual Member States voluntary and not-for-profit sectors are also important actors in respect of family policy, especially where policies of decentralization have been pursued.

The immediate prospects for a new approach to social and family policy in the European Union, however, do not appear encouraging. Although the Report of the *Comité des Sages* has attracted considerable interest there would appear to be major obstacles to its implementation. The restricted scope of the existing Treaties creates one impediment; a further problem is raised by the lack of political will on the part of individual Member States anxious not to concede control over large areas of public expenditure (Conroy, 1996). The potential for eliminating the existing ambiguities and tensions surrounding family policy at the European level may therefore be limited in the short term. At the national and indeed sub-national levels, however, there appears to be considerable interest in developing new forms of support for families.

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CHAPTER TWO

Belgium: Issues Concerning the Family in 1995

by

Bea CANTILLON and Gerre VERBIST

Major Legislative changes affecting families during 1995

Flexible work: changes concerning night work

Representatives of employers and employees in the National Workers' Council signed an agreement on 9 January 1995 concerning night work. The new arrangement came about under pressure from the European Commission. The Commission reproached Belgium for not treating men and women equally, which contravened an order by the European Council of Ministers of 9 February 1976. Equal treatment of men and women undertaking night work is based on the assumption that job and career opportunities of women would be limited if they are not allowed to work at night. Night work remains in principle forbidden: however, the new agreement includes a proposal to apply exceptions to this principle in the future in the same way for women as for men. In practice this means a considerable extension of the possibilities of night work for women.

Changes affecting part-time work

The Flemish Government relaxed conditions for receiving incentives for the redistribution of labour in the private sector. The incentive for switching from a full-time to a part-time job remains unchanged: 5000 BEF a month in the case of a half-time job and 3000 BEF when the working hours are reduced by 20 per cent. In the latter case it is no longer necessary for there to be a reduction of 20 per cent in the number of full time hours worked. In order to qualify for the incentive scheme the employee needs to have worked for six months, instead of one year. In the case of a complete career break the bonus is raised from 3000 to 5000 BEF a month, in the case of half-time recess the incentive remains 3000 BEF. In future career breaks will be possible for any kind of education or training, that is, no longer only for vocational training by the Flemish Service for Employment-finding and Vocational Training. In addition, it will be possible to take care of children under three or provide palliative care while on a career break.

Home-based working

There have been important developments in this area. A Bill was passed on 27 January 1995 creating a legal framework for homework. Homework is defined as being when an employee works for a wage under the authority of an employer at a

place chosen by the employee her/himself, which is not directly accessible by the employer. A written employment contract has to be drafted. The Bill lays down the rules with respect to, among other things, the hours of work, working on Sunday, and a guaranteed wage in the case of disability.

Palliative leave

The Royal Decision of 22 March 1995 establishes the right to take palliative leave. Career interruption has also become a right (for a maximum of 2 months) for employees who want to take care of a terminally ill person (not necessarily related). A monthly payment of 11,597 BEF is provided in case of full-time leave and of 5,799 BEF for half-time leave. A doctor's certificate is required.

Protection of pregnant women in the working place

The law of 3 April 1995 has revised provisions concerning maternal protection: pregnant employees have the right to be absent from work without loss of wages for pregnancy examinations which cannot take place after working hours; at the employee's request the employer is obliged to give written reasons for dismissal during the period that the employee is protected against redundancy; the employer is obliged to make a preliminary analysis of the risks for the pregnant employee and the child; in the case of random dismissal of a pregnant employee the employer has to pay six months lump sum instead of three, in addition to the normal redundancy payment resulting from breaking a labour agreement.

Child Benefit

The Royal Decision of 6 April 1995 modified the conditions for allocating Child Benefit (BS 26 July 1995). From 1 September 1995 young people who are not attending school are entitled to Child Benefit if they follow part-time vocational education or secondary education with limited curriculum.

Co-parenthood and visiting rights (Law of 13 April 1995, B.S. 24 May 1995)

The law of 13 April 1995 applies to the practice of parental control and visiting rights with regard to minors. Co-parenthood enables both divorced parents to remain involved in the upbringing of their children in a satisfactory way on the condition of good understanding between both parents. Both parents must agree on: accommodation for the child(ren); the most important decisions concerning health, upbringing, training, recreation, religious or ideological choices. If there is no understanding, then the judge will charge one of the parents exclusively with parental control. The law also introduces the principle that both parents carry parental responsibility, even after separation, divorce or ending of cohabitation. For the first time a law stipulates in a general way the visiting rights of the absent parent. Also, a legal basis is provided for the visiting rights of grandparents, and third persons who have a special affective bond with the child.

A law has been introduced which seeks to combat human trade and child pornography (Law of 13 April 1995, B.S. 25 April 1995)

It allows for the conviction and punishment of persons having pornographic material depicting minors under the age of 16.

Adoption

There has been considerable controversy about adoption. Irregularities had been reported about some foreign adoption cases, especially from Zaire. Until now

adoption agencies had been responsible for the whole procedure, including the selection of the parents, as well as acting as intermediary to find the children and providing the after-care. The agencies are controlled by *Kind & Gezin* (Child & Family). Proposed legal changes seek to improve and co-ordinate regulations. Prospective adoptive parents should be examined and selected by *Kind & Gezin*, who can then give a certificate for adoption. Parents also have to be prepared thoroughly for adoption. *Kind & Gezin* should supervise and approve those programmes, and possibly provide assistance. Moreover, parents should be able to receive support during the whole procedure, as well as after placement of the child.

The proposed changes want to restrict the role of adoption agencies to that of being intermediaries. They should concentrate on the placement of foreign children. Improved efficiency and effectiveness is to be achieved by the merger or co-operation of adoption agencies. The proposal also intends to regulate the common practice of private ('free') adoption, i.e. without an agency as intermediate. Free adoptions will remain possible, but under clear conditions: prospective adoptive parents must be accepted and follow a preparatory programme; they must report the adoption procedures followed and these have to be recognized by *Kind & Gezin*. *Kind & Gezin* will have a major co-ordinating role in the whole field of adoption.

Financial Policies Towards Families

Child Benefit

Every family with dependent children receives Child Benefit which is granted unconditionally for children under 16. Families are entitled to Child Benefit for children over 16 while they are in compulsory full-time or part-time education (until the age of 18), have an officially recognized apprenticeship (until the age of 21) or are in full-time higher education (until the age of 25). Child Benefit is organized on an occupational basis. The three most important schemes are those for employees, self-employed persons and public servants. In addition, the Bill of 20 July 1971 enacts the regulation of guaranteed Child Benefit on behalf on those people who cannot apply for any of the schemes described above. The three schemes differ with respect to the way they are funded, the size of the basic amount, extra allowances in respect of age and rank. Child benefit is paid for each child, though the amount varies in accordance with the child's rank within the family and its age. In the scheme for the self-employed the basic amount granted for a first child is about three times less than the amount provided by the two other schemes. Moreover, the scheme for the self-employed does not provide an extra allowance in respect of age for the youngest (or only) child.

Since 1 January 1993 adoptive parents are entitled to an adoption premium, with the same level as the maternity benefit for the first child.

At present Belgian social security (including health care and family benefits) is divided into three major sub-systems (employees, self-employed and civil servants). The government proposes to make a distinction between health care insurance and family benefits on the one hand, and replacement benefits (unemployment benefits, sickness and invalidity benefits, pensions) on the other hand. The former would cover the entire population (so that existing differences between the professional categories would be abolished), the latter would continue to differ for the respective professional categories. In the area of Child Benefit the

Table 1: Scale rates for Child Benefit

<i>1995 basic amount</i>	<i>6 years</i>	<i>12 years</i>	<i>16 years</i>
<u>Child Benefit for employees and public servants</u>			
1st child 2,601	3,505	3,981	4,057
2nd child 4,813	5,717	6,193	6,501
3rd child and subsequent 7,185	8,089	8,565	8,873
<u>Child Benefit for the self-employed</u>			
1st child 757	1,661	2,137	2,213
2nd child 4,813	5,717	6,193	6,501
3rd child and subsequent 7,185	8,809	8,565	8,873
<u>Child Benefit for children of disabled employees</u>			
1st child 5,450	6,354	6,830	7,138
2nd child 5,634	6,538	7,014	7,322
3rd child and subsequent 7,329	8,233	8,709	9,017
<u>Child Benefit for children of unemployed persons (+6 months) and pensioners</u>			
1st child 3,925	4,829	5,305	5,613
2nd child 5,634	6,538	7,014	7,322
3rd child and subsequent 7,329	8,233	8,709	9,017
<u>Orphan Benefit</u>	9,992		
<u>Maternity Benefit</u>			
1st child	35,236		
2nd child and subsequent	26,511		
<u>Adoption Premium</u>			
	35,236		
	35,236		

'right of a child' is an issue, i.e. benefit without reference to the professional category. The different amount for the first child of employees and self-employed is obviously one of the obstacles. Another subject of discussion is the function of Child Benefit and tax relief for children. It appears the total value of both measures is unable to cover the minimal cost of children of first rank. Together with tighter budget constraints some political parties see this as an argument for introducing vertical distribution criteria in the Child Benefit system. Moreover, child tax relief appears to be less favourable for the lowest income groups. So on the one side of the arena, there are advocates for the taxation of Child Benefit or for abolishing child tax relief, while on the other side, there are the supporters of maintaining the present system.

However, even in times of saving, the weakest groups have been protected, e.g. the increased benefits for disabled employees, unemployed persons and pensioners

have been raised in real terms by 23 per cent between 1980 and 1995, while normal Child Benefit has experienced a real decrease of 2 per cent over the same period (B. Cantillon, M. Andries, B. Meulemans, B. Tan, *Twintig jaar armoede en beleid inzake armoedebestrijding*, Economisch en Sociaal Tijdschrift, Antwerp, nr 1, March 1996, pp.5-36.

Income tax

The tax unit is the fiscal family. A fiscal family consists of a married couple or a single person. However, the wages of married couples, are taxed separately (decumulation). There is a matrimonial quotient system for families with one income. Family allowances, maternity benefits, scholarships, premiums of premarital savings, soldiers' and conscientious objectors' payments as well as receipts from earnings in the year of military service, grants for disabled persons, wages of disabled persons working in a sheltered workshop are all untaxable incomes. A person paying maintenance allowances (e.g. after a divorce), may deduct 80 per cent of these amounts if they are taxable as miscellaneous incomes for the person receiving them.

In calculating income tax, a basic amount is tax-free. This amount is determined according to the situation of the family. The basic amount for a single person is 191.000 BEF, 150,000 BEF for a spouse. These basic amounts are raised on the basis of the number of dependent children:

– 1 dependent child:	41,000 BEF
– 2 dependent children:	104,000 BEF
– 3 dependent children:	234,000 BEF
– 4 dependent children:	379,000 BEF
– for every additional child:	+145,000 BEF

This amount is increased by 12,000 BEF for every child under three if there are no tax-deductible nursery costs and 41,000 BEF for every other dependent person. Dependent children or persons who are disabled count double.

In other cases, the amount is increased by 41,000 BEF: a widow(er) who does not remarry, or an unmarried parent with dependent child(ren); every disabled taxpayer; a married taxpayer in the year of his/her marriage (fiscally still considered as a single), if his/her spouse had no means of subsistence higher than 69.000 BEF. The tax-free amount is increased by 110,000 BEF for widows or widowers in the year the marriage is dissolved, if her/his spouse had no means of subsistence higher than 69,000 BEF. If the income of one of the spouses is less than his/her tax-free amount, the remainder is transferred to the other spouse. Tax relief is not determined by means of a marginal rate. It is deducted from the lowest levels of income (i.e. first it is subtracted from the lowest band, when this is 'used up' it is subtracted from the next band and so on...).

Nursery costs for children under three are deductible from the total net income if the nursery is recognized, subsidized, checked or supervised by the *Kind en Gezin*, by the *Office de la naissance et de Venfance* or by the Executive Government of the German Community. Only 80 per cent of the amount actually paid is deductible.

Moreover, this amount may not exceed 345 BEF a day and per child (or 431BEF x 80 per cent). This deduction cannot be combined with the 12,000 BEF rise of the tax-free amount for children under three. This holds for every child.

There is also a reduction of the rateable value by means of an ordinary tax relief for interest payments of a mortgage, a tax relief for housing and possibly an additional tax relief for interest payments. Moreover, there is a tax relief for the redemption of mortgage capital.

Subsistence minimum

The basic social assistance benefit for people with no or very low incomes is means-tested and does not depend upon having made social insurance contributions. The amount is augmented for lone parents with at least one single minor. The monthly amount of the subsistence minimum these lone parents receive is 26,805 BEF, which is the same amount received by a couple. Even in times of tight budget, the government has protected the weakest groups, which is also shown by the fact that *minimex*-amounts have been increased regularly. As a consequence the gap between the level of *minimex*-amounts and of minimum social security-allowances has decreased; for single persons, *minimex* and minimum unemployment benefit are almost equal.

Maternity allowance

Maternity allowances are provided through health insurance for all female employees, except for public servants and self-employed persons. An allowance amounts to 82 per cent of the wage (unlimited) for the first 30 days of maternity leave. From the 31st day onwards it amounts to 75 per cent of the lost income (limited to the going maximum level for the ordinary sickness and invalidity allowances). Statutory public servants continue to receive their full wages from the government during maternity leave. This period counts as active service. For self-employed women, there are still no arrangements which protect them automatically. However, they can take out a maternity insurance policy with a health service. They receive a fixed amount of 34,462 BEF and are supposed to take up three weeks of post-natal leave.

Career interruption allowances

During their career interruption, employees receive a flat-rate benefit of 11,579 BEF per month. This amount varies according to family circumstances. If the interruption takes place within a period of three years after the birth of a second child: the monthly amount is 12,702 BEF; for a third or subsequent child the monthly amount is 13,806 BEF.

Housing

The income limits for providing a subsidy to acquire or renovate a property have been augmented to take account of dependent children. In the Flemish Community there are subsidies for the partial redemption of a mortgage for the construction, purchase or renovation of an owner-occupied dwelling. In the Walloon Region and the Capital Region of Brussels there is a construction, purchase and renovation subsidy. Three organisations - the *Vlaams Woningfonds van de Grote Gezinnen* in Flanders, the *Fonds du Logement des Families* in the Capital Region of Brussels and the *Fonds du Logement des Families Nombreuses* in the Walloon Region - provide

favourable loans for families with dependent children (at least three dependent children in the Flemish and Walloon Region, at least one dependent child in Brussels).

In Belgium there is a social rent policy which aims to make cheap accommodation available. The associations which let these social dwellings are recognized by the *Vlaamse Huisvestingsmaatschappij* (Flemish Housing Association), by *La Société de Logement de la Région Bruxelloise* (Housing Association of the Brussels Region), or *La Société de Logement de la Région Wallonne* (Walloon Housing Association). In principle the rent of a social dwelling is less than the rent of a comparable dwelling on the private market because its construction was subsidised. The market of social rented dwellings is only open to families with a low income.

In contrast to other countries, Belgian housing policy does not provide a scheme of rent subsidies, i.e. subsidies which are granted to individual tenants. However, regional authorities do grant removal, installation and rent subsidy to tenants who move from an unhealthy or over-populated dwelling into a healthy dwelling. The claimant may not own any other dwellings and his/her net taxable income may not exceed a particular maximum level.

Protection of workers and reconciliation of work and family life

Child care

Most children in Belgium go to nursery schools from the age of two and a half onwards. Approximately 95 per cent of the children between three and five years regularly visit the nursery school. Care is provided during the day for children up to the age of three; for children aged between three and six, there is care outside class hours and during the holidays. There are also a few (limited) possibilities of care during weekends or at night.

The Flemish Community

Child care services recognized and subsidized by the Community include:

- *crèches*: with a minimal capacity of 23 places for children up to the age of 36 * months;
- *day nurseries*: with a minimal capacity of 20 places for children between 18 and 36 months. They also provide play-schemes for children under six years after school hours and during holidays;
- *services for family day care schemes*: day care at child minders/childminding families for children under three and sometimes provide play-schemes for children under six. The services for family day care schemes dispose of at least 10 childminders (childminding families). Each minder (family) takes care of maximally three full-time children.

For child care provided by the subsidized services parents pay a contribution according to their taxable income. The minimum contribution is 64 BEF a day and per child, (for parents with a taxable income up to 190,000 BEF). The maximum contribution amounts to 583 BEF, (for parents with a taxable income over 1,573,215 BEF). For the care of children up to the age of three in the above-mentioned care services, parents may benefit from a tax deduction for the costs.

Child care services operating under the supervision of the Community but not recognized or subsidized include private day nurseries and private services for private services for childminding families: care of maximum five children under six (own children included), not subsidized; private day for childminding families with an inspection certificate: nurseries: day care for at least six children under six (own children included). They also provide care after/before school hours and during holidays. Sometimes weekend and nightcare is available. The inspection certificate guarantees a minimum quality, but charges are not fixed by law.

Child care facilities which are not controlled, recognized, or subsidized by the Community, but which have reported their existence to the Community include every person (except relatives to the fourth degree) or institution that provides (either with or without payment) child care. Parents using these facilities cannot deduct costs from their taxes.

The French community

In the French Community there is also a distinction between child care which is, and is not, subsidized by the Community. Child care subsidized by the Community includes:

- *crèches*: with a minimal capacity of 18 places and a maximal capacity of 48 places for children up to the age of 36 months;
- *prégardiennats* (nurseries): for children between 18 and 36 months (minimal capacity of 18 places and maximal capacity of 48 places);
- *MCAE (Maison communale d'accueil de l'enfance)* (nurseries of the local authorities): some kind of 'mini-crèches' for children between birth and six, with a minimal capacity of 12 subsidized places and a maximal capacity of 24 places (no Flemish counterpart);
- *les services degardien(ne)s encadré(e)s* (services of registered childminders): for day care for children between birth and six. There are two different kinds of services:
 - i) services organized by a crèche or by a '*maison communale d'accueil*'
 - ii) autonomous services, i.e. services which are recognized by the O.N.E. (*'Office de la Naissance et de l'Enfance'*) and which are organized by a subordinate public service, an institution for public welfare, a non-profit organization, and so on.

The capacity of the services associated with *crèches* or *maisons communales d'accueil* may not drop below five childminders or childminding families. The capacity of the autonomous services may not drop below 10 childminders.

Leave arrangements

Maternal leave includes a compulsory post-natal leave of eight weeks and an optional pre-natal leave of seven weeks, of which one week is compulsory. The unused part of the pre-natal leave (maximum six weeks) may be transferred to the end of the post-natal leave. During the periods of pregnancy and pregnancy leave the employee has protection against redundancy. The employer cannot act unilaterally to terminate the employment after she/he has been informed of the

pregnancy and up to one month after the end of the post-natal leave, except in the case of reasons unconnected with the pregnancy or the confinement. Following the birth of a child, a father has a right to three days of paternal leave in the public sector. Since the Royal Decision of 17 October 1994 there is a possibility to convert maternal leave into paternal leave, in case of death or hospitalisation of the mother. Employees (father or mother) (in the private sector) who, in order to devote themselves to the education of their child, wish to stop work or work part-time, are protected in the event of unemployment. Periods of career interruption or shortened working hours are considered as working periods, provided that the request for unemployment benefit is lodged at the earliest six months after the date of birth and at the latest one day before the child reaches the age of three. In the public sector and following the birth of a child, three months leave may be granted either to the father or the mother. This leave must be taken in the year of the birth of the child, and it is not paid. For Social Security rights it is treated as work.

Career interruption

The career interruption scheme was introduced as a means to combat unemployment. The idea was to redistribute the available work. Every employee taking a career break has to be replaced by an unemployed person. In a second phase, career interruption was considered increasingly as a supporting measure by the government to allow families to reconcile work with their family-life. Career interruptions can be taken for a period of three up to 12 months; in total a maximum of five years can be taken over the whole professional career.

Care of children, and of older and disabled people

The present caring-policies assume and emphasise that the family has to take primary responsibility in providing care for elderly, disabled or dependent people. With regard to caring issues, the State should not substitute for the family, but should perform as much as possible a complementary and supporting role. These include (formal) child care, leave arrangements, supportive home-care services (family and senior help, cleaning and odd-jobs-services). This supporting role has to be seen in the present context of decreasing family size, an increasing number of women who perform professional activities, and the 'destabilisation of families'.



CHAPTER THREE

Denmark: Issues Concerning the Family in 1995

by

Vita BERIN G-PRUZ AN

Introduction

The development towards individualization and a more and more 'symmetrical' family structure continues. The trend in family policy legislation is individualistic, each citizen being the focal point. This principle of individualization does not in itself imply that the family as such is decreasing in importance, but it means that family roles are changing.

The daily life of the average Danish family with children - once the children are six months to a year old - is a daily life with two parents who are both active in the labour market. Ninety per cent of mothers of young children and 95 per cent of fathers are active on the labour market (Christoffersen, 1993). The trend has been for men's weekly working hours to drop and for women's to increase, meaning that the average number of hours worked outside the home by each of the two sexes has tended to gradually grow closer.

At the same time, we see that the difference between men and women in the time devoted to household work is being reduced (see below). Thus, the roles of mothers and fathers are becoming more and more alike - at least when comparing how time is used. The gender gap is diminishing but the extent of this does, however, need to be examined more thoroughly on a broader basis.

It is a general characteristic of 1995 that children and families with children still attract great political attention. This is clearly illustrated by a Parliamentary Motion passed on 7 February 1995 (at the initiative of the opposition) calling on the Government to carry out or to continue carrying out a wide range of initiatives in the field of child and family policy. Main items of the Motion were:

- to continue negotiations with local authorities in order to ensure that the child care guarantee is effective on a national basis before the end of 1995.
- to continue to develop the quality of public child care in order to develop new methods in pedagogics and health care as well as to improve children's opportunities of development and self-realization.

- to attach special importance to efforts concerned with troubled children and adolescents.
- to support parents in reconciling working life and family life and to improve information to parents in this respect.
- to request the Interministerial Committee on Children - based on the present situation of children, adolescents and families - to make proposals for a general child and family policy.

The well-being of children and families with children is a popular issue in the media. The establishment by the Government in July 1994 of a National Council for Children's Rights for a three year trial period with a journalist as chairman helps to ensure this.

It is a characteristic feature of family policy in 1995 that it tended to consolidate existing strategy rather than invent new ones.

Strategies in Danish family policy follow two tracks.

Track one is a continuation of policies that support the majority of Danish families that are doing well and have a good everyday life. Examples are: expansion in the quantity and quality of public day care places and initiatives related to reconciliation of family life and working life.

Track two is a continuation of efforts to improve the lot of troubled children and adolescents, since it has been proved that up to 10 -15 per cent of all children are not receiving sufficient support from the existing general support systems. Here, the Interministerial Committee on Children agreed in 1994 on an action plan which has since been carried out in 1995 - 1996.

A typical Danish political strategy when looking for changes in policy is to initiate local experimental projects often financed by quite substantial appropriations on the Finance Bill. Local authorities apply for grants and are sometimes required to supply co-financing in order to ensure local involvement and continuation. This policy has been strong in Denmark.

The Ministry of Social Affairs has, furthermore, decided to continue support of seven regional centres (two of which concern children and the family, showing the relative importance of family policy in Denmark) with the aim of supplying necessary support to local development strategies and spreading relevant information.

In the following, the two tracks of Danish family policy are described in more detail, beginning with track two on troubled families and children at risk.

Children at risk

Several separate important initiatives have been taken.

Government has appropriated 25 mill. Dkr. in 1996 and 50 mill. Dkr. yearly in following years for local authorities that develop new ways of supporting

distressed families, including counselling services and more intensive services for needy families. The aim is to improve efforts in the 'grey zone' of families who are at risk but not yet so distressed that more traditional help-services are employed, e.g. in cases of extensive educational problems or social maladjustment. The point is to find solutions for the families' problems at the earliest possible time and thereby prevent development of massive social problems that often end up being more or less impossible cases for the professional social workers.

Government has stated that it is an official goal to support the establishment of open and anonymous counselling services for all older children and their parents. Around one-third of the local authorities had established such services in 1994.

Government has furthermore appropriated five mill. Dkr. yearly in order to support development of the efforts of local youth centres that are concerned with finding new ways and methods to cope with problems of the most needy adolescents. It also spent 15 mill. Dkr. to support cross-professional and cross-sectoral model projects for troubled children and adolescents. The aim is to improve the qualifications of professional social workers in these respects and to find new ways of collecting and passing on relevant information so that information is not lost when children move around or pass on to other institutions during their growing-up.

Health care

Another goal of the Governmental Action Plan was to improve health measures for children. This goal was reached by the Act no. 438 of June 14, 1995 on Preventive Health Measures for Children and Young People. The law has effect from January 1996.

The general health care system stipulates that all children and young persons are followed by skilled health care staff from before their birth until they leave school. This provides for health examinations, vaccinations and dental care. Parents do not pay for health care programmes for children. Parents' income, attachment to the labour market or to social security schemes are not relevant for eligibility to benefits from the health care system.

In the event of pregnancy local authorities provide health examinations free of charge by a medical doctor and midwife. Shortly after returning from the maternity ward the mother and her baby will see a visiting health care nurse who will continue periodic visits according to needs during the infant's first years. The visiting nurse mediates contact to medical and social experts if observations indicate that the child needs treatment.

In addition to supervision by the visiting nurse all children up to the age of 16 years are offered nine preventive medical examinations by general practitioners free of charge. Eight examinations take place in the child's first seven years. Vaccinations against a number of diseases are also offered free of charge.

The new Act on preventive measures also includes measures on enhanced support for children and adolescents at risk. All local authorities are to establish new cross-disciplinary teams with the aim of ensuring co-ordination. One member of the team

is to have special responsibility for coordination. This measure should also ensure that the child and family have one specific person as their contact on whom they can rely for support.

It is stipulated in the Act that local and regional authorities must report their actions in child health care to the Ministry of Health.

In the following, track one is detailed. This is the track concerned with families in general.

Reconciliation of working life and family life

Child care provisions are cornerstones of Danish family policy because of the high rate of employed mothers. In general, mothers in Denmark only leave the labour market in connection with giving birth, that is in the maternal leave period. This development has probably only been possible because local authorities have an obligation to make available the necessary amount of day-care facilities for children and adolescents. However, it is up to the local authorities what exactly the term 'necessary' means in everyday practice, since responsibility for establishing, operating, financing and supervising day care is delegated by law to the 275 local authorities.

The percentage of places in publicly financed day care for different age-groups of children in January 1995 (National Bureau of Statistics) was as follows:

- 6 months - 2 years: 57 %
- 3-5 years: 83 %
- 6-9 years: 63 %

Although the absolute number of places has been rising constantly, demand has still surpassed supply. The problem of waiting lists has attracted much debate and political pressure. This led the Government to propose a general 'child care guarantee' for all children from the age of one and up to five years from 1 January 1996. Since the responsibility for providing child care is a local responsibility, negotiations took place between Government and the local authorities and it was agreed to pursue this goal. However, the present situation, at the beginning of 1996, the time when the guarantee should have been effective, is that there still are waiting lists.

The reasons for this are manifold: a growth in fertility, growing activity in the labour market and fewer mothers attracted to labour market leave arrangements.

Labour market child leave was introduced as a temporary measure in 1992. With effect from 1 January 1995 child care leave became permanent. Child care leave covers all working parents of either sex with children up to the age of eight years. Leave can be taken from 13 and up to 52 weeks for each child. Parents can take leave separately or simultaneously. Originally, parents received compensation equal to 80 per cent of the general maximum rate of unemployment cash benefits. Rates were, however, reduced with effect from 1 January 1995 to 70 per cent and will be further reduced to 60 per cent from 1 April 1997. Benefits are supplied by the State.

Another explanation of why there are still waiting lists is that local authorities, which are allowed to grant supplementary benefits to parents on leave, have slowly reduced such benefits or even ceased to award them.

Local authorities are also obliged to supply 'the necessary number of places in youth centres or other necessary support measures for older children and adolescents'. A new Act that came into effect on 1 July 1995 stipulates that youth centres should always be a part of a local authority's general child/youth policy measures.

Efforts for the reconciliation of working life and family life have continued, especially concentrating on changing attitudes and cultures in the workplace. One example is the programme issued by the Ministry of Finance in 1993 setting out policy guidelines for a more family-oriented personnel policy in the public sector.

Furthermore, the Interministerial Committee on Children has supported a number of development projects in concrete public and private workplaces in collaboration with the National Institute of Social Research. Results will be published in 1996.

The theme 'family-friendly workplaces' is one of the themes in the Ministry of Social Affairs' ambitious campaign 'The co-responsibility of the workplace in the welfare society'. This is one of the strategies of the Government in its efforts to focus on the division of responsibilities for different actors in the welfare society.

Family policy and equal opportunities for men and women

Family policy in Denmark continues to support equality between the sexes so that child caring is made a realistic possibility for both parents, e.g. Government policy is to support both parents in making use of leave arrangements in the labour market.

In 1994 only 9.5 per cent of parents on leave were men. Following this, the Ministries of Social Affairs and Labour in collaboration with the Equal Opportunities Council appropriated 1 mill. Dkr. in order to support men's interest in leave arrangements. Furthermore, this appropriation supports men's interest in paternal leave (i.e. taking leave instead of the mother from the 15th to the 24th week after childbirth) and information spreading and other activities that lead to debate on the issue of men taking leave.

Parents employed in the public sector (state, regional, local) became entitled to improved opportunities of leave due to sick children following new collective agreements on the labour market at the beginning of 1995. Agreements afford each parent a right of 10 days of leave due to child care. These days can be taken at any time during childhood and parents decide themselves how to use their days off. Leave can be taken in whole or half days and for example be used to support a child who is being introduced to a child care institution.

The new leave arrangement does not affect a publicly employed parent's right to make use of existing rights to a one day leave on the first day of a child's sickness. It should be mentioned that one of the stated reasons for introducing this new scheme was that it is especially important for fathers to have extended leave rights in order to care for their children.

Major legislative change

An important new Act in 1995 in the field of child and family policy is: Law on Child Custody and Visiting Rights (law no. 387 of 14 June 1995). This Act was based on official Government Report no. 1274/1994 on Joint Custody, Visiting Rights and Professional Child Counselling, submitted by a Committee set up by the Ministry of Justice.

The Committee was set up in order to consider the Danish rules on joint custody introduced in 1986. These rules stipulated that unmarried parents and separated or divorced parents could agree on joint child custody. They are important due to the growing number of children born of parents that cohabit at the time of childbirth (a little less than 50 per cent) and the many divorces and dissolutions of relations between couples. About 55 per cent of parents divorced in October 1993 agreed to joint custody. This law is a good example of pragmatic Danish family policy. Many children grow up with cohabiting unmarried parents. The attitude is therefore to adjust legislation to this fact and thereby support both the rights of parents and the child's need to close relations with both parents. At the same time as the Committee was set up, the Social Democratic party - the largest political party - provoked a debate in Denmark proposing that joint custody should be obligatory in the case of divorce and separation. The reason for this was that every child should have a right to two parents and that existing legislation made it possible especially for mothers to exclude fathers from contact with the child and the child from contact with the father. However, the new law does not introduce obligatory joint custody. The consideration was that the necessary co-operation between parents only works if both parents positively have chosen it. It would not work if it was forced on parents from the outside. An important aspect of the new law is that the legal rights of the unmarried father are improved. Previously, the mother always was awarded custody if there was no agreement on joint custody. The new law stipulates that if a father wants custody for himself, a court decides which parent should have sole custody following dissolution of relationship. The court must take special consideration of the interests of the child in making its decision. The Act stipulates furthermore, that an agreement between parents on joint custody no longer has to be approved by the County Governor. Parents now only have to inform the County Governor of their agreement.

The economic situation of families with children

The Interministerial Committee on Children published in December 1995 a comprehensive statistical description of children's conditions in Denmark (Kampmann, P. and Nielsen, F. von N. 'Children Statistics'). (A summary is being published in English.) Normally, children are invisible in statistics or are just considered as appendages to adults. In this publication the child is the focal point of interest and therefore the child as such is the benchmark. In describing the economic situation of families with children regard is paid to the number of persons in the family by calculating the disposable income of the family per person. The first adult has a weight of one, the second adult 0.7 and each child 0.5. The analysis shows that families with children have a larger total disposable income than families without children in the age-group of 20-49. If regard is taken of the number of persons in the family the average disposable incomes per weighted family member are in general lower than for families without children. Single parents' income per family member are in general lower than for two-parent families with

children. The differences in income are however not pronounced, especially not when comparison is made with families with several children.

Table 1. Average Disposable Income per Family Member for Families with and without Children in 1992. Index. All families in total = 100.

	No. of families	Age					Total
		Below 20	20-29	30-39	40-49	Over 49	
One parent: no children	698,700		84	110	112		96
One parent: one child	86,100	74	81	94	101	101	94
One parent: 2+ children	39,300		83	80	84	101	82
All lone parents w. Children	125,400	74	81	88	97	101	90
Couples: no children	272,700		115	129	128		123
Couples: one child	236,700	69	95	106	115	101	107
Couples: 2+ children	288,000		80	86	93	72	87
All couples w. children	524,700	69	88	92	106	99	96
All families	1.621,500	70	90	100	113	100	100

Note: All families total = 100 equals a disposable income of 87.974 DKR.

Families without children only include families in the age group 20 - 49 years (woman's age is decisive).

Source: Ministry of Economics

Not surprisingly, average disposable incomes increase with increasing age for all families with children. Very young families with children - under the age of 20 - have by far the lowest disposable income per family member. The only exception from the general rule is families with children where parents are 50 years old or more. These families, especially those with several children, have very low incomes. This could be due to the fact that couples with older children relatively often have one part-time working parent.

Table 2. Income Components as Percentages of Average Family Incomes for Various Families with Children. 1992

	LONE PARENTS			COUPLES		
	One child	two children	three+ children	one child	two children	three+ children
	%	%	%	%	%	%
Primary income	75	66	48	101	103	100
Capital income	-8	-7	-7	-15	-17	-21
Transfer payment	32	40	58	12	12	19
- of which child allowances	7	11	18	2	3	5
- of which housing benefits	4	6	8	0	0	1
Other	2	1	1	2	2	2
Total income	100	100	100	100	100	100

Source: Danmarks Statistik

Public income transfers are much more important for lone parents with children than for two-parent families with children. Transfer payments for lone parent families with one child were almost one third of the total income in 1992 compared to only 12 per cent for two-parent families with one child. The relative importance of income transfers in family incomes is also strongly correlated with the number of children especially for lone parents.

Paid and unpaid work - women and men

In Danish families nearly all women do unpaid, household work almost every day, while this is a rather new phenomenon for Danish men. In 1964 only one in four men worked in the home, whereas half of the men did household work in 1975. In 1987 nearly three out of four men performed household tasks on an average day. Indeed, one might claim that whilst women have caused a revolution on the labour market, men have done so at home (Bonke, 1995a).

Furthermore, active men spend more time on household work as their contribution increased by two hours more a week in both of the periods 1964-75 and 1975-1987, compared to active women, who performed seven hours less household work in the first period and 4 hours in the second period.

For all women and men - active and non-active - the time-differences on a daily basis decreased in relation to household work from what equals 4.1 hours a day in 1964 to 1.8 hours a day in 1987 (Table 3). Simultaneously, women's labour market participation and working hours have increased considerably. Thus, in 1987, 25-64 year old women worked 26 hours a week against 11 hours in 1964, while men's paid work decreased from 47 hours to 37 hours a week in the same period.

Table 3. Unpaid work and paid work - hours per week - in Denmark¹.

	1964	1975	1987
Unpaid work (household work)		(hours/week)	
- women	32.0	27.2	23.6
- men	3.1	6.9	11.3
Paid work			
- women	11.5	20.0	26.0
- men	47.1	44.7	37.5
All work (unpaid and paid work)			
- women	43.5	47.2	49.5
- men	50.1	51.7	48.9

¹25-64-years, including commuting time.

The implication of this development has been that women's time spent on paid and unpaid (household) work, taken together, has increased considerably and, consequently, their leisure time has decreased. On the other hand, men's working time and leisure have remained rather constant. However, in contrast to most

countries, where women have less leisure time than men, Denmark is a notable exception as both sexes enjoy approximately the same amount of time free of work per week.

In a dissertation on valuing household production Bonke (1995b) goes through the methodologies applied to this issue. Two valuing principles appear as the most often used: the first is an opportunity principle, which assumes that every hour spent on household work could alternatively have been spent on paid work, for which reason the foregone income is the minimum value of household work. The other principle says that the alternative to one's own household work is the buying of substitutes in the market, i.e. servants, restaurant meals, and so on.

When exercising the opportunity principle Bonke finds that an average family of a wage-earning couple has a household production more valuable than their net money income earned in the labour market, as the former amounts to 48 per cent and the latter to 46 per cent of total income, exclusive of capital and transfer income. Women are most likely to contribute to production while men are still the most important breadwinners, earning more money than their wives, with the implication that Danish women and men make approximately the same economic contribution to the household. Furthermore, the distribution of economic resources among wage-earner couples is more equal, when including the money value of household work, because of women's contributions. Adding the household work done by women as well as their money income, the distribution of economic resources becomes less unequal, because women function as income equalizers. Surprisingly, it is also found that the public redistribution through a progressive tax system and transfers mainly to low-income groups, affect inequality less than the household production, due to a relatively bigger household production of lower-income families compared to that of higher-income families.

The institutional framework for family policies

On the ministerial level the consideration is that family policy should be a natural part of the policy of all ministries. If family policy is isolated in one specialized ministry it would reverse this policy. Consequently, there is no specialized family ministry in Denmark.

In society in general Denmark is an advocate of decentralization. Accordingly, public responsibilities for most services relevant to families are placed under the responsibility of regional and local authorities, the general division being that specialized services are placed on the regional level whilst general services are placed on the local level. The general trend is moving services ever closer to people, i.e. via local authorities.

Traditionally, voluntary organizations have not had an important role to play in Denmark. However, in recent years this situation has been changing. In rethinking the Danish welfare state, model governments have been looking for new partners in the welfare society and in this context great interest has been shown in developing and collaborating with voluntary organizations. It is a fact that in the last decades many new voluntary organizations have been created on a national basis in the field of social and health services. Many organizations co-operate with the public authorities and receive financial support from them.

In a report from the National Institute of Social Research from 1995 (Anker, J. and Koch Nielsen, I: *Voluntary Work*) it is stated that it is the view of the majority of voluntary organizations that their task is to help make the welfare state work better but not to replace it by assuming responsibility for more specialized and difficult work. The kind of activities undertaken by the voluntary sector are advisory services, confidential telephone lines, self-help groups, street work, visiting services and so on.

Private enterprises have for some time been regarded as another possible welfare partner. It has been a matter of general debate that private enterprises should play a role in the welfare state to improve on and widen the instruments available for tackling problems in society. Family friendly networks of enterprises are being formed and research undertaken. A number of public and private enterprises have been selected in an action research project.

The Government of 1987 formed an Interministerial Committee on Children consisting of 15 ministries and a parallel Ministerial Committee consisting of the 15 Ministers. Later governments have all confirmed the mandate.

The general task of the Committee is to develop awareness of family and child matters in all ministries, to co-ordinate actions and to prepare and implement new policies.

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CHAPTER FOUR

Family Policy in Germany in 1995

by

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Introduction

Slow economic growth, high unemployment and restrictions on social benefits characterise the first half of the nineties in Germany as in the other countries of Europe. Reunification brought new economic impulses, but also created additional financial burdens and social problems. In view of the difficult economic situation and the high national debt, savings had to be made in many areas of social policy. There was little scope for additional measures in favour of the family.

It was, however, both in the East and the West, families who suffered particularly severely from these economic and social problems. In the former GDR it was families in particular who bore the burdens resulting from the old system and experienced the problems of transition. Unemployment and the restructuring of social policy created high uncertainty. Within a short period of time the institutions of the 'old' Federal Republic were transferred to the new Federal states (*Länder*) with their completely different social structures. According to all available data and information the formation and dissolution of the family in the new Federal states were showing clear signs of crisis. Observers spoke of the 'shock of reunification'. Now the nadir of this transitional crisis appears to have been passed, conditions are beginning to return to normal. While West Germany is economically largely stagnating, in the new Federal states economic development has started both as a result of their own efforts and resources offered by high transfer payments from the West. About 50 per cent of GDP in the new states depends on transfers from the West. Nevertheless, living conditions in East and West Germany continue to be very different.

Despite this difficult situation the basic conditions for families, in so far as they have been established by family policy, have been improved during the nineties. This is due particularly to the Federal Constitutional Court which found constitutional deficiencies to the detriment of the family in the existing tax and transfer system and forced the legislature to act. Politicians of all parties were agreed that more had to be done for families. In particular, the *Familienlastenausgleich* (financial equalisation of family burdens) the combination of tax and cash benefits was improved and measures directed at family formation were extended. This may be regarded as a

definite success in view of the prevailing difficult economic and financial conditions.

In contrast to this, general economic and social policy conditions deteriorated which affected families in particular: high unemployment, stagnating or falling income in real terms, cuts in unemployment benefit and social assistance benefit (income support), rising relative poverty and an above average increase in housing costs. Therefore the social position of families in Germany has not improved despite modest improvements in family policy. No fundamental family policy reform has been passed, however: far-reaching redistribution in favour of the family, as called for in the 5th Family Report, has not taken place. German family policy is committed to the model of subsidiarity. From a comparative perspective, financial benefits are predominant, while social services and Government intervention into reconciling family and gainful employment are less well developed. The *Familienlastenausgleich* is the focal point, surrounded and supplemented by measures directed at the stage of family formation.

1995 was an important year for family policy, however, in which some important decisions for the future were made. The most significant social policy event was the introduction of the social care insurance. It has a strong family policy component because it supports as a priority home care carried out largely within the family. It is true that care insurance is aimed at the problems of old people in particular, but children in need of care and their families also receive benefits. In addition, new regulations on the *Familienlastenausgleich* and the financial promotion of home ownership for families and the stipulation of the legal right claim to a *Kindergarten* place were in the forefront of family policy in 1995. These innovations come into force in 1996 and bring improvements for many families. Reconciling family and employment remains on the political agenda, but no decisive changes were made in 1995. In view of the persistent economic and employment problems in Germany no legal steps can be expected which might put an additional burden on firms. In family law a fundamental reform of the status of children is under discussion, which is intended to make illegitimate children completely equal under law and increase the rights of their (unmarried) fathers. By means of the amendment of the 'Pregnant Women and Family Assistance Law' in June 1995 the foundation stone was laid for the revision, which is being hotly disputed politically, of the legal provisions for abortion (§218 Penal Code), which had been rejected by the Constitutional Court.

Basic economic and demographic conditions

Economic growth continues to be restrained. Unemployment, the consequences of reunification and financial problems in social insurance narrowed the scope for family policy. At the same time the long term demographic developments were continuing, with large differences between East and West Germany remaining as before.

The economy grew only by 1.9 per cent in the whole of Germany in 1995, compared with 2.9 per cent in 1994. In the new Federal states growth was considerably higher at 6.3 per cent than in the West with 1.5 per cent. At the beginning of 1996 more than

four million people were registered unemployed in the whole of Germany. This is the highest level in the whole post-war period. The official unemployment rate rose from 10.0 per cent in January 1995 to 10.8 per cent in January 1996. A further increase is feared. Consumer prices rose, on the other hand, by an average of less than two per cent, the increase in housing rents being above this figure.

Long term demographic developments continued in 1995, but final figures are only available at present for 1994. The number of births in 1994 reached their lowest level since the end of the war. 770,000 births were registered, of which only 78,000 were in the new Federal states. There the number of births in 1990 had been more than twice as high with 178,000. The combined total period fertility rate dropped in the whole of Germany to 1.24; in the new Federal states and East Berlin it is significantly lower at 0.77 than in the old Federal states at 1.35. The number of children born outside marriage has scarcely changed at all, but as a proportion of total births they rose to 15.4 per cent.

The marriage rate throughout the whole of Germany fell to 5.4 marriages per 1000 inhabitants, while the divorce rate rose again slightly. The crude divorce rate was 20.4 divorces per 1000 inhabitants in 1994. In the new Federal states the divorce figures continued to be lower as before, while marriages increased again slightly, possibly a first sign of a relaxation of the 'demographic' transitional crisis.

The natural population growth was negative overall, but the total population continued to rise because of continued immigration into Germany. The number of foreigners in the population amounted to 6.99 million (8.6 per cent of the population), the highest figure ever recorded in Germany although the entry of foreigners slowed down. The latest population forecasts, based on a figure of 80.3 million people in Germany in 1991, predict an increase to 85.7 million in the year 2020. This is based on the fact that this growth will be brought about exclusively by a positive immigration balance with a sustained death surplus.

In April 1994 9.5 million families with children were living in Germany (results of the Micro Census). Of these 7.9 million were married couples, 1.2 million single parents and 0.4 million unmarried co-habitants. 46.5 per cent of the married couples lived with one child, 40.8 per cent lived with two children and 12.7 per cent with three and more children. In the case of single parents, 68.9 per cent had only one child, 24.7 per cent two children and 6.4 per cent three and more children. In all the families there lived a total of 15.6 million children under the age of 18, of which 13.4 million lived with married parents, 1.6 million lived with one parent and 0.6 million with unmarried parents. In the West on average 1.72 children lived with married parents, in the East 1.6. In the West on average 1.4 children lived with only one parent, in the East 1.39 children.

In 1993 there were 1,582,000 unmarried couples in the whole of Germany, of which 1,220,000 lived in the West (in 1990 only 963,000) and 362,000 in the East. Despite the significant increase in unmarried couples in 1993 barely two thirds (63.6 per cent) of all young adults between the ages of 18 and 25 years of age still lived with their parents or with one parent, 12.8 per cent with their married partner, 12.1 per cent alone, 8.4 per cent in unmarried couples, 1.8 per cent in a residential community and only 1.3 per cent had been a lone parent.

Transfer and taxation policy

In this area fundamental revisions have taken place in 1995. In the 1996 Annual Taxation Law (Federal Law Gazette 1995,1, No. 53, p.1250-1413) new regulations were laid down for, among other things, the *Familienlastenausgleich*, the exemption of the subsistence minimum from taxation and the financial promotion of housing ownership for the family.

Familienlastenausgleich

After decisions of the Federal Constitutional Court had in recent years prompted the legislature to improve the *Familienlastenausgleich* step-by-step, the basic reform required by the Court finally came about in 1995 and came into force on 1 January 1996. The regulations applicable in 1995 are described in the 1994 annual report.

The replacement of the technical term *Familienlastenausgleich* (financial equalisation of family burdens) by the new term *Familienleistungsausgleich* (financial compensation of family productivity) expresses the objective of a basic new regulation: to have a family is not a burden which should be compensated for, but a benefit to the community which should be supported by the community. At the same time the legislature complied in the Government's opinion not only with the proposal of the Constitutional Court to exempt in future from taxation the subsistence minimum for children, but also contributes to a greater extent beyond this to their maintenance costs.

The dual system of *Kindergeld* (Child Benefit) and child tax allowances is retained in principle, but abandoned in practice: in future it will not be possible for both to be claimed together by a family. The tax payer has a choice between Child Benefit or child tax allowance; families who are not liable to pay tax can only receive Child Benefit. At the same time child benefit and child tax allowances are increased with effect from 1 January 1996. The monthly Child Benefit will be increased as from 1 January 1996 to 200 DM each for the first and second child, to 300 DM for the third child and to 350 DM for each subsequent child. As from 1 January 1997 the Child Benefit for the first and second child will be increased again to 220 DM. The Child Benefit supplement for low incomes has been abandoned, as has the reduction of Child Benefit for higher incomes. In most cases the Child Benefit will in future be calculated by the employer with the income tax and - in the case of a positive residual amount - paid out directly with the wages. The *Kindergeldkasse* (Child Benefit fund), to be called in future the *Familienkasse* (family fund), takes over the payment of Child Benefit only for claimants who have no employment or whose employers in firms with less than 50 employees are exempted from the obligation to pay the benefit directly together with wages. The annual child tax allowance will be raised as from 1 January 1996 to 6,264 DM and from 1 January 1997 to 6,912 DM deduction from taxable income. In comparison with Child Benefit, the reduction in tax paid is higher, the higher the income.

The definition of the child in income tax and child benefit legislation has also been largely made equal. In both cases natural born and adopted children, foster children and step and grand-children taken into the household justify a claim for benefits. In the event of a divorce or separation the parent with whom the child lives receives the Child Benefit. The child tax allowance can be claimed by both divorced

parents, the Child Benefit being taken into account. The general age threshold was raised from 16 to 18 years of age. Child Benefit is paid up to the age of 18, regardless of whether the child is in education or has its own income. As before, children between the age of 18 and 27 years are only considered if they are still undergoing professional training or are performing a voluntary social or ecological year. Also as before, children between 18 and 21 who are registered unemployed, also have a right to claim benefit; disabled children have unrestricted claim to Child Benefit. A new feature is that during the statutory military or civil service and a voluntary period of military service lasting up to three years no right to claim exists. Instead of this the age limit is extended as before beyond 27 years of age by this amount of time. Children over 18 years of age who have their own incomes of more than DM 12,000 a year (previously DM750 a month), receive no Child Benefit; the higher income threshold corresponds in the legislature's view to the necessary tax free subsistence minimum. In future the equalisation of the family benefit is to be further developed dynamically; Child Benefit and child tax allowance are to increase in parallel, furthermore the income threshold for children over the age of 18 years will be increased together with the tax free subsistence minimum.

The integration of Child Benefit and child tax allowance has standardised the *Familienleistungsausgleich* considerably; the benefits will in future in most cases be the same regardless of income. Hitherto the system was related in three ways to income: families with very low incomes received a Child Benefit supplement and families with higher incomes had to bear a reduction in the Child Benefit to various basic rates according to the number of children (cf. 1994 annual report). On the other hand, families with higher incomes previously benefited to a greater degree from the child tax allowance. Supplements and reductions have now been abolished, but the child tax allowances remain as an option. The new system brings improvements for many families, but not by any means for all. For average earners little has changed because the higher Child Benefit just compensates for the removal of the previous additional child tax allowance. But the new regulations definitely place families with low to average incomes in a better position than before. It is estimated that Child Benefit is now more favourable in more than 90 per cent of cases than the child tax allowance. Only for the 10 per cent of families with the highest income is it the other way round. This group continues to receive higher than average benefits as before. Though in principle there is a choice between Child Benefit and child tax allowance, the taxation offices will be examining in 1997 in the course of income tax assessment and annual adjustment of wage tax for 1996, which alternative is more beneficial for the tax-payer so that there is no financial disadvantage. In total the legislature estimates an increase of total expenditure for the *Familienleistungsausgleich* from approximately 37 milliard DM for 1995 to approx. 43.5 milliard DM for 1996 and approx. 47.5 milliard DM for 1997.

Exemption of the subsistence minimum from taxation

The tax exemption of the subsistence minimum required by the Constitutional Court was revised in 1996 following transitional regulations existing in 1993-1995. In 1996 the annual income of single persons below 12,095 DM, and of married persons below 24,190 DM, remains tax free. In 1997 and 1998 the thresholds will be 12,365 DM for single persons and 24,730 DM for married persons. The subsistence minimum for children will be assured by the revision of the *Familienleistungsausgleich*.

Support of home ownership for families

The Government support for home ownership for families will also be subject to new regulations as from 1 January 1996. The new system is simpler and more uniform than before. Basic support, child component, and building loan support will be amended. The basic support and child component will be offset by the tax administration as a supplement against the tax owed and, if appropriate, paid out as a positive residual amount.

The objective is greater support for families with below average incomes especially in the new Federal states which had scarcely profited hitherto from Government house-building support. Families with high incomes were better off under the old system. Although this is sensible from a social policy point of view, the innovations must be seen against a background of housing shortage in Germany. The construction of private rented accommodation is in a crisis despite low interest rates and increasing rents, and public resources for social housing construction are scarce. In many places in the West, accommodation with reasonable rents is a scarce commodity and in the East there is an accumulated demand for new accommodation. It is hoped that new impulses will be provided by the new house-building support and the intention is to help families on the verge of buying their own property to overcome this. It remains to be seen, however, whether the support for families with average to low incomes is adequate in view of the difficult economic situation, the fall in real income and increasing rents. The sharp regional differences in the cost of land and rents should also not be overlooked.

The previous basic support for the purchase of housing by means of tax deductions favours families with higher incomes to a greater extent. It is now being replaced by an allowance which is not dependent on income. Families with low incomes can benefit from this change, provided that they have enough capital to build or purchase a dwelling. As hitherto, there is no Government support for very high incomes: the benefits cease for incomes of 240,000 DM for single persons and 480,000 DM for married persons in the year of purchase and the preceding year taken together. The full support starts, however, with chargeable purchase or renovation costs of 100,000 DM and amounts to 5,000 DM per annum for eight years for new buildings and 2,500 DM for old buildings. As dwellings generally cost considerably more than 100,000 DM, most families receive the full support. The fact should not be overlooked, however, that many families on average incomes were better off under the old income-related arrangements. As hitherto, the basic support can only be claimed by each tax payer once in a lifetime, by married couples twice.

Furthermore, the child component of the house building subsidy has been improved. The previous tax deduction of 1,000 DM per annum for each child is now replaced by an annual allowance of 1,500 DM for each child, which is not lost if income falls below the tax threshold. The support is not therefore dependent on the tax due. Families with low incomes may also benefit from this change. At the same time, as from 1 January 1996, the annual income thresholds for Government building loan support are almost doubled for single persons from 27,000 DM to 50,000 DM and for married persons from 54,000 DM to 100,000 DM. The maximum amounts are increased for single persons from 800 DM to 1,000 DM and for married persons from 1,600 DM to 2,000 DM. As a result even families with average incomes can now benefit from the building loan support.

Tax benefits for maintenance of dependents

Tax benefits for needy dependents may in future only be claimed for persons with a legal claim to maintenance, but now up to 12,000 DM instead of 7,200 DM per annum is deducted from taxable income. At the same time the income allowance threshold for the maintained person which does not lead to reductions has been reduced from 6,000 DM to 1,200 DM.

Advance maintenance payment

Single parents who are receiving no (or insufficient) maintenance payments for children from the parent who is living apart or divorced from them, may receive a Government maintenance advance for children up to their 12th year for a maximum of six years. This benefit as from 1 January 1996 in the old Federal states is 249 DM per month for children under six years of age (214 DM in the new Federal states) and 324 DM for children between six and 12 years of age (280 DM in the new Federal states). The maintenance advance corresponds to the established general requirement of a child, reduced by half of the first Child Benefit.

Maternity protection and reconciling family and employment

In this area no new measures were introduced in 1995. In 1996 maternity protection for all female employees is to be standardised. On the other hand, there are no new labour law conditions in view to improve the reconciliation of family and employment.

Draft law for maternity protection

In 1995 the Government brought in a draft law which is intended to implement the EU Directive on maternity protection and give all female workers equal status. In future all special regulations still in force regarding overtime and Sunday working and continued payment of wages for domestic workers and female workers in agriculture, are to be cancelled. All pregnant female workers, including those not insured in the statutory health insurance scheme, are in future to be let off work for medical examinations.

At the same time the Federal Government would like to relieve small business of the costs of continued payment of wages. Connected with this is the objective of removing obstacles to the employment of young women in small business. In future, costs resulting from pregnant workers are to be fully reimbursed for businesses with less than 30 employees. Up to now the wage equalisation funds only paid on average about 60 per cent of these costs. Female employees with health insurance receive maternity benefit during the protected period from the health insurance paid; the difference between that and the average net wage is borne by the employer.

Reconciling family and employment

There were no significant changes in this area in 1995. The provision of places for nursery children under three years of age continues to be very low in an international comparison, but higher in the new Federal states than in West Germany. The provision of *Kindergarten* places for children between three and six years of age is much better, but varies considerably from region to region. A legal right to a *Kindergarten* place was supposed to have been effective as from 1 January 1996, but it will only be possible for this to take place at a later date in some states.

Education is a state responsibility in Germany and the care of school children is subject to varying regional arrangements and developments. In Germany with few exceptions there are no 'all day' schools. In addition, school hours are not adapted to the world of work and are frequently different each day of the week. A number of local initiatives have been started to look after school children outside regular school hours and to cover school-free hours, generally with the financial support of the states and the communes, but mainly relying on contributions from parents. The objective is to look after the children in the primary school during a core period in the morning and partly also in the afternoon.

No new labour law regulations have been introduced. The Federal Government sees its duty here as being to create a legal framework for flexible working hours and rejects demands from the opposition parties for further substantial intervention. By means of the Working Hours Law of July 1994 (see last year's report), the basic conditions for flexible and individual working hours models were to be improved; the employers, trade unions and firms are to be responsible for filling out the outlines of these basic regulations. At this level too, there has been slow progress in recent years in the direction of family-friendly working hours. Current discussions are, however, overshadowed by anxiety about jobs, employment costs and competitiveness in the global economy. Against this background further legislative steps towards a better reconciliation of work and family, which might further burden firms, are scarcely to be expected.

Help for elderly and disabled people; child care

The most important innovations in this area were the introduction of social care insurance and the legal right to a *Kindergarten* place.

Social Care insurance

Care insurance is without doubt the most important social policy which has been created in Germany in recent years. The Care Insurance Law was passed on 26 May 1994. Its objective is to make possible for the persons in need of care a life which is as far as possible under their own control. It is intended to provide freedom of choice between in-patient institutions, out-patient care services and financial benefits to personal care providers, generally family members, (§ 2 Care Insurance Act). Home care by means of members of the family is given precedence. All persons with statutory or private health insurance are liable for insurance. Voluntarily insured persons can insure themselves privately against the risk of needing care, while the majority of the population become members of the social care insurance scheme. A statutory family insurance exists (§25 Care Insurance Act; Federal Law Gazette 1,1023), which covers family members at the same time free of charge against the risk of needing care. Those entitled to benefit are persons in need of care who, 'because of a physical, spiritual or mental illness or disability require help to a considerable or high degree for the ordinary and regularly recurring routines in the course of daily life on a permanent basis, provisionally for at least six months' (§ 14 Care Insurance Law, Federal Law Gazette 1,1019). The law divides those entitled to benefit into three stages of need of care, which determine the nature and scope of the benefits. Care stage I provides for on average at least 90 minutes care provision, Care stage II covers those in need of considerable care and Care stage III those in greatest need of care. Children in need of care also have the right

to claim benefits. Here the help required is measured in comparison with a 'normally' developed child of the same age range.

Benefits with regard to home care started on 1 April 1995, benefits with in-patient care will begin on 1 July 1996. All benefits are independent of income and assets. Benefits for home care include among other things payments for services, care cash benefit and benefits for items such as aids and grants for the conversion of the home and payments for the social insurance of the care provider. Payments for services include paid care input from out-patient services up to DM750 (Care stage I), DM1800 (II), DM2800 (III) per month, in stage 3 in particularly severe cases up to DM3750. Care cashbenefit amounts to 400 DM per month in Care stage I, to 800 DM in stage II, to 1300 DM in stage 3. Payments for the social insurance of care providers, mostly female members of the family, are covered under social law. The care funds take over as from 1 April 1995 contributions to the statutory pension insurance fund for care services carried out of at least 14 hours a week. The amount of these contributions depends on the care need stage and the actual care given. The 1996 annual taxation law now makes it clear that care benefit for home care by members of the family must not be taxed. A right to in-patient care exists when home care is no longer possible. The care funds take over as from 1 July 1996 costs for care up to DM2800 per month, but to a maximum of DM30,000 per person in need of care per annum (in cases of hardship in stage III up to DM33,000 per annum). Costs for board and lodging must be met by the person in question.

Care insurance will certainly improve the financial position of the person in need of care and the care provider. Whether the quality of the care services will also increase, is another question. It is hoped that home care will be strongly supported by out-patient services. The independent charitable organisations, the states and communes are, however, responsible for the provision of services by out-patient and in-patient institutions. At the same time care insurance has created the possibility of private profit-making care services. This area is also interesting against the background of the freedom to offer services across Europe. In the out-patient sector the development of services is well advanced, but, contrary to expectations, the in-patient services are lagging behind. There it is feared in particular that the care insurance benefits will soon no longer be sufficient to cover the rising care costs. Social assistance would then be called on to a greater extent as in the old system before the introduction of care insurance.

Legal right to a Kindergarten place

By means of the Pregnant Women and Family Assistance Amendment Law of 21 August 1995 (Federal Law Gazette 1,1995, No. 44, p.1050-1057) the legal right to a nursery school place was laid down at the federal level. The new regulations come into force on 1 January 1996. According to the law each child has the right to a *Kindergarten* place from its third year to the beginning of school. Children below the age of three or at an age of compulsory schooling have no such legal right; care institutions for these age groups should, however, be offered on the basis of demand. The public youth welfare agencies are responsible for putting this legal right into effect. They should make available a place in a *Kindergarten* to each child who is entitled to it and improve the supply of places available for children below the age of three or in the compulsory schooling age range.

The right is laid down in details under state law. A staged plan is provided for its implementation. According to this, Federal states with a supply of nursery school places which has hitherto been too small must stipulate a specific date (at the latest 1.8.96) on which the legal right comes into force for children who have already completed their third year. Children born after this date will only be given the right in 1997. For 1997 two and for 1998 three deadlines are provided. Only from 1 January 1999 should the right then apply for all children from three years of age onwards without restriction in all Federal states. In 1997 only those communities which are speeding up the expansion of further *Kindergarten* places may claim the deadline arrangement. In this way the legislature dealt with the misgivings and objections of the communes and the Federal states who have to pay for the implementation of the legal right despite the difficult financial situation and in some cases must make enormous investments in *Kindergarten*.

Protection of the family and family law

In this sector the final new regulations regarding abortion and plans for the reform of the legal status of the child were the central focus of political debate and measures.

Assistance for pregnant women - abortion

The Federal Constitutional Court had again rejected in a verdict in connection with the reform of the § 218 Penal Code (Abortion Law) of 28 May 1993 the compromise of a majority of deputies of all parties obtained in Parliament, as not being compatible with the constitution. The Court did in fact approve decriminalisation of abortion after appropriate counselling, but legalisation was rejected. Abortion after counselling might well be a non-punishable offence, but not however legally. Abortion is thus fundamentally wrong, unless it is based on medical, embryopathic or criminological indications. The Court required, in addition, that counselling must be directed more strongly towards the protection of the life of the unborn child. The verdict also urged the legislature, however, to improve the social environment for family and children as a whole. The Court demanded supplementary social policy measures in support of mothers and children, its view being that social policy as a whole had the task of creating a family-friendly society. This constitutional order derives not only from Article 6 of the Constitution, but is also based on the protection of the unborn child.

Parliament again had to decide and passed in June 1995 the Pregnant Women and Family Assistance Amendment Law (Federal Law Gazette 1,1995, No. 44, p.1050-1057). In it the legislature complied with the points put forward by the Constitutional Court. The counselling given should be open, but aimed at the protection of the unborn life. A certificate must be issued with regard to the counselling. Abortions after counselling has been given are not punishable offences, but neither are they legal. They cannot therefore be financed by the health insurance funds. The costs of the intervention and the procedures directly connected with it may no longer be covered by the health insurance fund, but must be paid by the women themselves. Measures which contribute to the health of the mother are exempt from this.

In cases where the statutory health insurance funds do not cover the costs of an abortion, needy women have the right to claim benefits. A specific benefit law was

created for this purpose. Assistance benefits in connection with an abortion will no longer be paid as from 1 January 1996 by social assistance. The women concerned are spared a trip to the social assistance office. This was an important concern on the part of the Opposition in particular, who otherwise feared discrimination and stigmatisation. According to this law the statutory health insurance funds cover on application the costs of the abortion for those women, whose disposable monthly incomes are below 1,700 DM (in the new Federal states 1,500 DM) and who do not have assets which can be used in the short-term. For each child belonging to the household the threshold is raised by 400 DM. A further raising of this threshold by up to 500 DM is possible if housing costs are high. The claim conditions are laid down in such a way that the benefits from this law may be especially important for single parents and women on their own.

Reform of the Child Status Law

The Federal Constitutional Court in a decision dated 26 April 1994 called for a reform of the Child Status Law before the expiry of the next legislative period. Children born inside and outside marriage should in future be made completely equal before the law. A corresponding draft law was approved after long preparation on 18 February 1996 by the Federal Cabinet. The Law is to be passed by 1997.

Up until now custody after a divorce has been dealt with by means of §1671 of the Civil Code. The Family Court stipulates which parent will be entrusted with the parental custody. The Federal Constitutional Court had decided in 1982 that the legislature must facilitate joint custody for divorcees. This was also possible under the old regulations, but played only a subordinate role in legal practice. In less than 20 per cent of divorce cases was joint custody given by the Family Court. The previous procedure is now to be reversed; joint custody should now also be the rule for divorced parents and in future no longer negotiated before the court in divorce cases. Only when one parent applies for sole custody, must a Family Court decide. Unmarried parents should also be able in future to exercise joint custody. The aim of the law is, however, to give equal status to children born outside marriage, not to give legal recognition to unmarried relationships.

At the same time the legislature wishes to strengthen the rights of fathers of children born outside marriage. They should be given visiting and access rights which in future can only be restricted, if the welfare of the child requires it. Up until now fathers of children born outside marriage (§1711 Civil Code) have had practically no rights, which has been vehemently criticised by involved parties for some time.

A law is also planned to give complete equal status to children born outside marriage under the laws of inheritance. A settlement is also required in the near future because the unification treaty has led to legal split in the inheritance rights of those children. In the East children born outside marriage were and are given equal legal status. The regulations existing in the West exclude them in legal hereditary succession from all joint participation in the estate and only gives them a compensation claim to inheritance at the level of the value of their share in the inheritance (§1934a I Civil Code). They are therefore excluded from the community of heirs. The Government plans to cancel the right to compensation for inheritance and a premature equalisation of inheritance for children born outside marriage and

thus to give them equal status with children born within marriage. On the one hand, the planned reform is thought to be superfluous, on the other hand, it is feared that heterogeneous communities of heirs could ensue which could cause problems in the bequeathing of industrial property.

CHAPTER FIVE

Greece: Issues Concerning the Family in 1995

by

Loukia MOUSSOUROU

Introduction

Changes and developments concerning families and family policies can be meaningfully described and evaluated only in the context of the general socio-economic changes and developments characteristic of a society at a given time. The aim of this introduction is to briefly sketch that context. For a detailed overview of Greek family policy and its evolution, see Moussourou (1994).

In spite of the amelioration of some vital economic indices, 1995 has been another difficult year for Greece. Inflation has further decreased¹ from 10.8 per cent in 1994 to 8.5 per cent in 1995, although it remains three times higher than the EU average, and although GNP has increased from 1.5 to 1.9 from 1994 to 1995, it remains lower than the EU average. Some sources, however, (e.g. *Oikonomikos* 41 (2162) 12.10.95) estimate that because of the existence of a large informal economy real GNP may be as much as 2.4 times higher than the official figure. The development rate has increased to 2 per cent but is still considerably lower than both the OECD average (at 2.4 per cent) or the world average (currently 3.7 per cent). Unemployment has continued to rise (reaching 10 per cent in 1995)². Rates of unemployment are particularly high among the young (it is estimated that 30 per cent of those aged 18-24 are unemployed) and currently over half of the unemployed have had no work for over a year (*Oikonomikos* 4.1.95 p.6, 9.3.95 p.77). As unemployment benefit is payable for only the first year this latter group faces particular levels of hardship. High levels of national debt and rising deficit have necessitated the maintenance of a very stiff expenditure control and a very tight income policy. The latter has been implemented by restricting wage increases to a minimum (real increases in statutory wage levels were only 1.3 per cent in 1995 - *Kathimerini*, 4.1.96)³, and by

¹ Calculated on a yearly basis as well as on the basis of the Consumer Price Index. See *Oikonomikos* 32 (2153) 10.8.95, p49.

² The OAED (Organisation for Employment) estimates official unemployment at 7% and with a decreasing trend. However, other estimates suggest that unemployment levels will rise above 10.5% in 1996, and that real levels of unemployment are already in excess of 15% - *Oikonomikos* 32 (2153) 4.1.95 p.6

³ There are however, important differences in levels between nominal and real earnings, between professional groups, age groups, men and women, and those working in the private and public sector.

maintaining tax coefficients at 1994 levels, without making allowance for inflation. All this is responsible for a decrease in nominal per capita income in market prices: in 1995 this was only 60.9 per cent of the average for the countries of the European Union.¹ According to data presented by the Federation of Greek Consumers (*I Kathimerini*, 10.1.96), 1995 was a year which saw increasing numbers of consumers turn to loans or savings to meet living expenses and which saw falling expenditure on food (reduced by 14 per cent), clothing (21 per cent), house appliances (18 per cent) and entertainment (24 per cent). According to an *ICAP* survey only 11 per cent of urban households considered that their financial situation had improved, as compared to 44 per cent who described it as unchanged and 46 per cent who reported a deterioration (*I Kathimerini*, 18.11.95). These continuing economic difficulties explain the limited debate and proposed measures in fields other than those directly concerned with the increasing financial difficulties of an ever-larger number of households. Once again, the main issues affecting the family are not issues of family policy, but rather of economic policies affecting the family: policies concerned with income, labour markets, tax and housing.

At the end of January 1996, K.Simitis replaced the ailing A. Papandreou as Prime Minister. In his inaugural speech in Parliament, he announced changes in social policy, particularly social welfare, involving reform of funding as well as eligibility criteria for benefits, together with a re-examination of demographic policy and policy concerning people with special needs. He has also announced that the view of social policy as subsidiary to development should be reviewed, since social policy should more properly be seen as a prerequisite to development. This re-examination (and the emphasis on social policy demanded by Trade Unions in both the public and private sector) will probably be the key issue for social policy in general as well as for family policy during 1996. It should be noted that women trade unionists are raising (a weak but clear) voice to demand a 'new social contract' which would ensure that 'there will no longer be professional obligations which do not allow a family life, nor a family life that will not allow a career' (Sianou, forthcoming).

In this context, a final point must be made. The family appears consistently to be the most important value for Greeks; 99.4 per cent declared themselves in favour of it in 1995, the highest percentage in the EU (Eurostat, 1995, Men and Women in the EU). Yet, clearly, this is no longer the traditional family, as both family patterns and family functions change. An important indicator of the latter is the appearance of social problems (such as homelessness) as well as the increasing intensity of others (such as inadequate care for the elderly). These two issues, and the economic problems outlined above, constitute the main areas of interest and debate for 1995.

Demography

Existing trends of decreased fertility and an increasing divorce rate have continued during 1995. The drop in fertility rates, combined with the increase in life-span, means that, in common with a number of EU countries, ageing of the population

¹ The general economic situation is expected to be better during 1996, although not spectacularly so. The IMF World Economic Outlook (October 1995) forecast an increase of 2.3% in GNP, and inflation and unemployment rates of 7.4% and 9.3% respectively. A number of agencies paint a different picture, from the optimistic (the Greek government predicts an inflation rate of 5%) to the pessimistic (OECD foresees unemployment at 10.3%).

poses a serious problem for Greece, especially because of the pressures created on an already inadequate system of social security. The ratio of pensioners to economically active has increased; in 1977 there was one pensioner for every 2.97 people of working age, in 1994 the ratio was 1:2.09 (*Oikonomikos*, 6.7.95). The result of this is that the vast majority of social security beneficiaries now receive the statutory minimum. The levels of benefit provided are too low, and there is little prospect of any substantial increase. Taking a poverty line of half per capita GNP, it is estimated that over 80 per cent of all *IKA* pensioners (receiving pension for old age, inability to work or widowhood) live in poverty (*INE/GSEE Enimerosi* - Issue 8,1995). This situation explains why elderly Greeks are the most dissatisfied with their financial position in the EU (European Commission, 1995:43). It also accounts for the anger and disappointment expressed by pensioners' organisations at the government decision to limit increases in statutory minima to 3.5 per cent on 1 January 1996 and 1 July 1996¹. The combination of the increasing proportion of elderly people (especially those in the older age-groups) and their low pensions is placing additional strains on families.

The increase in divorce, from 0.3 per thousand population in 1960 to 0.7 in 1993 (Eurostat, Demographic Statistics 1995)² affects mainly younger cohorts, with the result that a disproportionate number of children are affected. However, absolute rates of both divorce and births outside marriage (2.8 per cent in 1993, Eurostat, *op cit.*) remain low, so that lone parents constitute only five per cent of all families, a proportion which is nevertheless beginning to attract the interest of scholars (see, for instance Kogidou, 1995, *Monoparental Families*).

Government financial policies towards families

No steps were taken in 1995 to increase family benefits, which are the lowest in the EU. Financial policies were not geared to the improvement of living conditions for families but to decreasing national deficit and inflation; their impact created a further deterioration in household and family incomes. However, because these policies were effective in reducing inflation many of the measures adopted did also contribute to lessening some of the financial pressures on families.

There were no significant fiscal changes. The failure to index for inflation has meant that taxes have increased, and this has affected those with least economic power most sharply. There has been a continued debate about the curtailment of tax deductions and exemptions; it is expected that many of these will be reduced during 1996. Of those changes which have taken place, the most notable are the doubling of the tax exemption in respect of home purchase (which is related to both housing policy and to the cost of housing, which has risen by between 20 per cent and 30 per cent in the five years to 1995 (*I Kathimerini*, 7.1.96)³ and the increase in

¹ During 1995 there were demonstrations by pensioners seeking substantial increases in pension. This was a key issue in 1995, as was the debate on the effectiveness of social security and the need to restructure social security agencies, which is expected to continue in 1996. Pensions accounted for 3/5 of social security expenditure in 1995 (*I Kathimerini* 9.6.95).

² The upward trend is, however, somewhat more pronounced if expressed relative to the marriage rate, as it has increased from 82.0 per 1000 marriages in 1982 to 124.2 in 1993

³ The exempted sum is assessed in relation to family situation - a couple with one child will pay no tax for the acquisition of a home up to 120 square metres (*To Vima* 10.12.95)

tax exemption where a property is transferred to children or inherited by them (Law 2362/95).

Housing

Over 75 per cent of Greek households live in owner-occupied dwellings, while a further 4.25 per cent occupy rent-free accommodation (typically provided by relatives) and there has been a decrease in the proportion of households renting accommodation (from 27.7 per cent of households in 1981 to 20.4 per cent in 1991). However, recent research by the National Centre for Social Research indicates that home ownership is less common in urban areas (about 60 per cent of households) and that the rising cost of property is deterring some households from purchase.¹ Housing policy both reflects the desire for home ownership and encourages its development. During 1995 all banks reduced interest rates on housing loans (following the general reduction in interest rates with the fall in inflation) and subsidies which further reduce interest on such loans, assessed according to family situation and income, improved access to home ownership². Despite a strong preference for home ownership, most Greeks are not happy with the quality of their dwelling, with a recent survey by the Public Corporation for Housing and Urban Planning (DEPOS) showing 91 per cent dissatisfied with their home, citing problems of insulation, plumbing and heating (*I Kathimerini* 29.9.95).

Meanwhile the scheme organised by the Workers' Housing Organisation (OEK) to build homes and provide these to workers and beneficiaries free of charge has continued. In 1995 earthquakes in Northern Greece and the Peloponnese have left thousands of families homeless or in homes needing extensive repairs. The homeless have been provisionally sheltered, and a scheme for the permanent solution of the repair and resettlement problems created, although not complete, was well advanced by early 1996.

For those who rent accommodation a rent subsidy scheme is in operation. The Workers' Housing Organisation (OEK) provides 15000 drachmas per month subsidy for single people and lone parents and 18000 drachmas per month for couples; these sums are increased by 3000 drachmas for each child. 40,000 households received this subsidy in 1995. To qualify for assistance, workers must have worked for a certain number of days, and have yearly income and rent not exceeding set figures which take account of family size.

The appearance of a homeless population has been of particular interest over the past year. It is of special note because it is an indication of the profound changes occurring in the family. Although the problem is still small (it is calculated that there is around one homeless person for each 1,000 population), and it is to some extent connected with illegal immigration, most of the homeless are young people aged 17 to 18 years old or over 70, ages at which they would be afforded protection by the traditional family. The Athens municipality has registered 400 homeless people in greater Athens (an additional 2,000 or so are reported to have taken over empty buildings - *I Kathimerini*, 3.11.96) and is setting up a program (expected to be ready during the first half of 1996) to provide food, clothing, facilities for personal

¹ Costs are estimated to have risen by 20 - 30% from 1990 to 1995 (*I Kathimerini* 7.1.96)

² For details of loans and subsidies see *To Vima* 22.10.95

hygiene, medical care and social support. In addition, the Athens municipality, the Church and the Red Cross are examining the possibility of creating an institution for Homeless People (*I Kathimerini*, 15.12.95,27.1.96), which would provide care for this group.

Large families

Families with many children enjoy a large number of privileges, not all of them directly financial, which have never been systematically codified or evaluated, despite the steady decline in the numbers of large families and in the average number of children per family. It is therefore not surprising that most Greeks perceive large families as being treated better than families with few or no children, or that they do so in higher numbers than other EU countries (Eurostat, 1995, Men and Women in the European Union). For their part, however, large families consider themselves penalised, particularly by the tax system, and demand solutions to their pressing housing problems and their difficulties in many fields.¹ The Confederation of Large Families (*ASPE*) is particularly active in promoting these demands, and may be considered an important pressure group.

Other financial policies

Workers and retired workers on low incomes can benefit from schemes offering the opportunity of a summer vacation at selected hotels and camp sites for a modest sum (most of the actual cost is covered). Programs offering holidays for people with special needs are also organised by the Ministry of Social Welfare and the Ergatiki Hestia. It should be noted that benefits (and indeed all measures) for an individual with special needs relate to the individual rather than the family. The fact that the family itself may be considered as having special needs is not taken into account. A small increase to the (generally low) monthly allowances was announced in July 1995. It is to be noted that all family allowances have failed to keep pace with prices during 1995, as in the past few years².

Protection of workers and reconciliation of work and family life

The National Welfare Organisation (*EOF*) operates around 80 day-care centres for children (open between 7 a.m. and 5 p.m.) in co-operation with local authorities and the Ministry of Education. The General Secretariat for Equality also promotes the creation of after-school provision. The problem of day care facilities for the children of immigrants has recently become an issue for debate: there are around 600,000 (legal and illegal) immigrants, of whom approximately 70 per cent are thought to live in the deprived areas in and around Athens. The Athens municipality has begun taking measures to extend existing facilities to immigrant families and to regulate new facilities created by the immigrant communities.

Greeks are working the longest annual hours in the EU: 1810.3 as compared to an EU average of 1668.8 in 1993³. Together with the increasing rate of unemployment,

¹ See Emmanuel, D, Velides, S., and Strousopolou (1995) *The Housing Problem of Large Families* (Athens: DEPOS - in Greek)

² According to Eurostat data, there have been increases in nominal per capita allowances in the case of unemployment benefit, health care and allowances over the period from 1989 to 1993, but there has been a decrease in pensions, family allowances and disability allowances over the same period (*I Kathimerini* 7.2.96).

³INE/GSEE *Enimerosi* Issue 7/1995 p.17

this has fuelled insistent calls from the Trade Unions for a 35-hour week. This demand has been one of the key issues of 1995, but by early 1996 employers (*SEV*, *EESE*, *GESEVE*) were continuing to reject the idea of decreased hours without concomitant decreases in pay, mindful of the additional cost of work and the strain on competitiveness. Trade Unions (*GSEE*) also recognise the undesirable effects on competitiveness, although they argue that these can be mitigated and are thus less important than the effects of current levels of unemployment. It is notable that individual employees do not manifest strong support for decreased working hours, consistently expressing more concern with the level of earnings (*I Kathimerini* 31.12.95). Part-time work is not very common in Greece and has only recently been regulated¹. In 1992 only 8.2 per cent of working women and 2.8 per cent of working men worked part-time. However, the trend appears to be towards an increase in both part-time and atypical work. The Institute of Work estimates that 12 per cent of the total work-force either worked part-time or atypical hours in 1995. Anticipated further increases, particularly in trade and services in the tourist industry (branches of activity with both a high level of female participation and a high proportion of family businesses), are increasing pressure on the Ministry of Work to further regulate atypical work, especially with respect to social security and pension rights. On the other hand, a very large proportion (43.9 per cent in 1993) of the Greek workforce has work hours involving shifts or night work (*I Kathimerini* 3.8.95). Moves to increase flexible working hours in service industries during the summer met with considerable resistance from employees during 1995. Recent research² has revealed that 20 per cent of households contain a member who has more than one job. Analysis of the findings shows a clear relationship between low wages, increased family needs and multiple jobs; 'younger' households with dependant children and large households with many children are most likely to include a multi-employed member.

The agreement of *ETUC*, *UNICE* and *CEEP* on parental leave has been greeted as 'historic' promoting not only equal opportunities and treatment of men and women but also the reconciliation of family and work. Two points which have been raised are the matter of pay during the time of leave and the extension of the right to leave to workers with responsibility for caring for elderly members of their family.

Unemployment

Unemployment, and particularly long-term unemployment, has been one of the main issues in 1995. The government has announced a one-month extension to the 12-month eligibility period for receipt of unemployment benefit, during which the claimant will receive between 14,532 and 38,402 drachmas, depending on previous contributions. Unemployment benefit has additionally been increased by 10 per cent on 1 September 1995 and a further 10 per cent on 1 January 1996. A new Unemployment Fund (*EKLA*) has been created, funded by contributions by employers (0.26 per cent of wages) and employees (0.10 per cent of wages). A

¹ Article 38 of law 1892/90 provides pro rata remuneration and holiday allowances for workers with reduced working hours or days. The agreement can be to work fewer hours per day, or fewer days per week or month.

² By the Institute of Work: *1NE/GSEE Tetrada Ergasias* Issue 3/1995 pp 42-49

Note that these data do not agree with those of Eurostat for 1992 which are lower and indicate a downward trend.

scheme of 'work coupons' has been promoted (but not as yet implemented), which aims to pass the cost of unemployment benefits onto production. The idea is that workers will exchange these vouchers either for unemployment benefit or a lump sum to fund self-employment, or alternatively use them to subsidise their employment or training. Measures have also been introduced to assist workers who are unemployed as a result of mass redundancy or because a company has ceased trading. These measures include an increase of the time-limit for unemployment benefits to certain more vulnerable categories of workers and entitlement to health insurance for two years after the end of employment.

Gender equality

The promotion of equal opportunities is pursued through the activities of the General Secretariat for Equality and particularly through a unit for the information of women in matters of occupation, through a Centre for Research in Matters of Equality (*KETHI*) and various networks for local initiatives as well as centres for the creative occupation of children¹. According to the recently published findings of empirical research conducted in Athens (Maratou-Alibranti, 1995) the relationship between women's employment and the division of housework is more than clear: the division is more equal in 59 per cent of the cases of professionally working wives, 37 per cent of wives who have worked in the past, and 35 per cent of wives who have never worked outside the home.

Care of older and disabled people

The functioning of the decentralised *KAPIs*² (which aim to implement the policy of older people remaining at home, and provide both a meeting place and a wide range of professional services) has 'provided greatly improved access to services which used to be rather inaccessible or too expensive' (Foundation for the Improvement of Living and Working Conditions, 1993:177). With almost 15 per cent of its population aged over 65 and only one per cent of these living in institutions, Greece is still a country where the family is expected to care for its older members. Yet there are a number of initiatives which demonstrate that the family is not able to fulfil all the expectations placed on it; these include schemes providing care (such as cleaning, shopping and payment of bills) for older people at home which are being established at municipal and district level and the creation of temporary shelters offering three months accommodation for the homeless. Private homes for the elderly are being established, and their operating conditions and the quality of services provided have been a matter of both state concern and public interest during 1995. A housing subsidy (of 12,000 to 15,000 drachmas a month) has also been introduced for elderly people who are alone, homeless, poor and not covered by social security. Those not covered by social security also have the right to a subsidy equal to the pension farmers receive from *OGA*. For disabled people, 1995 has seen the introduction of a family-based respite care scheme for people with mental health problems involving 40 families in Greece³, mainly in the Athens area, and a promotion of the right of children with special needs to attend mainstream schools. The latter was largely instigated by Athens University.

¹ See General Secretariat for Equality (1995) *National Report to the UN Commission*

² There are 320 of these in Greece, of which a third are in the Athens area (*To Vima* 16.7.95)

³ This is a program of the Centre for Mental Health in Athens. Foster families receive an allowance of 66,000 to 82,000 drachmas per month.

Regulation of marriage and relationships

At present extensive changes in family law are being proposed. A Commission was established by the Ministry of Justice in 1994, under the leadership of Professor J. Deligiannis, to study and propose changes in all aspects of family law not dealt with by law 1329/1983; effectively all issues except marriage and divorce. Amongst the proposals is the extension of the right to adopt children to anyone between the ages of 30 and 60, whether or not they are married or have natural children of their own. In the case of children over the age of 12, adoption will be subject to their consent. There are plans to create a Family Court with specialized judges and a supporting service of specialised social workers; this court would have the power to appoint a guardian for any child whose parents or other relatives were unable to provide adequate care. There are also proposals to develop the institution of foster families. It is to be noted that in 1995 cases of illegal adoption came to the forefront of public interest and inspired a heated debate. There was condemnation of cases involving trafficking of babies, which in some cases involved the import of babies from Albania, Bulgaria and neighbouring countries.

There are indications that although abortions are becoming less frequent among women over the age of 23 (*To Vima*, 23.4.95), the number of abortions among young unmarried women continues to rise. The number of legal abortions performed remains low, although most young people appear well informed about the possibility of obtaining a legal abortion funded by social security. Seventy-two per cent of young Athenians questioned in a recent survey claimed to know that abortion was legal, and 84 per cent expressed awareness of the dangers involved: by contrast only 49 per cent were aware of the family planning services which exist (Research of the Athens Technological Institute, reported in *I Kathimerini* 23.8.95).

Families under stress

Although there is almost no statistical data concerning domestic violence, the problem definitely exists and has necessitated the creation of a Centre for Battered Women run by the Athens local government. The Centre has been open since May 1993, providing shelter, advice, job-seeking services and assistance in finding permanent accommodation to hundreds of women. The centre is able to provide accommodation for up to 10 women and 20 children for a maximum period of a month. Women mainly contact the centre themselves or are referred by social services; a very small minority are referred by the police. It is estimated that around 90 per cent of these women are able to make a new start in life, while the remaining 10 per cent return to their former relationship (*I Kathimerini* 25.1.96).

A new concept has been added to the few functioning family advisory programs: an advisory team operating in the context of the police at local level, in the Chalandri area of Athens. There has been a large increase in cases of infantile and juvenile delinquency, from 2,617 in 1960-64 to 15,319 in 1990-94 (*I Kathimerini* 2.4.95), and this phenomenon appears to affect all socio-economic strata.

Concluding remarks

During 1995, many issues concerning or affecting the family came to the forefront of public interest. The continuing economic crisis, the inadequacy of social protection and the effects of the pressure to meet the 'Maastricht criteria' will certainly increase the range and the importance of the above issues.

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CHAPTER SIX

Family Policies in Spain - 1995: A Year of Debates

by

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Introduction

The political situation has been particularly contentious and tense in 1995. Political scandals have remained the focus of media attention, and have been widely used by both right and left-wing opposition against the socialist government. In spite of this unfavourable political climate, the European Union Presidency, held by Spain during the first quarter of 1995, was considered a success, both inside and outside Spain. After the Presidency period, and once the Catalanian nationalists (*'Convergencia i Unió'*) had withdrawn their support from the Government, general elections were called for March 1996, one year before they were due. This decision was very well received by public opinion, as the need to resolve the situation, which was threatening the functioning of State institutions, was widely recognised.

The inauspicious political situation did not prevent the Spanish economy from maintaining a stable, if moderate, level of growth. The Gross Domestic Product has grown 3 per cent, compared with 1.9 per cent in 1994. Unemployment was also down, although it still affects over 3.5 million people, and the unemployment rate of 22.7 per cent is the highest in the European Union. The rise of temporary working contracts and part-time employment are also matters of concern, and average wages have increased less than during the previous year (1.7 per cent as against 1.9 per cent in 1994). All these factors have an effect on the economic situation of families, reducing private consumption and thus preventing a higher rate of economic growth. Other macroeconomic indicators have also improved, especially the reduction of public budget deficit and of the rate of inflation (4.3 per cent in 1995), permitting an optimistic view of the future, although Spain is still quite far from the leading European countries on the convergence objectives required for economic union.

As far as family policy is concerned, 1995 was mainly a year of public debate on important matters initiated in 1994, the International Year of the Family. None of them had crystallised into legislative changes at the time of writing. Some new measures and important changes, approved in 1994 or early 1995, have since been implemented, but it is too soon to report on their effects.

The report of developments in family policies during 1995 is presented in three sections, corresponding to the three main fields of State intervention on the family: the regulation of the family by means of legislation, economic protection of the family and the reconciliation of work and family life. A section dealing with the debate over abortion is also included, because it illustrates particularly well the difficulties in implementing some social changes in Spain. Some of the material has been briefly presented by the author in a previous publication of the Observatory¹. Where changes have occurred in 1994 or very early in 1995, that volume should be consulted for further details.

The State and the regulation of the family

Family legislation

Family law, which had been for a long time in Spain under the influence of the Catholic Church, was deeply modified after the coming of democracy in 1975. During the political transition² the unique family model was rejected and the acceptance of a plurality of family forms became increasingly higher. New family forms have now come to enjoy a large measure of social acceptance, although not all of them are legally defined and protected. The key questions that have been debated and for which changes have been proposed, are the legal regulation of cohabitation and divorce law reform.

At present, unmarried couples in a stable relationship have some legal standing (for instance, child adoption is permitted for cohabitantes and the recently enforced Law on Rent makes special provision for them) but in certain key issues of family law, inheritance law, tax law (especially income tax) and social security, cohabitantes are treated less favourably than married couples. In summer 1995 the Government presented a draft Law regulating the rights of cohabiting couples. This has raised an extensive debate but the draft Law has not yet been submitted to the Parliament for discussion and approval. The Government project recognizes, for the first time in Spain, that two persons living together, irrespective of sexual orientation, are to be considered as a family unit where the period of cohabitation exceeds two years and there is some evidence of the stability of the union. It is possible that the registers of cohabiting couples introduced by some municipalities and regions in the past two or three years will be accepted as evidence for this purpose.

There is wide public support for granting the same rights to cohabiting couples as to married couples (70 per cent are in favour, according to a survey conducted by the Centre for Social Research³). Concerning homosexual couples, the level of agreement is lower but equality of rights is still favoured by the majority (53 per cent according to the same survey). Adoption of children by non married couples is by far the most controversial and debated issue. The Government has omitted this matter from the draft Law, on the grounds that the existing legislation already

¹Cf. the developments concerning Spain in Ditch J., Bradshaw J. and Eardley T., *Developments in National Family Policies in 1994*, Social Policy Research Unit, University of York, 1995.

²The political transition, or simply the transition, is the name given to the period immediately following the death of General Franco in Spain. It was a period of important political and social changes, the duration of which is controversial. The term transition stresses the fact that the passage from an authoritarian regime to a democratic one was smooth, based on consensus rather than conflict.

³Centro de Investigaciones Sociológicas (CIS), an official research Centre, under the Ministry of the Presidency, that deals with election surveys and public opinion surveys in general.

allows the adoption of a child by cohabiting heterosexual couples, thus avoiding the extension of this right to homosexual couples. This position reflects the opinion of the majority of the Spaniards, who oppose adoption by homosexual couples (55 per cent according to the above survey) and of the European Parliament, which rejected the possibility at the end of 1994, although by a very small majority. An indication that the debate is still current is the introduction, at the end of 1994, by the Parliament of the Valencia region¹ in Spain of an amendment to its Children Law allowing adoption by homosexual couples. This provision has not yet been applied. The Government's draft Law does not extend to cohabiting couples the rights that the Foreigners Law of 1985 recognizes for spouses from countries outside the European Union, and this has also been criticized. If adopted, the Law now in draft form could have important economic consequences for private persons in the field of inheritance or alimony rights and increase the burden on public expenditure by its effects on unemployment allowances and Social Security pensions. This is generally considered to be the main reason why the draft, currently being analyzed by the Ministry of Finance, has not yet been submitted to Parliament.

The other important legal issue has been the reform of divorce, in view of the widespread opinion that some existing provisions are now obsolete. The Law governing divorce was adopted in 1981, after 50 years of prohibition. It was then felt that what was considered a delicate matter needed a social consensus as wide as possible and thus some precautions, which appear excessive today, were included in the Law. Among these is a requirement for a period of legal separation before divorce, which necessitates a two-stage procedure in order to completely end the marriage, and the specification of an objective cause making life in common unbearable. The time-consuming process and the concept of divorce as a penalty have led to very confrontational procedures, involving high psychological and economic costs to the spouses. A Draft Law was presented in 1994 by the Socialist Group of the Parliament, but it has not yet been brought to the floor for discussion. As soon as it was presented, strong opposition was expressed by separated fathers who believe that the reform does not solve the problems of child custody and access, or the payment of maintenance allowances. While accepting the need to maintain their children, they questioned the right of the spouse to receive a compensatory allowance or argued that, at least, it should not be a life-long payment.

These two issues, cohabitation and divorce, have given rise to a great deal of debate but no legislative changes have been introduced, and it was not even possible for the proposals to be discussed in Parliament. Nevertheless, the presentation of definite reform projects has been useful in clarifying questions which are both socially controversial and technically difficult to solve. The stated positions of a certain number of groups and the public opinion surveys conducted may serve to establish parameters for future provisions. The analyses and criticisms offered by legal professionals will also avoid some technical weaknesses, which is particularly desirable in the case of controversial legislation. On this account, 1995 should not be considered a lost year. The problem is whether the political will to implement the reforms will survive the general elections in March 1996. These elections may bring important political changes, and a new more conservative majority may be less willing to advance reforms considered by conservative social groups as a threat to

¹ Comunidad Valenciana, one of the 17 Regions with extended administrative and political autonomy.

the family as an institution. For this reason, delays in the discussion of projects presented during 1994 could lead to a *sine die* postponement of changes.

Child protection

Child protection has been a matter of constant concern for Spanish public authorities since the Constitution was passed in 1978. During the eighties there was a process of renewal aimed at adapting the old legislation to the new Constitutional rules. A Law passed in 1981 abolished the existing distinction between legitimate and illegitimate filiation and created shared parental authority. The other important legislative change during the eighties was the reform of adoption by a 1987 law. The recognition of some deficiencies in this legislation, and the need to respond to emerging needs and social demands, have led to the initiation of a thorough reform of the child protection system. As a result a new law, *Ley Orgánica de Protección Jurídica del Menor, de modificación parcial del Código Civil y de la Ley de enjuiciamiento civil*, discussed during 1995, was finally passed on January 1996. The contents of this law are broader in their scope than the Civil Code and represent a general legal framework for child protection which is binding on all public bodies, institutions dealing with minors, parents and relatives and citizens in general.

The law is based on the recognition of full legal rights to minors with a progressive capacity to exercise them; limitations to this general rule are interpreted in a restrictive way. The law considers not only that the need for protection and the autonomy of the minor do not contradict each other, but that the best way to guarantee social and legal protection to children is to maximise their autonomy as the subject of rights, even if the need for protection must sometimes overrule the possibility of exercising them. For instance, the prohibition on disseminating information on minors by communication media remains in effect even if the minor consents. There is also a specific provision that internment of a child in a psychiatric centre must always be authorized by a court authority, rather than by parental consent. The new Law also introduces a distinction between a situation of risk - not implying the separation of the child from his or her family - and a situation of abandonment (*desamparo*)¹, allowing the public authority to remove the child from the family, suspend parental authority and assume the guardianship of the child. Another major concern of the law is to facilitate and to clarify all administrative and legal procedures concerning minors, ensuring that they will not interfere with their school, social or working life.

Family placement (fostering) of the child, introduced by the 1987 Law, may now be in the form of simple, permanent or pre-adoptive placement, depending on circumstances and the interests of the child. Simple placement is used when the return of the child to his or her biological family is anticipated. Permanent placement is suitable when age or other circumstances of the minor or their family demand more stability. The judge may, in this case, confer some of the rights of legal guardianship to the receiving family. The third case is the pre-adoptive placement, allowing a period of adaptation for the child prior formal adoption by the family. These distinctions are expected to enable greater flexibility and more rapid solutions when circumstances change. Adoption legislation now fully

¹ The Spanish term '*desamparo*' does not imply necessarily physical abandonment but refers to lack of protection in a broader sense.

complies with the provisions of the Convention of the Rights of the Children and of The Hague Convention. The most important changes concern the suitability of adopters and the rules for international adoption.

The economic protection of the family

Fiscal policy

The State Budget Law for 1995 introduced some important innovations concerning families. Deductions for family dependants (in common with most other deductions) were adjusted upwards in proportion to inflation forecasts for 1995 (3.5 per cent). The increase will maintain the deductions at their 1994¹ level, although nothing has been done to compensate for the reduction in real terms caused by the failure to index since the fiscal reform of 1991. Tax thresholds have also been correspondingly increased.

The maximum rental costs deduction remained unchanged at Pta 75,000. However, as had already happened in 1994, the 1995 increase in the taxable income threshold for this type of deduction considerably exceeded the rate of inflation, as it was raised from Pta 3 million to Pta 3.5 million for individual tax declarations and from Pta 4.5 million to Pta 5 million for joint declarations. This increases the number of eligible beneficiaries. This is related to the general policy of stimulating the rental market to alleviate the housing crisis, which is particularly affecting young people, and will also extend the benefits to middle income groups, a goal also reflected in the conditions for obtaining public subsidised housing² which is increasingly being made available to the middle classes.

However, the major change, as far as the family is concerned, is the introduction for the first time of differential levels of deductions for children on the basis of their birth order. The deduction for the first and second child is unchanged (Pta 20,700, adjusted for inflation). For the third, the deduction is raised to Pta 25,000 (Pta 30,000 for fourth and subsequent children). This change, targeted at large families, has given rise to some social debate. In general, the new deductions have been considered as a measure increasing fiscal equity among families and, as they are fixed deductions, favouring those on low incomes, socially desirable. However, their importance is reduced by the fact that the number of families with two or three children is decreasing steadily in Spain, thus limiting numbers of eligible beneficiaries. On the other hand, Value Added Tax was raised from 15 to 16 per cent on 1 January 1995 and this disproportionately affects large families, whose consumption represents a larger part of their income. It is difficult to ascertain if, as a whole, the economic situation of large families has improved as a result of these two changes. The demographic question, which is beginning to be considered a rather serious one as Spain has become, together with Italy, the country with the lowest fertility rate in the world, was often discussed during the debate. These measures are unlikely to have an effect, however, as the low fertility rate in Spain is now mainly caused by the reduction of first births, a consequence of the

¹Note that the actual inflation rate for 1995 was 4.3%. No adjustment for the difference from the forecast rate will be made for fiscal deductions, as it is regularly done concerning pensions and allowances for disabled dependents.

²**Subsidies for public housing are now available** if income does not exceed 5.5 times the minimum wage, in State housing programmes. Some municipalities have increased this threshold to 7 times the minimum wage.

postponement of family formation resulting from high youth unemployment and housing shortages.

Child allowances

The amount of child allowances remained frozen at Pta 3,000 per year between 1971 and 1990, when important changes were introduced in this scheme. The 1990 reform increased the annual amount paid to Pta 36,000, which is twelve times the previous amount but still not enough to compensate for the reduction in real terms since 1971. After the 1990 reform, allowances were not uprated in line with inflation and thus had lost approximately 27 per cent¹ of their purchasing power by the end of 1995. The 1990 reform also broadened the range of beneficiaries to the entire population, rather than only workers, while at the same time imposing a rather restrictive means test. The family income threshold for entitlement was set in 1990 at Pta 1,000,000 for one dependent child, plus Pta 150,000 per additional dependent child. This income limit remained unchanged for three years but, since 1994, it has been uprated annually in line with inflation. The threshold amounts are now Pta 1,080,540 for one child, plus Pta 162,080 per additional child. Maintaining the threshold at a constant amount for three years means that, with the increase in nominal incomes during the period, the number of beneficiaries has automatically declined. One important problem is that of maintaining the purchasing power of all forms of benefits by keeping pace with inflation. As we have seen, child allowances have remained unchanged for twenty years and, since 1990 they have not been revised to take account of inflation (except for disabled children aged less than 18 years). Part of the reduction in real value of these money allowances has been compensated by annual increases in tax deductions for dependent children. As a result, total expenditure (the sum of allowances and fiscal benefits) in 1994 was approximately equal to the corresponding expenditure in 1981, when expressed in real terms. As we can see, the importance of allowances for dependent children has been decreasing, relative to fiscal benefits aimed at the same purpose. In addition, the 1990 reform is in practice limiting entitlement to allowances to families with incomes below the tax threshold. The Spanish system of economic protection of the family may thus be considered as mainly based on fiscal benefits, only complemented by direct allowances as necessary to provide complete coverage. For this reason, it is less understandable that whereas fiscal benefits for dependent children have been uprated to compensate inflation, allowances for dependent children have remained unchanged. The fact that they are treated differently introduces an imbalance to the detriment of low income families.

Special benefits for large families

Most public benefits to families, other than tax deductions and direct allowances, are specifically for large families. Officially recognized large families are entitled to reduced fares on public transport, they pay reduced university fees and they get some priority for obtaining scholarships and public housing. Until 1994, the official title of 'Large family' (*familia numerosa*) was granted to those with four or more children. At the end of 1994, a law was approved extending the concept to families with three or more children. However, its enforcement was postponed pending approval of the corresponding application rules, which had to take into

¹According to data released by the National Statistical Institute (INE), the general index of consumption prices rose from 100 at the beginning of 1991 to 126.8 at the end of 1995.

consideration the expected recommendations of the Parliamentary Commission on the Family, formed during the International Year of the Family. Although the Commission has now officially ended its public hearings and sessions, it had not presented any Report or recommendations by the end of 1995. Ten months after the approval of the law, during which some criticism arose, and without waiting for the Commission recommendations, the application rules were approved, but no detailed listing of benefits available to large families was included. The rules simply made a general reference to present valid legislation and to additional benefits that could be offered by the Regions (*Comunidades Autonomas*). The delay in the enforcement of the new law and the fact that the applicable legislation is rather old and scattered has led to some difficulties in its application. To resolve these problems the Ministry of Social Affairs is now preparing a compilation and analysis of all benefits available to large families.

The widening of the concept of large family has also raised some public debate, specially in relation to its effect on natality, which appears to be an important consideration. However, as mentioned above, not much can be expected of such a measure as the problem with fertility now lies in young people postponing their first child rather than families unable to have an additional (especially third) child. It is, however, generally accepted as a means of increasing horizontal equity among families. Its impact seems to be specially important in relation to the reduction of university fees, more expensive now than in the past, which currently affects those born between 1970 and 1975, before fertility rates began to fall. Provisional information from the Ministry and some Regions show that claimants of benefits are specially interested in these fee reductions. In coming years, one may expect a dwindling of the number of possible beneficiaries, as dependent children will belong to low fertility generations born after 1975.

Reconciling work and the family

The increasing participation of women in the labour force, particularly important in Spain since around 1985, makes the need to reconcile professional obligations and family life a problem of growing concern, specially regarding the care of children. Even if the problem should concern the whole society, women are in reality bearing most of the burden and consequently experience more difficulties in adjusting to the new situation. Maternity and parental leave are measures aimed at helping reconciling these commitments, but they do not seem to be sufficient to solve all the problems arising from what may be thought as a radical change of the family model, affecting all aspects of social life.

Maternity leave

Since 1989, the duration of maternity leave for working mothers is 16 weeks (18 weeks in the case of multiple births). The mother may choose to begin the period of leave at any time provided at least six weeks are taken after the birth. In case of adoption or family placement, shorter periods of leave apply. If both parents work, the mother may allocate the last four weeks to the father, unless her return to work is considered a risk for her health. If the mother should die, the father is allowed to take the six weeks leave that must be used after the birth of the child.

Until 1994, maternity leave was considered by Social Security a temporary incapacity for work and treated accordingly. In particular the allowance paid

during the leave was equal to 75 per cent of the reference remuneration (*base reguladora*), as in any other case of sick leave. According to a Law approved at the end of 1994 and effective since the beginning of 1995, Social Security considers now maternity as a 'risk' in itself, covered by a specific regulation and with a specific allowance, the maternity allowance, which equals 100 per cent of the reference remuneration¹. As previously, a woman must have paid social security contributions for a minimum of 180 days during the five years preceding the birth in order to qualify for this new allowance. The above change is important for two reasons. The first one is that giving birth to a child is no longer considered by Social Security as a common illness, a campaign issue for women which was included in the II Plan for Equal Chances for Women, issued by the Women's Institute². The second reason is that the 100 per cent maternity allowance may now be fully considered as a salary replacement allowance. Even if most of the women already received full salaries during the leave, as complementary allowances were usually included by employers and unions in all general wages agreements, the new public allowance is due to all working women. Maternity ceases to be a cost for the employer and its cost is now shared collectively through the general mechanisms of public spending. Without underestimating the practical impact of this change, its symbolic importance is perhaps even greater, as it implies a public acknowledgement of the social importance of maternity and the need to support work and family reconciliation.

Parental leave

Both parents of a child aged under three years are entitled to a parental leave from their work, although if both are working, the leave may only be taken by one of them. Until a legislative change in 1995, only the first year was considered as 'forced leave' (*excedencia forzosa*), the most favourable modality for the worker, in which the job position held is reserved during the leave and the period is considered as one of regular contribution to the Social Security System for social benefits and pensions. After the first year, the working parent had only a right to take the first suitable job vacancy opening in the firm. In March 1995 the Parliament approved a Law regulating parental and maternity leave (*Ley de Regulación del permiso parental y por maternidad*). The new legislation extends the situation of 'forced leave' to the complete period of parental leave (a maximum of three years). Vacancies due to this type of leave may now be covered by a new type of work contract, entitling employers to pay reduced levels of social security contributions unemployed persons in receipt of benefits are hired. The aims of these changes are to remove some of the problems that employers face when hiring married women or childbearing age women and to reduce the number of unemployed people receiving benefit. The reform is undoubtedly positive but as parental leave is completely unpaid it represents an important economic sacrifice to those families taking advantage of it.

Obstacles to the reconciliation of work and family life in Spain

The traditional family model, composed of a working husband and a housewife, is still considered dominant in Spain in many aspects of everyday life. One of the most

¹The reference remuneration is roughly equal to salary except for the higher paid, as there is an upper limit.

²*Instituto de la Mujer*, a Government Agency in the Ministry of Social Affairs.

striking examples is time schedules of all sorts. A split working day including a two or three hours break at lunch time is still quite common. Time schedules for services and home deliveries do not generally take into consideration that in many families no-one is at home during working hours. Shopping hours are the same as working hours, except in important department stores and commercial areas of the centre of a few big cities. A social and political debate has been going on for some time concerning a proposed change in legislation on stores opening hours, specially on holidays. This mainly related to the consequences for small businesses, while the situation of dual earner families was hardly mentioned. Even school and nursery centres hours are not always compatible with the needs of working mothers. This forces women to enlist help from the family, mostly from their own mother; the grandmother plays an important role in child care in Spain.

Time schedules are not the only indication of this situation. A new form of suburban habitat is now developing in Spain, based on rather isolated groups of individual houses, as happened during the fifties in the United States, implying a clear separation between the home and the workplace, best suited to the case of a husband commuting everyday while the wife stays at home. It is somewhat odd that, for reasons of land speculation and marketing, this model is developing when the increasing participation of women in the labour market in Spain is removing the conditions that favoured it.

Another obstacle to the reconciliation of work and family life is the limited participation of Spanish males in domestic tasks, even when their wives are working. Changing attitudes in this respect seems to be a slow process, despite some important and appreciated publicity campaigns, sponsored by the Ministry of Social Affairs and some Regions, aimed at promoting the share of the domestic burden between men and women. Although these campaigns are not ineffective, real changes in gender roles will probably have to wait for the new generations, born after 1976, which have been educated in mixed schools and have been brought up with the idea of gender equality.

Reconciling work and the family will tend to become more of a problem as women's work continues growing and resorting to the help of the grandmothers becomes more difficult for the same reason. Changes will be necessary to face the situation. Some will need legislative action, in the matter of time schedules for instance, but others imply an evolution or even revolution of habits and attitudes which, even with the help of explicit public policies, still seems a long way off.

The modernization process and the family: the polemical debate on abortion

Since 1985, legal abortion is available when there is a risk to the life or the physical or mental health of the mother, in case of malformation of the foetus and when pregnancy is caused by rape. In (1994 and) 1995 considerable debate was aroused when the Government presented a draft amendment introducing a fourth category taking into account the economic and social situation of the woman seeking an abortion. This proposal rejected the possibility, which had been considered, of introducing a general right to terminate pregnancy within some specified time limits, as had been proposed by the more progressive sectors of society. The Government proposed amendment would entitle a woman to a termination in the

event of 'personal, family or social conflict', subject to a requirement to receive advice on support available and a time limit of three months. The Government proposal was considered acceptable by a majority of Spaniards: 48 per cent were in favour and 35 per cent opposed, according to a public opinion survey in July 1995.

The presentation of the amendment in the Parliament was delayed by the Government for many months, in order to maintain good relations with the Catalanian nationalists (*CiU*), their political allies, who were opposed to the amendment from the start. When it finally entered the Congress of Deputies, the conservative opposition (*Partido Popular*) and the same Catalanian nationalists who were until then supporting the Government, made an alliance to prevent the debate and in consequence the possibility of its approval by an *ad hoc* left wing majority formed by the Socialist party in Government (*PSOE*) and its until then radical leftist opponent *IU* ('united left'), whose nucleus is the Communist party. The abortion issue was the reason, or probably the pretext, as some political observers have pointed out, for breaking the *de facto* coalition between the Socialist party and the Catalanian nationalists, which maintained the former in power, and thus precipitated the call for general elections.

Abortion has become a political 'hot potato' in Spain, a fact that does not fit our present level of economic, social and cultural development, nor with the high degree of tolerance shown by public opinion concerning matters and behaviour that were considered scandalous only a few years ago. The option of terminating a pregnancy is not a matter of family policy, as it may affect all women irrespective of their family situation. Neither is it a matter of demographic policy as nobody claims it as a method of birth-control or family planning. The exaggerated importance of this issue is thus quite amazing. It is one of the few questions, if not the only one, that reproduces the traditional division between right and left, which is considerably less marked in other matters. This is not unique to Spain and seems to be closely linked to the influence of the Catholic Church. The debate on abortion in Spain coincided with the Beijing Conference on Population, where the anti-abortion campaign of Catholics and Muslims, united for the purpose, had a great echo in public opinion, and with the publication of the Pope's encyclical '*Evangelium vitae*'. The intervention of the Catholic Church in the debate was extremely tough, with one prelate declaring that the Government proposal, which was similar to what is already applicable in, for instance, Germany, 'is revolting to the very concept of law'. The official reasons for the Church's opposition to the termination of pregnancy, even with considerable limitations as in Spain, are almost exclusively based on a sacred respect for human life but, even for the Church, these reasons are far from absolute. On the one hand the status of the foetus is highly controversial and the position of the Church has varied historically and, on the other hand, the Church does not reject death penalty in all cases. Real reasons have probably to be found in Catholic concepts of sin and fault, and its outdated attitudes to sex. Abortion, seen as an *a posteriori* method of preventing the consequences (punishment) of an improper use of sex, appears as an extreme danger for its control. The position of the Church is quite the same in relation to the use of contraceptive devices, accepting only those implying a repression of sexuality, which are called 'natural' means. The debate on abortion has been highly ideological and is consequently highly politicised.

It is highly unlikely that an appropriate solution will be found for this matter in the near future, as it is expected that the coming general elections will strengthen the influence of the conservative sectors. However, reversals in policy are not anticipated, as existing legislation has been accepted by the leader of the more important conservative party. The present situation, considered to particularly affect poorer women, is therefore likely to remain as a source of social and political conflict, threatening the cohesion of Spanish society in coming years.

Conclusion

During the last two years an important political debate on family has developed in Spain where it was practically absent before. The creation of an *ad hoc* Parliamentary Commission on the family, during the International Year of the Family, is the clearest sign of this change. It is expected that when the Commission offers its recommendations the debate will be boosted and some public new measures adopted. The renewed interest in family policies has also led to some significant legislative innovations. A differentiation was introduced between fiscal deductions for dependent children on the basis of the birth order of the child, a new regulation was adopted on maternity leave, now a specific contingency with an allowance of a 100 per cent of earnings, and benefits for large families have been extended to three children families. Following a more traditional line of action in Spain, an important new Law on Children Protection was adopted at the beginning of 1996. The new Law is based in a very up to date concept of children's rights and introduces some significant innovations, for instance in the regulation of family placement.

The social and political debate continued in 1995 around legislative projects concerning the two main remaining questions in the State legislative capacity over the family: regulation of the rights of cohabitants and divorce law reform. Neither of these projects could be achieved, partly because of the specific difficulties they presented and partly because of the shortening of the legislative period due to the elections. Another stalled governmental project was the extension of access to abortion. Abortion is still a highly politicised question in Spain and because of anticipated political changes, it can be confidently predicted that it will not be resolved in the coming years.

One of the reasons for the new interest on family matters is the political influence exerted by the Catalanian nationalist Party (CzU), known to be in favour of family support and of pro-natalist policies. However, the observed change cannot be reduced to this conjunctural political reason. The position of the socialist governing party (PSOE) has changed to the point of rejecting the old taboo that the Left in general had been opposing to the very idea of family policy since the times of the preceding dictatorial regime with its very ideological concept of the family. The tendency that we had anticipated in a previous work¹ has actually become a moving force: the synthesis between two questions that appeared as contradictory, the demographic situation and action in favour of gender equality. New family

¹ Fernández Cordón J.A., 'Spain: Adjusting to the New Family Structures.', in Dumon W., *Changing Family Policies in the Member States of the European Union*, Commission of the European Communities, Bonn, 1994.

policies, which will necessarily be different from traditional ones aimed at the protection of an institution, may not only harmonize the above two objectives but are beginning to be considered the best instrument to integrate and strengthen them. Beyond what the present Government has achieved, the evolution during the last two to three years signals changes in the culture of the Left concerning family which could favour the emergence of innovative ideas in a field that has been up to now dominated by a conservative and traditional concept of family policies. In the short term, a better disposition for political consensus in this matter may also lead to an expansion of explicit family policies in Spain.

CHAPTER SEVEN

Family Policy in France in 1995: A Historic Turning Point?

by

Jeanne FAGNANI

Introduction

Will 1995 turn out to have been a high risk year for French family policy? The latter will undoubtedly undergo some modification as part of the Social Security reforms announced in the 'Juppé Plan' in November 1995. The attempt to reduce the deficit in the Social Security system and reform its structure was always likely to be accompanied by a challenge to some of the principles which had hitherto governed the granting of family benefits. However, if we wish to understand the new shifts in that policy, these must be seen against the overall context of France's economic, political and social position. Taking into account the new issues with which the country is currently grappling, at a time when the established social order is seriously being called into question, the underlying rationale for mediation and compromise in these fields can be more readily understood.

Economic and political issues: financial constraints and trade-offs

Against the background of growing competition between countries and globalization of the market, France has to deal with a series of problems which must be resolved by mediation. This is rendered even more difficult by the situation of social and political conflict, reflected in the long strike by public sector workers (railways, public transport, Post Office and Civil Service) in December 1995. Although a relative consensus did exist concerning the need for a comprehensive reform of social security (especially with regard to health insurance, where expenditure has grown constantly), the social partners were, and remain, deeply divided over the measures to be taken. In particular there is disagreement about the way the financial burden should be allocated between households and employers, and between various social groups, about the merits of different policy instruments (including VAT, CSG - a supplementary social security contribution to fund family allowances, increased direct taxation, taxation of company profits and other measures) (Dupeyroux, 1995) to reduce expenditure or raise revenue, and regarding the relative merits of financing social security from general taxation or via contributions paid by employers and employees.

Since the 1970s France has experienced a reduction in the rate of economic growth: between 1989 and 1994 the annual growth rate of gross domestic product (GDP) was 1.2 per cent, four percentage points lower than during the 1960s (*Conseil supérieur de l'Emploi, des Revenus et des Coûts*, 1995). The public spending deficit has continued to rise, from less than two per cent of GDP in 1990 to six per cent in 1995. If France is to meet the criteria imposed by the planned monetary union agreed under the Maastricht Treaty, this must fall to no more than three per cent of GDP by 1997. The heavy burden imposed by social security contributions¹ distinguishes France from its neighbours in Europe; these account for 19.6 per cent of GDP as compared to 17.5 per cent in Germany and 6.7 per cent in the United Kingdom. Yet the government has expressed a desire to reduce the contributions paid by employers which are perceived as an obstacle to job creation and partially responsible for unemployment. According to the *Conseil supérieur de l'Emploi, des Revenus et des Coûts* (1995), average labour costs 'do not greatly constrain the competitiveness of French companies compared to those in other developed countries. However, labour costs (wages and social security contributions) are too high for the least skilled employees.'

In 1994, 11.1 per cent of men and 14.6 per cent of women were registered as unemployed. Many were long-term unemployed; 38 per cent had been out of work for over a year. In 1995, the overall unemployment rate had fallen to 11.5 per cent (Eurostat, 1995). Poverty has been on the increase since the 1980s: 947,000 people were receiving the RMI (minimum welfare payment) at 30 June 1995, an increase of 8.5 per cent in a single year. There is also increased inequality in the labour market, according to the *Conseil supérieur de l'Emploi, des Revenus et des Coûts* (1995), with the rise in unemployment and the increasing number of insecure jobs (such as fixed term contracts, training courses, casual labour and part-time work). According to the Committee handling the social security accounts, the overall system is in serious deficit, FF56 billion in 1994, FF62 billion in 1995 and between FF56 and FF63 billion in 1996. The family sector is not exempt from this general picture of gloom; its deficit stood at FF11.6 billion in 1994, FF13.5 billion in 1995 and is estimated at between FF10 and FF11.4 billion in 1996, depending on the measures adopted. The increase in social security contributions and local taxes has led to a sharp increase in compulsory deductions, which amounted to 44.4 per cent of GDP in 1994 as against 41.7 per cent in 1980.

Under the terms of the Family Law dated 25 July 1994, any reduction in the scope or basis for assessment, or rates of resources of the CNAF (National Family Allowance Office) after 1 January 1993 must be made up by the state budget. Yet the latter is currently facing a serious deficit and, according to the government, this necessitates considerable budgetary restrictions and the implementation of a policy of austerity.

Measures agreed in September 1995 already permit employers exemption from family allowance and health insurance contributions under certain circumstances

¹ The strong growth in contributions has coincided with a decline in the proportion of households paying income tax: from 64% in 1980 to 51% in 1993.

(relief from employers' contributions on low salaries¹). This does imply, however, partial transfer of social security expenditure, especially that of the family sector, to the state budget. Under the circumstances, and given the heavy financial constraints, the government's room for manoeuvre was very limited and required complex political and economic trade-offs which ultimately did not succeed in achieving broad consensus amongst the social partners and the various pressure groups. The government was therefore obliged to find additional revenue (a difficult task in view of the recession from 1991 to 1993) to fund the social security system and make good the deficit; in August 1995, the government had already decided to increase the VAT rate (from 18.6 per cent to 20.6 per cent). Opponents of that decision denounced the measure as unjust, stressing that large families were likely to be seriously penalised by increases in consumption taxes.

Employers consider that it is not up to them to fund family policy. They argue that all benefits should be transferred to the state budget and no longer borne by companies. The *UNAF* (National Union of Family Associations) and the *CGT*, *CGC* and *CFTC* trades unions reject the idea of family allowances being subject to a means-test (as was suggested by Mr Jospin, leader of the Socialist Party and candidate of the Left in the May 1995 Presidential elections): according to these organisations this reform would penalise those on average incomes; moreover, it is argued, family policy should not be confused with social policy. *UNAF* and *CFTC* are also opposed to the inclusion of family allowances in taxable income, the argument being that as these are based on the principle of social solidarity, they should be funded either by income tax or supplementary social security contributions. On the other hand, the *CFDT* is in favour of measures which would target family benefits on the most disadvantaged families.

Social security reforms

As part of a constitutional review, the plan has strengthened the role of Parliament, which will provide general guidance and establish both the objectives of social welfare policy and the level of expenditure to be funded by taxation. The composition of the governing bodies is also to be changed; in place of the previous system of elections, social partners will be asked to nominate representatives, Monitoring committees, specifically including Members of Parliament will be created for each local *CAF*. Finally, Directors of local *CAFs* are from now on to be appointed by the Director of the National Office. As part of the Cabinet reshuffle in October 1995, the Ministry of Inter-Generational Solidarity was abolished and a new Ministry of Labour and Social Affairs created, which now incorporates the Junior Ministry for Health and Social Security. In this new organizational structure, family issues no longer enjoy preferential treatment and seem to be taking a back seat; the current debate is mainly focused on the health insurance sector, which is seriously in deficit. However, the government did organize a major debate on family policy in May 1996.

¹ As part of the process of gradual inclusion of family allowances in the state budget, begun by the government of E. Balladur in July 1993, salaries of up to 120% of the minimum wage (*SMIC*) were fully exempt from family contributions (a 50% reduction applying for salaries between 120% and 130% of the *SMIC*). **The revenue foregone** by the state as a result of this loss of social security contributions was FF17 billion in 1995. As part of the plan for employment, A. Juppé added a rebate of FF800 on the *SMIC* (on a sliding scale up to 120% of the *SMZC*) which came into force in September 1995.

The cost of taking over the entire debt of the general system at the end of 1995 will be funded by a tax on all income (excluding *FMI*, but including family and housing benefits) received from 1 February 1996 to 31 January 2009 at a flat rate of 0.5 per cent, which should raise an estimated FF25 billion a year.¹ The new tax, known as the *RDS* (reimbursement of social security debt) will thus be used to eradicate the accumulated deficit (FF25 billion per year) in social security over a period of 13 years. It should be recalled that in 1990, 96 per cent of the resources of the family sector were provided by contributions and 2.6 per cent by ear-marked taxes. In 1994, the sector obtained 72.4 per cent of its funding from contributions, 22.4 per cent from ear-marked taxes and 4.7 per cent from the State budget to compensate for the reduction in family allowance contributions. The funding structure of the family sector has therefore undergone a profound transformation over the last few years.

A decision has been taken to initiate a universal health insurance scheme, access to which will be dependent on residence in French territory. However, it is still far from clear how this new scheme will be put into practice. Moreover, medicalized control over general medical expenditure will be strengthened by the establishment of a system linking doctors' fees to the fulfilment of national objectives: tariff uprating will from now on be conditional and temporary. The struggle against 'abuse and waste' will be pursued 'with great vigour'. In addition the burden of funding health insurance is to be transferred gradually from social security contributions to taxation. From 1 January 1996, the amount of the fixed daily hospital charge - which must still be paid by each person in hospital - rose from FF55 to FF70, an increase of 27 per cent.

Reforms in the field of family policy: raising new revenue, making savings

As far as family policy is concerned, the government opted for a mixed bag of measures with the overall aim of reducing expenditure. Alain Juppé had announced in Parliament on 15 November that family policy was to be made 'fairer and more effective' but his proposals aroused vigorous criticism, especially from *UNAF* and the *CGT*, *FO* and *CFTC* trades unions. Only the employers were in favour. Much controversy had already surrounded the choice between making family allowances liable to tax or subject to means-testing. Faced with the reluctance of those social partners wishing to defend the principle of universal family benefits, the government opted for the first solution, which would be less financially onerous for middle class and well-off families.

Family benefits were increased by 1.2 per cent in January 1995. However, they were not uprated on 1 July, as is usually the case. Under the Juppé plan, the monthly basis for the calculation of family allowances, as well as the eligibility limits applying to certain benefits (*APJE*, family supplement, back-to-school allowance), will be frozen in 1996, leading to savings of FF2.6 billion. On 1 January 1997, the normal uprating mechanism will be restored. It had originally been proposed that, as of 1997, family allowances, which are paid without means-testing, should become liable for income tax. This was to form part of a larger fiscal reform (involving revision of the tax scales in particular) which the government plans to undertake in

¹ See Government order dated 24th January 1996, taken to implement Enabling Law no. 95-1348 of 30th December 1995.

the shorter or longer term. Had this measure been implemented, it is estimated that an additional 300,000 households would have become liable for income tax. The Juppé plan had additionally envisaged that the additional revenue from taxing family allowances (FF6 billion in 1997) would be split equally between adjustments to the income tax scale (to provide assistance to large families and low-income households) and *CNAF* (to offset the deficit in the family sector). However, in the face of fierce resistance from family organisations and the *CFTC*, the government has shelved this measure indefinitely, pending the proposed reform of income tax, which does not appear likely to happen in the near future.

There have been a number of changes to the structure and administration of cash benefits, primarily aimed at reducing expenditure. The 'short' *APJE* (FF955 per month in 1995) is currently paid, from the fourth month of pregnancy to the third month after the birth, to all households whatever their income (the benefit was being paid to 426,000 eligible claimants as of December 1994). From 1 January 1996, this allowance is to be paid only to low income households; for example for a household with two dependent children, the allowance would be payable only if income does not exceed FF126,000 per year. *CNAF* estimates that this will exclude 21 per cent of previously eligible families, and achieve savings of FF0.6 billion in 1996. There have also been changes in the calculation of daily maternity benefits, which are reduced from 106 per cent of net salary to 100 per cent, making savings of FF1.5 billion in 1996.

Under the Juppé Plan, all family benefits managed by the state as employer, and certain public companies, will be transferred to the *CNAF* during the next two years, and contributions, which are currently paid at a reduced rate, will be brought into line with those paid by other companies, making savings of FF0.7 billion in 1996. Daily maternity benefits and allowances payable following accidents at work will now be taken into account when calculating housing benefit and assessing eligibility for certain family benefits (creating savings of FF0.6 billion in 1996). It is possible that all earnings replacement benefits (maternity allowance, accident at work allowance and some rebates connected with tax exemptions) will be assessable income for the housing benefit mean-test as of 1 July 1996, whilst the minimum household contribution towards housing costs will also be reassessed (making estimated savings of FF1.2 billion in 1996). This so-called 'rationalisation' is likely to reduce both the amount of housing benefit paid and the number of beneficiaries. It is also planned to 'simplify' the family benefit system, in view of criticisms of complexity and lack of clarity. The measures are as yet still at the planning stage. It is to be anticipated that this simplification is likely to raise some serious issues of equity (see *Afsa*, 1996). In view of budgetary constraints, the plan put forward in 1994 by the Minister for Inter-Generational Solidarity, C. Codaccioni, to establish a 'dependency allowance' for elderly people was also postponed indefinitely.

In the absence of precise details about future reforms of the tax system it is too early to assess the impact of these measures on family incomes. However, according to *OFCE* experts (situation report dated 6.12.95) the Juppé plan will bring about changes in the structure of income distribution. The *RDS*, which is concerned with the overall income of the French people, will in 1997 account for slightly more than one third of the new tax burden (FF26 billion as against a total of FF72 billion). The

OFCE (Observatoire Français de Conjoncture Economique) notes that this burden is far from being equally distributed. A particularly heavy call is made on some retired and unemployed people, as the obligatory excess contribution accounts for almost a quarter of the total tax requirement.

Other family-related reforms introduced in 1995

From 1 January 1996, cohabiting couples will be treated in the same way as married couples for tax purposes (amendment no. 2222 to the 1996 draft budget, enacted by the national assembly on 18th October). This increases the amount of tax paid by cohabiting couples, who previously received a larger dependant's addition in respect of the first child.

At the start of the school year in 1994, two measures relating to school allowances were agreed: renewal of the increase in the *ARS* (back to school allowance), a payment of FF1,500 per child per year which is received by 2.8 million low-income families, and the establishment of the schooling allowance (*AAS*) to replace the secondary school maintenance allowance. Families entitled to *ARS* received FF2,520 on average, while those benefitting from the *AAS* received a total of FF4,640, of which FF3,690 was in respect of the *ARS* and FF950 in respect of the *AAS*. The average amount of the *AAS* is FF650 per child. (Source: *CNAF*)

Reforms of assistance to those purchasing a home have included the introduction of a choice between an interest free loan and a tax reduction in respect of loan interest. The interest-free loan thus replaces the 'assisted home ownership loan'. The loans, ranging from an amount of FF80,000 for a single person living in the provinces to FF180,000 for a family of six living in the Ile-de-France region, is subject to an upper limit on resources set between FF15,000 and FF30,000 depending on circumstances. According to recent data issued by the Federation of Developers and Builders, this type of loan has been very successful and has encouraged the sale of private houses and apartments in the outer suburbs.

Sustained efforts in favour of reconciling work and family life

The issue of reconciling family and professional life is still of crucial importance, bearing in mind the continued growth in economic activity rates for women with different numbers and ages of children. In the process of implementing the Family Law dated 25 July 1994, various arrangements have been established or improved. These include measures intended to favour the development of part-time work. In March 1995, 28.9 per cent of employed women worked part-time. According to a survey by *CREDOC* in 1993, there is a strong interest in part-time work amongst employees in all sectors, and especially amongst women with young children in middle or upper income groups where both partners are working. However, employers (even in the Civil Service) are often reluctant to reduce their employees' working hours and the reduction of working hours appears to have levelled off for the time being. Part-time working is, of course, not always elective: it is frequently imposed by companies as a tool to obtain greater flexibility.

In 1995, there were about 650,000 places for young children in the various types of child care provision. There is still a high level of unmet need, and considerable local and regional disparities remain. The *CNAF* estimates that there are 900,000 requiring full-time care, and 265,000 in unregulated forms of child care. In 1995,

the CAFs devoted a further FF7 billion to the development of child care provision, mainly by signing new 'child care contracts' with the local authorities.

Benefits for the care of young children have also been uprated. The AFEAMA (funded by CNAF and paid directly to the URSSAF, which is responsible for the collection of social security contributions) is equivalent to the social security contributions payable when a child is cared for by a registered childminder. Parents who place the child with a registered childminder also receive, with effect from 1 January 1995, FF800 per month (previously FF530) if the child is under three and FF400 (previously FF318 per month) if the child is between three and six years of age. Families where both parents are working are also entitled to a tax deduction of up to FF3,750 per year in respect of care provided either by a registered childminder or a public creche. One of the aims of this benefit was to bring the undeclared work of childminders into the open. The benefit, which is also intended to reduce child care expenses, is becoming increasingly successful; in December 1995, 320,529 families were receiving it.

The AGED, a benefit established in 1986, is intended to diversify child care arrangements and encourage the creation of 'home-based' or 'family' jobs. It is for families where both parents work, when a child (or children) under six years of age is cared for by a domestic employee. It is equivalent to the CAF (family allowance office) assuming responsibility for employers' contributions up to a ceiling of FF3,700 per month (FF2,000 prior to 1.1.95). AGED is now paid at half-rate in respect of children aged between three and six years of age. Claimant families are additionally eligible for a tax deduction of up to FF45,000 (previously FF13,000) per year for domestic help. Administrative procedures have also been simplified. In December 1995, 46,410 families were receiving this benefit, an increase of 88 per cent over 1994.

The system of service vouchers introduced in December 1994, which aims to regularise the employment of domestic help such as gardening, cleaning and child care, was extended during 1995 to permit full-time employment, rather than eight hours a week as previously. This scheme, which is available only to those who are not eligible for AGED, has been extremely successful, and 115,000 new employees had been declared by May 1995. In 1996 the tax deduction for the employment of domestic assistance using the service voucher scheme will be equivalent to half the actual costs (including employer social security contributions) subject to a maximum deduction limit of FF45,000 (FF13,000 in 1995), the same as that available to AGED recipients. The government hopes that this measure will lead to the creation of between 20,000 and 30,000 full-time jobs, at an additional cost of FF1.2 billion.¹ Particular reference is made to services provided by domestic employees covered by the national collective agreement of 3 June 1980 such as child care, cleaning, personal care (not nursing care) for disabled people, home tuition, gardening, domestic assistance for elderly and disabled people and so on. This means that the net cost of a full-time domestic employee receiving the minimum wage will be FF4,900 per month for a household paying at least FF45,000 in tax annually and not receiving the AGED. Although presented in terms of job creation, these generous measures have provoked a considerable degree of criticism, as they

¹ Source: Liaisons Sociales 'Loi des Finances pour 1995' (No. 2) 4.1.95

mainly benefit well-off families who are the only ones able to afford to employ full-time domestic help (Fagnani, 1996).

Despite the intense media campaign surrounding the changes in eligibility for *APE* in July 1994, (which extended eligibility to those with two children, and introduced the option of part-time work from the beginning of the payment period) the actual number of women claiming this benefit after the birth of their second child is not very large; 109,000 (as at 30.11.95) out of a total of 479,000 potentially eligible (23 per cent, but note that 69 per cent are in full-time work and therefore not eligible). Only 18.7 per cent of those claiming *APE* for the second child are working part-time, and this falls to 0.4 per cent of those claiming for a third or subsequent child. There are many different factors involved in the limited take-up of this arrangement (see Fagnani, 1995a, Fagnani, 1995b, Fagnani, 1996).

Other issues related to family policy

There is controversy over whether the trends in fertility can be linked to prevailing economic difficulties and growing unemployment. The fertility rates fell from 1.81 in 1985 to 1.72 in 1992 and 1.65 in 1994, but this may be simply the effect of changes in child-bearing patterns as women have their children later and later. The average age at first birth rose from 27.5 in 1985 to 28.7 in 1993. However, it is likely that against a background of economic uncertainty and growing insecurity in female employment, that many couples are hesitant or unwilling to have a second child. The decline in the birth rate did, however, come to a halt in 1995: over the first nine months, the number of births rose by 2.5 per cent in comparison with 1994 (Launay, 1995). Furthermore the number of births outside marriage is increasing steadily (35 per cent of all births in 1993) while the marriage rate is stabilising at a low level (254,000 couples married in 1994, 39 per cent less than in 1972).

Despite the fact that there were no new policies in respect of abortion or contraception during 1995, there was a resurgence of activism concerning these issues. The implementation of the law on state-funded abortions is still giving rise to much debate and controversy. On 23 November 1995, a major demonstration of about 30,000 to 40,000 people, involving various feminist associations and trades unions (such as *CGT*, *CFDT*, *FO*) took place in Paris with the aim of publicising the shortcomings of hospital services for women seeking a termination of pregnancy. The organisers also wished to protest against a perceived laxness shown by magistrates to associations which agitate, often violently, against the right to abortion. In January 1996, members of anti-abortion 'commandos', who had occupied a hospital, were given custodial sentences for the first time.

Conclusion

Although it does not seem that the term 'historic turning point' can really be used in relation to family policy in 1995, it is clear that the Juppé plan has made a breach in that complex structure. The plan to make family allowances taxable and the means-testing of the 'short' *AJPE*, whose universality had appeared inviolable, in particular, bear witness to a degree of questioning of the philosophy and principles which have governed family policy since its institution in 1945.

Moreover to impose its planned reform of the social security system, the government has resorted to edicts. This reflects the absence of social and political

consensus about reforms undertaken without genuine prior negotiation with the partners involved and which have given rise to a wave of protest. The new levies introduced by the Juppé government since May 1995 (increases in VAT, tax on petroleum products, the broadening of the CSG and the introduction of the RDS) are in fact likely to penalise families by reducing their disposable income, and according to some commentators, this will particularly affect middle class families. Will this new outlay demanded of families be balanced by an improvement in the living conditions of the most disadvantaged families and a reduction in social inequality? What will be the impact of these measures on patterns of vertical and horizontal redistribution? Will the reduction in the public spending deficit and the reform of social welfare be accompanied by a reduction in unemployment, which affects a growing number of families? Only time will tell whether the hopes or fears of the supporters and opponents of these ambitious but very controversial reforms are justified.

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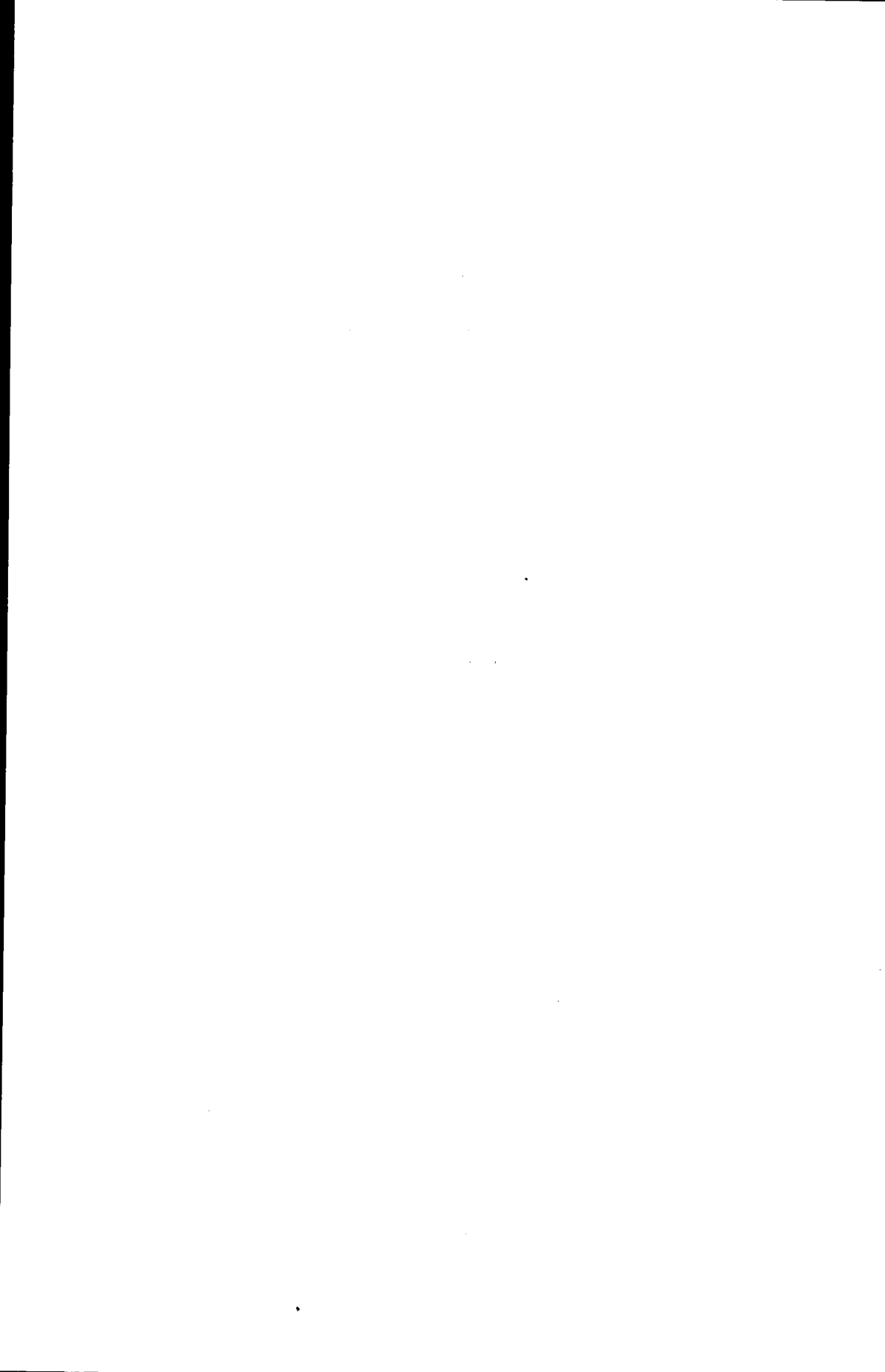
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CHAPTER EIGHT

Ireland: Issues Concerning the Family in 1995

by

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Introduction

The major issues dominating public debate on the family in 1995 continued to be centred on Church/State conflict around divorce, the right to life and child abuse. However, there were a number of significant developments in the field of family policy during 1995. These included the introduction of an extensive range of family law reforms in preparation for the divorce referendum; the introduction of the first stage of a basic income policy for children; and the establishment of a Commission on the Family.

Commission on the Family

Arising out of the UN Year of the Family (1994), the Government established a Commission on the Family in 1995. The Commission was set up to examine the needs and priorities of the family in a rapidly-changing social and economic environment. The Commission is expected to make an interim report to the Government by October 1996, and a final report by June 1997. The terms of reference are broad, but essentially consist of examining Government policies, programmes and services affecting family.

Demographic changes

Probably the most significant change in recent years has been the declining birth rate which dropped below replacement level in 1993 at a total period fertility rate of 1.93. The year 1994, which is the latest year for which full figures are available, showed a continued decline, with a rate of 1.85. Births outside marriage continued to increase, both in absolute numbers and as a percentage of total births, reaching an all-time high of 19.7 per cent of all births in 1994. Births outside marriage for the first and second quarters of 1995 (the only figures available for 1995) show a similar trend, standing at 21.3 per cent and 19.3 per cent, respectively. While there are no reliable data on the causes of these trends, it is generally assumed that they reflect an increase in cohabitation and marital separation.

The marriage rate for 1994 was 0.2 higher than for 1993, rising from 4.4 to 4.6 per 1000 of population. The absolute number of marriages was also higher than in 1993,

with the respective numbers for 1994 and 1993 being 16,297 and 15,728. The year 1993 had the lowest rate and lowest absolute number of marriages since the high rate of 7.4 in 1973. The numbers of marriages steadily decreased since then, until 1994. The rate for the second quarter of 1995 shows a similar slight upward trend, with a rate of 4.1, which is 0.4 above the corresponding quarter for 1994.

Unemployment

High rates of unemployment and associated poverty, particularly for families dependent on long-term social welfare payments, continue to dominate the political agenda. Economic growth is the main strategy of the Government in tackling unemployment. The strategy is also seen as the most effective way of decreasing poverty levels and dependence on Social Welfare. However, the Government does not see this as the only strategy and recognises that economic growth alone will not alleviate poverty or create sufficient new jobs to significantly decrease the high unemployment levels. Some additional strategies include the setting up, on a pilot basis, of a special service to assist the long-term unemployed, and an expansion of the Community Employment Programme which was introduced in 1994.

The overall population of Ireland continued to grow, with a population in April 1995 of 3,582,200, compared with 3,570,700 in 1994, and 3,563,300 in 1993. The population aged 15 and over increased by 134,500 between 1989 and 1994 (Labour Force Survey, 1994). During the same period, the labour force has increased by 110,400. The annual average number of registered unemployed in 1995 was 277,800. The seasonally-adjusted standardised unemployment rate for 1995 was 12.9, compared with 14.8 in 1994 (Economic Series, January 1996). The number of persons at work is estimated to have increased by 49,000 in 1995, while the number of unemployed persons is estimated to have decreased by 26,000. This gives a total labour force increase of 23,000 persons. While the number of females in the labour force increased generally, the greatest increase was with married women, rising by 11,600 between 1993 and 1994. Families are particularly vulnerable to changes in labour force participation rates and unemployment. Married women and, in particular, young mothers, are increasing their labour force participation, while families with a large number of children are consistently shown to be most at risk of unemployment and poverty.

Social security

In 1995, a number of changes were made in fiscal and social security policies and provisions affecting families. These changes were in line with the Government's objective of strengthening social solidarity as stated by the Minister for Finance when introducing the Budget for the year 1995.

The most significant policy change was the introduction of measures reflecting the Government's new approach to child income support. This approach consists of developing a basic income for children. As a first step towards implementing this policy, Child Benefit payments were substantially increased (by £7 per month per child), while simultaneously putting a freeze on Child Dependant Allowance. This policy measure has been advocated by various research reports. The National Economic and Social Council, in its report *A Strategy for the Nineties* (1990), recommended that Child Dependant Allowance should be gradually reduced, and

the role of Child Benefit enhanced. The study *The Cost of a Child* (1994), undertaken by the Family Studies Centre, UCD for the Combat Poverty Agency, made a similar proposal. This approach was also recommended by the Child Benefit Review Committee in its Report to the Minister for Social Welfare (January 1995). One of the principal benefits of this policy change is that it reduces child poverty and addresses the unemployment and poverty traps created by the existing Child Dependant Allowances. Child Benefit was also extended to include all children 18 years old, except those between the ages of 16 to 18 who are in employment. Previously, the payment applied to children up to the age of 16 years, and for children in education and in certain FAS courses the payment extended up to 18 years. For a review of Irish child support in an international context see Bradshaw and Ditch (1995).

The Government's proposal to introduce a basic income for children includes the introduction of a Child Benefit Supplement to replace existing Child Dependant Allowances and Family Income Supplement. It is intended that this Supplement will be paid to Social Welfare recipients and to families on low to middle incomes (Budget, 1995, p.22). The Minister for Finance has referred the proposal to the Expert Group on the Integration of the Welfare and Tax Systems to assist in planning the strategy. As yet, it is not clear how the system will work, other than that it will be a supplement to Child Benefit.

In line with practice in recent years, all Social Welfare personal weekly payments and adult dependant allowances were increased by an amount either in keeping with inflation or above inflation. This consisted of a 2.5 per cent increase in payments. There was also a small increase (£5) in the Back-to-School Clothing and Footwear payments.

The Government promised to integrate the existing Deserted Wife's Benefit with the means-tested Lone Parent's Allowance. The new scheme will remove the concept of desertion as a basis for qualification for a Social Welfare payment. It is proposed that the new scheme will not be means-tested but will instead be structured on a basis which will facilitate the gradual withdrawal of payment over a specified income range (Budget 1995, p.22). The requirement to prove desertion will be abolished and the payment will no longer be available only to women.

Taxation and other fiscal measures

The two main forms of direct taxation affecting families are income tax and PRSI (Pay Related Social Insurance). Changes in both of these resulted in reduced taxation for all, with those on lowest incomes gaining the most from reforms in the PRSI system. This benefit comes as a result of exempting from PRSI the first £50 per week of employees earnings, and the granting of a £10 per week allowance for those on a modified PRSI rate and the self-employed who up to now did not get the income tax/PRSI allowance.

There were no changes in the income tax rates, with the lower rate remaining at 27 per cent and the higher rate at 48 per cent. In previous years, Government policy was to reduce these rates. There were, however, changes in the amount of income taxable at these rates. The income level charged at the lower rate increased from £16,4000 to £17,800 for a married couple, and from £8,200 to £8,900 for a single person. Personal tax allowances were increased by £150 for a single person and

£300 for a married couple, with related increases for widowed, single parent and widowed parent allowances. However, with the reductions in the amount of income tax relief for mortgage interest repayments and health insurance, benefits gained from the improved taxation are for the most part lost.

Care of family members

It is estimated that about 30,000 people care for an ill or dependent relative on a full-time basis. However, less than 5,000 people have qualified for the carer's allowance. This allowance has been much criticised as being too restrictive. The Government has now eased some of the restrictions. These improvements include extending the Carer's Allowance to non-Social Welfare pensioners who are over 66 years of age, and increasing the earnings disregard of £100 per week to £150.

In 1994, new regulations for a Contributory Old Age Pension were introduced which allowed people who took time off work to care for family members to add this time to the number of years when calculating pension contributions. In addition, up to six years for a 'homemaker' can be disregarded when their entitlement to pension is being assessed. A 'homemaker' was defined as a person who lives with and cares for a child under the age of six years, or for an incapacitated person. The age of the children being cared for was increased in 1995 from six to 12 years.

Reconciliation of work and family life

The main development in 1995 was the EU agreement on a parental leave scheme. The agreement provides for up to three months' leave for both parents to be taken within eight years of the birth or adoption of a child. The leave is not transferable between parents. The agreement also makes provision for parental leave for crisis situations where the presence of a parent is required. Although Ireland has participated in the agreement, the measure does not come into effect for a further two years.

Ireland does not have a national system of statutory regulations for child care facilities. The Minister for Health is committed to implementing the section of the Child Care Act 1991 which makes provision for the regulation of child care services. The Act will introduce a system of regulations for pre-school services, including nurseries, creches and playgroups. The Government decided to implement the Child Care Act 1991 on a phased basis because of the need to inject a large amount of resources, both financial and human, together with the need to put in place the appropriate regulation and structures.

Equality payments

As a result of a High Court ruling, the Government decided to pay married women amounts due to them following the introduction of the EU Directive of 1984 on equal treatment between men and women in social security. Eligible married women were paid lower amounts and in some cases for a shorter period than men who were receiving Unemployment Benefit. Also, married women were eligible for Unemployment Assistance under more limited conditions than men. Further, married women in receipt of a range of other Social Welfare payments were not paid an adult dependant allowance in respect of their husband, unless the husband was incapacitated. The effect of the Government decision is that those married

women would receive the bulk of the outstanding amounts in 1995 and the remainder in 1996.

Housing

In May 1995, the Government stated its policy with regard to the provision of 'social' housing in the policy document '*Social Housing: The Way Ahead*'. Social housing refers to the housing needs of household whose means are inadequate to provide them with access to suitable and adequate housing. Most of the Government's strategy had previously been published in 1991, in '*A Plan for Social Housing*'. However, the 1995 document had a number of new proposals, including the promotion of home ownership; the reduction of social segregation in housing; the provision of housing and halting sites for Travellers; and the meeting of the needs of the homeless. The Government commissioned the E.S.R.I. to prepare a report on housing as part of its approach to implementing new proposals. The Report was published in December 1995 (*An Analysis of Social Housing Need*, T. Fahy and D. Watson, E.S.R.I., 1995).

The E.S.R.I. Report was commissioned 'to illuminate the nature, extent, urgency and duration of housing need; to consider policy responses; to identify the likely future trends in housing need; and to examine procedures used by local authorities in carrying out the assessments' (p.1). Among the concerns raised by the Report is the need for an examination of the pre-eminence given to home ownership as an objective of housing policy. The Report also recommends an integration of the voluntary housing sector with the socially-assisted private rental sector and the traditional local authority housing into a single scheme of housing benefit.

A new tax allowance scheme for people renting accommodation was introduced. However, the scheme does not apply to students and the unemployed. The allowance is £500 for a single person; £750 for a widowed person, and £1000 for a married couple. The allowances are double this amount for persons over the age of 55 years. The allowance has been criticised on two grounds. The first is that some see the tax allowance as a means of bringing landlords' earnings from rented accommodation into the tax net. The second is that the allowances will result in higher rents because the landlords are likely to pass the cost of the extra taxes they pay onto the tenants.

Major legislative change affecting families

One of the major changes in the legislation in 1995 related to the introduction of the Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995. This Act provides for the regulation of information concerning services to terminate pregnancies outside the State and which puts into effect the eighth amendment to the Constitution. The Act sets out the conditions under which certain information about abortion services outside the State may be made available. Under the Act a doctor may provide the names and addresses of abortion clinics abroad to a patient, but may not make an appointment for an abortion. However, once the appointment is made, the doctor is permitted to communicate in the normal way with other doctors about the patient's condition. The provision of abortion information to the general public is restricted in the Act and there is a prohibition on any financial links between the persons giving the abortion information and any pregnancy termination service.

The introduction of the Bill produced a violent reaction among the anti-abortion lobby, the main opposition party in the *Dáil* and the Catholic Hierarchy. The Bill was referred to the Supreme Court which held that the Bill was not repugnant to the Constitution. While the Act deals with the question of information for abortion services outside the State, the substantive issue of abortion within the State, arising out of the 'X' case, remains. (See Report of the Second Commission on the Status of Women, pp.29-32, Government Publications). The constitutional rights of a pregnant woman suffering a life-threatening condition were set out by the Supreme Court in the 'X' Case (5 March 1992). However, because of the complexity of the issue the Minister for Health has indicated that he does not intend to bring forward any legislation until after the publication of the report of the Constitutional Review Body which is currently examining the issue.

One further issue of significance occurred in a related area during 1995. This was the question of the right to die in a case of a woman who had been in a near-vegetative state since 1972 and whose survival depended on a surgically inserted feeding tube. The woman's family applied to the High Court to have the feeding system withdrawn to allow the woman to die, and the Court consented to its wishes. An appeal to the Supreme Court by the Attorney General and the institution where the woman was being cared for failed (A.G.p A Ward of Court 27 July 1995). In the judgment, it was stressed that the case was not about euthanasia but related to allowing nature to take its course without artificial means of preserving what technically was life, but life without purpose, meaning or dignity. The judgment stressed that 'the true cause of the woman's death would not be the withdrawal of nourishment but injuries she sustained in 1972'.

Regulation of marriage and relationships

Laying the foundation for the Divorce Referendum

One of the reasons for the defeat of the Divorce Referendum in 1986 was the lack of legislation to deal with issues such as children's rights, property, pensions and other financial issues (see Girvan 1987 and Prendiville 1988). It was popularly believed that divorced spouses would lose their homes, their children or their Social Welfare entitlements. Since 1986, therefore, successive Governments have introduced a number of pieces of legislation to try and address these concerns. Therefore, in 1994 and 1995, in preparation for the referendum on the removal of the Constitutional ban on divorce, the Government introduced a number of pieces of legislation aimed at eliminating many of the objections to the introduction of divorce.

The main objectives of the Family Law Act 1995 are to enable the court to make financial, property and other ancillary orders following the granting of a decree of nullity of marriage and in cases where foreign decrees of divorce, nullity and legal separation are entitled to recognition in the State; to give the Circuit Court, concurrent with the High Court, jurisdiction in respect of nullity proceedings; to restate the law on the powers of the court to make declarations in relation to the status of a person's marriage; to raise the minimum age for marriage to 18 years and provide for notice of marriage to three months; and to strengthen the general law on maintenance. The provisions of the Act apply equally to men and women. However, the extended powers of the courts to deal with the financial consequences of marital breakdown are expected to be of particular benefit to women. Part VI of

the Act strengthens the general law on maintenance by empowering the courts to order secured payments, lump sum payments and, subject to certain conditions, attachment of earnings for the enforcement of maintenance to deal with the problem of non-compliance with the orders (Ward 1990; Fahey and Lyons 1995).

Prior to the Family Law Act there were no specific provisions for dealing with occupational pensions in cases of marriage breakdown. This fact had been the subject of a lot of discussion at the time of the earlier Divorce Referendum, when it was argued that the first family would be at a considerable disadvantage following divorce and any second or subsequent family would be the beneficiaries of any awards from occupational pensions. Thus, the Family Law Act 1995 allows the court to make financial compensation to a spouse or former spouse for the loss of an occupational pension. The pension scheme remains untouched and the spouse is compensated for the benefit which may have been due if the marriage had not broken down. The Court may order a spouse to give over his or her interest in a life assurance policy to the other spouse or to a dependent child or may order a spouse to take out a life assurance policy in favour of the other spouse or a dependent child. In deciding whether or not to make such an order, the Court must take into account whether or not adequate and reasonable provision exists and can be made for a spouse or dependent children. The Act also provides for the making of two different types of pension orders. One order provides for a split in the pension by reducing the spouse's interest in the pension scheme and the amount by which it is reduced is then used to create a separate and independent benefit for the spouse. Alternatively, the spouse's interest in the scheme may be 'ear-marked', which provides that the proportion of benefit to be paid to the spouse is determined by the Court and the benefit is preserved for that spouse until he or she reaches pension age. In separation cases the Court may order the pension trustees not to regard the separation of the spouses as a ground for disqualifying the spouse from benefiting under the scheme on the death of the other spouse. Previously where a couple were not living together at the time the pension was paid, disqualifications applied.

Under previous legislation, following a Decree of Nullity, the parties had no obligations to each other but they continued to have obligations towards their children. As they were never married there was no 'family home' and the protection of spouses' rights to such a home did not apply. Similarly, the court had no power to order a distribution of property between the former spouses. The Family Law Act 1995 provides that the Court, when making a decree of nullity, may now provide for maintenance and property orders, protection orders, barring orders, custody orders and orders for the protection of the family home and its contents. These provisions are similar to those available with judicial separation proceedings. The Family Law Act has not yet come into force, but it is anticipated that the Commencement Order will be signed by the middle of 1996.

In order to deal with the Social Welfare concerns arising out of divorce, the Government introduced the Social Welfare (Number 2) Act 1995 which ensures that people do not lose their entitlements to Social Welfare payments once they are divorced. The Act provides that people in need will be treated the same, regardless of whether they are deserted, separated or divorced. Therefore, the contributory pension scheme for widows and widowers is being extended to allow a divorced person who has not remarried to qualify for a pension when their former spouse dies. If the deceased spouse has remarried, the second spouse may also qualify for

a widow's or widower's pension. Similarly, a recipient of Deserted Wife's Benefit or Allowance who becomes divorced will continue to be regarded as deserted for the purpose of the scheme. It is worth noting that Ireland has applied equality provision in an almost unique way in respect of survivor's pensions with the benefit being available to both widows and widowers. As Whyte has argued, this implies that the social welfare system now provides for emotional and not just economic suffering (Whyte 1995).

While the Government introduced this Act with the best of intentions, it was later used as an argument against divorce on the grounds that it would vastly increase State liability to pay out Social Welfare and that the introduction of divorce would be an enormous drain on the Exchequer. The Government's intention had been to hold the referendum early in 1995. However, due to a legal challenge to the constitutionality of the Judicial Separation and Family Law Reform Act 1989, the referendum was delayed. In July the Supreme Court held that the provisions of the 1989 Act were constitutional and did not constitute an attack on the institution of marriage or the family. By delivering such a judgment the way was cleared for the divorce referendum.

The Divorce Referendum

The Referendum (24 November 1995) provided for a Court to dissolve a marriage if it was satisfied that the spouses had lived apart from one another for a period of, or periods amounting to, at least four years during the previous five years; that there was no reasonable prospect of a reconciliation between the spouses; that proper provisions had been made for the children of the marriage; and that any further conditions prescribed by law would be complied with. In drafting the wording of the amendment the Government decided to set out the grounds on which a Court would be able to grant a divorce. This proved to be a controversial issue since some politicians and pro-divorce lobbies argued that simply removing the Constitutional ban on the dissolution of a marriage should be enough and that legislation could then be introduced to deal with the detailed provisions. However the Government's view, and that of the main opposition party (*Fianna Fail*), was that inserting the grounds into the Constitution ruled out any suggestion of an easy divorce and meant that the rules could not be changed without recourse to another Referendum. Despite the opposition, the grounds for dissolution remained in the amendment.

Early in the campaign the opinion polls indicated a two-to-one majority for the passing of the referendum. However, a strong anti-divorce lobby, together with the intervention of the Roman Catholic Church, began to make inroads into the 'Yes' vote. In addition, two days prior to the Referendum the Pope urged Irish Catholics to reflect on the 'importance for society of the indissoluble character of the marriage bond'. Overall, despite obvious disagreements among some of the Bishops, the Catholic Church took a much tougher stand than in 1986. The anti-divorce lobby centred around the moral questions, the issues of the effects on children, the cost to the State in supporting families, and the fate of the first family vis à vis the second and subsequent families.

The run-up to the Referendum was also complicated by a legal challenge to the Government in their use of public funds to advocate a 'Yes' vote. In the *McKenna*

case, the Supreme Court ruled that it was unconstitutional for the Government to expend money to promote one side of the case only. Consequently the Government immediately suspended any further advertising for a 'Yes' vote. The Referendum resulted, on the basis of a 62 per cent turnout, in a 50.28 per cent 'yes' vote, with 49.72 per cent against, with approximately 9,000 votes in the difference. An analysis of how the constituencies voted showed that it was the Dublin urban middle class vote which affected the final result by voting in favour. In the aftermath of the referendum the Anti-Divorce Campaigners decided to mount a legal challenge on the validity of the result, based on the earlier *McKenna case*. In early 1996 the High Court ruled against the challenge, but the case is awaiting hearing on appeal to the Supreme Court. Because of the pending legal proceedings, the introduction of the Divorce Bill has been delayed.

Families under stress

Barring and protection orders as remedies for domestic violence are only available to spouses. They are not available to people who are not married to each other and there is no specific protection for people who are subjected to violence by a cohabiting partner, by a parent or child or other family member. The Domestic Violence Bill 1995 provides remedies for people in these situations as well as broadening out and changing the current laws which apply to spouses. It provides for a new long term Safety Order, an interim Barring Order, gives power to the Health Boards to apply for the various orders in certain cases and extends the Garda powers of arrest in cases of domestic violence. Safety Orders will be more widely available than Barring Orders. A spouse, a cohabitee or a parent will be able to apply for a Safety Order. In addition, any adult may do so against another person with whom he/she lives in a relationship which is not primarily contractual. In all cases, the relevant consideration will be the safety or welfare of the person applying and/or the dependant. The Bill clarifies the meaning of 'welfare' to include mental and emotional welfare as well as physical welfare. An important addition is the new power for the Health Board to apply for orders in certain cases. This is designed to assist victims of domestic violence who are unable for any reason, physical or emotional to apply for an order on their own behalf.

One of the major issues which received enormous media coverage during 1995 was that of clerical sex abuse. Several cases arose of alleged sexual abuse of children by members of the clergy. While many of these had occurred some years ago, the central question which caused the greatest concern was how the Church authorities had dealt with complaints at the time, either by failing to take cognisance of the complaints or by merely moving the cleric to another parish, rather than removing him from contact with children. In addition, when several cases hit the headlines, the Church authorities were slow to address the issue. As a result of the publicity resulting from these cases, the Catholic Hierarchy set up a working group on how to respond to sexual abuse issues among the clergy. This report, to be published early in 1996, lays out the framework for reporting cases to the civil authorities (Veritas 1996).

In October the commencement order for the child protection sections of the **Child Care Act 1991** were signed (S.iv, S.v). These sections of the Act provide for the introduction of new Emergency Care Orders, Interim Care Orders, Care Orders and Supervision Orders. They introduced new grounds for receiving children into care

which make particular reference to sexual abuse. In addition the Act provides for a *Guardian ad Litem* to be appointed for the child and for children themselves to be represented by a solicitor. Such a change is aimed at greater protection for the rights of the child and for any decisions to be made in the best interests of the child. New regulations on reporting of cases of abuse to the *Gardai* were issued (Department of Health 1995).

Other service provision

During the year the government issued a discussion document entitled *Developing a Policy for Women's Health* (Government Publications Dublin, 1995). The document covers the whole gambit of women's health issues, but highlights certain issues such as screening for breast and cervical cancer, the need to reduce smoking (particularly among young women), the improvement of maternity services to allow for more individual care, and the greater involvement of mothers in the decision making about their care. Priority also is to be given to improving services for victims of domestic violence and rape, traveller women, women with disabilities, women in rural areas, and women in disadvantaged areas. The Government has invited submissions from interested groups in response to the document. A major criticism of the discussion document is that women's health has been constructed within a medical model and based on a traditional view of women's role. Consequently, there is a danger that such issues as violence against women and children, and contraception, are taken out of the context of society's responsibility for strategies in these areas.

The Task Force on the Travelling Community (Government Publications Dublin, 1995) was published during the year. The Report has made an enormous number of recommendations and is an important contribution to the discussions on the Traveller Community. Recommendations are made in the following areas: relationships between the traveller and 'settled communities', culture, discrimination, accommodation, health, education and training, traveller economy, traveller women, travellers with a disability, co-ordination of services by Statutory Bodies and implementation and monitoring of the Task Force's Report, Sport and other recreations, culture and the arts. The Report makes particular reference to the need to support the leaders who are emerging from within the Traveller Community, some of whom were members of the Task Force.

Conclusions

A scan of media coverage of family issues in 1995 gives the overall impression of a year dominated by divorce, abortion, sex abuse of children, and conflict between Catholic teaching and State policy. Other developments, such as the Commission on the Family, received virtually no media coverage, and the work of the *Oireachtas* Committee on the Family was carried out without commentary. However, 1995 has been an important year of consolidation of several strands of policy change, particularly in the area of fiscal and Social Welfare policy, policy measures to support families and a growing recognition of a variety of family forms not based on marriage. The Commission on the Family has been given a period of six months to prepare an interim report and the *Oireachtas* Committee on the Family intends publishing a report early in 1996. These Reports should open a wider debate on family policy issues in the future.

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CHAPTER NINE

Italy: The Year of the Family?

by

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Introduction

After many years of inertia, broken promises and wasted words, something at last seems to be moving in what for Italy is a very sensitive and thorny area: that of the family and family policy. Everything, obviously, is relative and any evaluation must be viewed in the context of the situation of total immobility which has characterised this sector in recent decades. From this point of view, then, the events of 1995 though not impressive in themselves, are nevertheless appreciable. This is not primarily for the measures introduced, which, as we shall see, are in themselves modest and unlikely to have a significant impact on the lives of Italian families. The significance of the events goes beyond the financial measures adopted by the government in favour of (poorer) families. It derives from an overall change in the political climate surrounding the subject of the family, from the increased attention which is being paid by the government, political parties and the trades unions to family welfare, and from a developing awareness that family issues are 'public' issues, and as such, have an effect on the economic and political situation of the country.

Rewriting a famous maxim, we could say that 'nothing has changed and everything has changed'. But maxims apart, it would certainly seem that conditions are becoming established in which public opinion and state and social institutions are finally putting family issues at the top of the political agenda. If until yesterday questions of the family and its needs tended to be discussed only in terms of rhetoric and vague promises, today we see at least the first signs of a future change of direction. The will and the awareness are evidently not born of themselves - like Athena from the head of Zeus. They are fruit of the unceasing efforts of protest, proposal and opinion-forming on the part of such organisations as women's movements, family associations, voluntary associations and so on, and, on a different front, by social research, statistical information, and examples of models adopted by other European countries, made available through Community publications. Above all, they are the result of an increased consciousness which has **grown, slowly** but surely, in the collective mind in the light of the profound transformations which in recent years have affected the demographic scene, the condition of women, of children, of the elderly and of the categories at risk; a

collective consciousness to which the political classes have had to pay attention, however late in the day, and to which they have been forced to respond.

The year of the family?

So, what were the events which took place in 1995, and to what extent do they represent a decisive change in quality compared with past years? It would be an exaggeration to see them in terms of a completely new departure.

There had been timid signs of change in the past: at governmental level, with the nomination in 1994 of a Minister without portfolio for Family and Social Solidarity (seen by some, however, as no more than window-dressing); with the institution of a national coordinating Committee for the International Year of the Family; with the institution of a Cabinet Committee for Research into Poverty; and with the report drawn up by the National Committee for Population to the United Nations Conference of Cairo on Population and Development; at a legislative level, with the allocation (art. 4, Act no. 725/1994) of 600 billion lire to cover the increase of tax deductions for poorer families, and with the extension of regional regulatory activity in the field of family policy. But these were, as we have said, isolated and contrasting gestures, of doubtful value in terms of both methods and substance.

With the fall of Mr Berlusconi's government and the appointment of a Cabinet presided over by Mr Dini, these innovations became both bolder and more consistent. In May 1995, the new Minister for the Family and Social Solidarity, Mr Ossicini, created a new Standing Committee on family affairs, divided into four working groups, concerned with analysis of the condition of families in Italy, taxation and housing policies, family mediation, and the role of parents in education, which presented its first report at the end of 1995. The Standing Committee was established in response to a resolution passed by the Chamber of Deputies on 8 February 1995, at the end of a ground-breaking debate which had seen members occupied for two days in reflection on the themes of maternity, women, reconciliation of work in the home with professional activity, disability, fiscal policies, housing policies and early childhood¹.

Various motions proposed during this debate by parties of Catholic inspiration (the centre) and the left were approved by Parliament. The Government agreed to prepare within a brief period 'an efficacious policy for family support' based on the following components: a system of adequate family benefits, a tax system favouring single-income families and families with large numbers of children, the extension of maternity rights to all working mothers, the encouragement of systems of flexi-time for working mothers during the first years of their children's lives, an efficacious housing policy, the development of an efficient network of social services for children and elderly people, the promotion of family associations and the creation of incentives to part-time work. Lastly, the motions committed the Government to the establishment of a permanent Family Observatory with the task of monitoring the conditions of families and the impact on them of the various social, economic and fiscal policies enacted, and to the provision of annual reports

¹ Cf. Camera dei Deputati, XII Legislatura, Discussioni, *Resoconto stenografico delle sedute di Martedì 7 Febbraio (n.132) e Mercoledì 8 Febbraio (n.133)*. (Report of House of Deputies proceedings for 7 and 8 February, 1995.)

on these subjects to Parliament. A similar Observatory for minors was also envisaged¹.

Some of the innovative suggestions approved by Parliament were destined to end up in the Parliamentary archives, due to the early termination of Mr Dini's mandate; others, like the two Standing Committees and financial aid for poorer families, were either put into practice or placed on a statutory footing within the succeeding months. In particular, with statute no. 550 of 28 December 1995 (Provisions for the drawing up of the annual and pluriannual budget of the State), Parliament accepted the Government's proposal to recognise 'an increase in deductions for a dependent spouse up to a sum of 990 billion lire, to be distributed as follows: 240,000 lire a year for annual incomes of up to 30 million lire; 144,000 lire for incomes between 30 and 60 million lire; 72,000 lire for incomes between 60 and 100 million lire' (art.3). The statute also establishes that 'from 1996, benefits for each family nucleus with children under 18 years of age will increase in inverse proportion to the income of the family and, vice versa, in direct proportion to the number of family members, with increases specifically aimed at lower income families and those with four or more members'. Lastly, from the same date, benefits for single-parent families will increase by 25 per cent (art.3).

That is all. Is it a lot or a little? It depends. If we judge it in comparison with the past, if we bear in mind the amount of ancillary work that has been involved (debates, movements, research and so on) and if we evaluate it within the context of the present serious economic crisis, the answer can only be affirmative, and 1995 must be seen as a positive year for the family. With the best will in the world it would have been difficult to do more. If, on the other hand, we look objectively at the deplorable state of neglect from which family policies have suffered, at the absence of national legislation on social assistance, at the precarious situation of social services for children and elderly people, at the lack of support for working mothers, at the widespread poverty in the South and in most large families, we have to say that the answer is decidedly negative. There is still an enormous amount of work to be done and given the present demographic situation and the budgetary conditions, it will not be easy to make up for lost time.

In order to understand how things really stand, however, we need to take a step back in time. Unless we define our point of departure - our *terminus a quo* - it will be impossible to appreciate either the value of the steps taken in 1995, or the road that remains to be travelled, the difficulties still to be overcome, before Italy can take its place among the more advanced European partners in this field.

The family: *Genus Italicum*

Comparing Italy with the rest of Europe, certain peculiarities are apparent. These concern the overall structure of society, and not only families and family policies. The situation in Italy is in many ways similar to that of other Mediterranean countries and differs, to a greater or lesser degree, from those of central and northern Europe. Although a process of assimilation is in progress, and differences in individual national regimes are becoming less marked, there is still a wide gap between Italy - and Southern European countries in general - and the other

¹Cf. Atti Parlamentari, XII Legislatura, Documenti esaminati nel corso della seduta dell' 8 Febbraio 1995 (n.132). (Parliamentary Acts, 8 February 1995; see in particular resolution nos. 6-00010 and 6-00008.)

member states of the EU, both from the point of view of demographic behaviour and the coverage (both in terms of quantity and quality) provided by social security.

From the demographic point of view, the Italian family may be considered a typical expression of what is conventionally defined as the Mediterranean model¹. A high level of stability, reduced fertility, low levels of cohabitation and marriage, and a limited number of births out of wedlock, are the main traits of the model. We can add to this list, at least as far as Italy is concerned, a relatively low percentage of women in the labour market and the tendency of young people to remain in the family home well beyond their entry into adulthood. In particular, since 1977, the average number of offspring per woman has settled at below the minimum required for population stability. During 1995, fertility in Italy effectively reached the lowest level ever for a country in peace-time: 1.2, that is, a rate of 40 per cent lower than that indispensable for zero growth, and one that seems likely to decrease even further². Though rising slightly, the divorce rate has remained relatively low: at 0.5 divorces per thousand inhabitants, Italy is far below the European mean³. The prevalence of a family model based on marriage and the birth of children is attested by the fact that we find an extremely small percentage of cohabitations (1.4 per cent of couples in 1990) and of children born outside wedlock (7.3 per cent in 1993). There are, however, large regional variations in these trends, with a greater incidence of traditional behaviour in the southern regions, and the north coming closer to the model of central and northern Europe.

Although occurring to a lesser extent than in other countries, the evolution of these demographic parameters has had - together with the intense and rapid process of ageing - important repercussions on family structures, in line with trends common to the rest of Europe. Among these are: a greater diversification of family types (the family consisting of a married couple is still predominant but new types of living arrangements are emerging); a contraction in the average size of family due to the decrease in the number of large and extended families and the decline in fertility; and a growing feminisation of some new family forms; single-parent families and one-person families.

The institutional landscape: *tertium non datur*

Equally specific characteristics can be observed in the structure of the social security system. In this area also, Italy is similar to other countries in the Mediterranean basin. Compared to the rest of continental Europe, a system of income maintenance is either completely lacking in Southern Europe - and in particular in Italy - or, where it does exist, it is inadequate. A second common aspect of these countries is the marked 'particularism' which characterises the way they function, in the field of both intervention and financing. As M. Ferrera has written 'The low degree of *stateness* of Latin welfare systems is one characteristic which isolates this family of nations from others present in Europe'⁴. Alongside these characteristics must be

¹ L. Roussel, 'Le Futur de la Famille', in *Human Resources in Europe at the Dawn of the 21st Century*, International Conference, 27-29 November 1991, Eurostat, Luxembourg, 1991.

²Cfr. A. Golini and A. Silvestrini, 'Cambiamenti familiari e relazioni generazionali: una lettura demografica', in P. Donati (ed) *Quarto rapporto Cisf sulla famiglia in Italia*, San Paolo, Milano, 1991, p.91.

³ Cfr. Eurostat, *Statistiche demografiche 1994*, Luxembourg, 1994, tab. E4.

⁴ Cfr. M. Ferrera, *Le Quattro Europe sociali tra universalismo e selettività*, Poleis, Università Bocconi, Quaderni di Ricerca 1,1995, p.9.

placed both inherited defects and the new economic and political problems emerging within all western welfare systems. In the case of Italy the effects of these old and new difficulties can be identified, to a greater or lesser degree, in the institutional framework (the inefficiency of public administration and the 'partyist' political structure), in the belief-systems and customs of society (a scarce sense of collective trust, 'familyism' and the relative insignificance of associative ideals) in social theory (concerning relations between public and private sectors, between state and entrepreneurial activity and state and citizen), in production patterns and geographical variations (the essentially 'family' structure of business ownership and management, the shadow economy, the problems of the South), in religious ethics and in various other fields.

In this disorderly catalogue of structural and cultural characteristics, one general datum, one common denominator, stands out: in synthesis, the predominance of the family over society as whole. In Italy, the family is still a point of reference, both material and affective, omnipresent in the life of the individual, around which a large part of politics, institutions, morals, services and economics revolve. As P. Ginsborg sums up, 'from a whole series of indicators (the number of children over 18 still living at home, the proximity of mothers to married children, the number of contacts between the two, financial support of children by parents) Italy emerges as an extremely resilient family network'¹. The robust solidarity of the extended family, observes A. Cavalli, 'is the other side of the coin of the marked lack of faith, more widespread in Italy than elsewhere, in the trustworthiness and probity of competitive mechanisms and, in general, in impersonal institutions, whether those of the market or the State'².

The 'clientelisi' system which characterises the social services and public administration, the degenerate state of the political parties, the concentration of ownership and control of the major industrial companies in the hands of a limited number of family groups, together with the widespread incidence of small, family-run businesses throughout the country, are all features of the family-oriented culture of Italy, a subject to which historical and social literature has repeatedly called attention in recent years³.

Paradoxically, this may explain why political attention has been diverted from the real problems of the family over the past 10 to 20 years. Curiously, this is probably why, in Italy, family policy, and welfare policy in general, has been something more talked about and proclaimed than based on concrete programmes and initiatives. The origins of this disease are deeply rooted in the traditions of Italian history; but they are more than ideological. Despite the process of modernisation and

¹P. Ginsborg, 'Familiismo', in P. Ginsborg (ed) *Stato dell' Italia*, Il Saggiatore, Milano 1994, p.79. For the indicators quoted by Ginsborg, see *Istat* (National Statistical Institute). *Rapporto annuale. La Situazione del Paese*, 1994, Rome, 1995, p.176 ff.

²A. Cavalli, 'Conclusioni. Gli Italiani fra Provincia ed Europa', in S. Vertane (ed), *La cultura degli Italiani*, Il Mulino, Bologna, 1994, p.163.

³Cfr. M. Paci, 'Il sistema di Welfare italiano tra tradizioni clientelari e prospettive di riforma', in U. Ascoli (ed), *Welfare State all'italiana*, Laterza, Bari, 1984; A. Ardigò and P. Donati (eds), *Famiglia e industrializzazione*, Angeli, Milano, 1976; M. Paci (ed), *Famiglia e Mercato del lavoro in un economia periferica*, Feltrinelli, Milano, 1980; C. Trigilia, 'Dinamismo privato e disordine pubblico. Politica, economia e società locali', in *Storia dell' Italia repubblicana*, voi. 2.1, Einaudi, Torino, 1995; M. Sarchielli, 'Capitalismo Italiano, questioni di famiglia' in *Reset*, 24, January 1996.

development in the industrial economy, the bonds of solidarity within the extended family continued to function to a relatively late date in many economic and social fields. Moreover, the traditional organisation of the family has always been the foundation underlying any welfare or family policy in Italy. With its network of bonds of solidarity, the family has provided a guarantee and a fulcrum of steadfast support to which the political powers have invariably appealed every time service policy choices have come up for discussion.

Essentially, Italian social and family policies have been of a 'residual' nature, that is, such policies have been implemented on the logic of *tertium non datur*, i.e. 'On the premise that there are two natural (or socially given) channels through which an individual's needs are properly met: the private market and the family. Only when these break down should social welfare institutions come into play and then only temporarily'¹. Despite the profound changes that have taken place in society and in the structure of production, especially in the seventies, the family in Italy is still the institution to which the primary responsibility for meeting citizens' needs is entrusted. Aid to families has been primarily in the form of monetary transfers: in diminished quantity but still widespread until the mid-eighties, but thereafter reserved solely for the less well-off groups of the population. Social services have been cut radically, especially direct services in respect of early childhood and care of the elderly. There is still no 'skeleton law' on assistance, and to fill the gap in part an ineffective attempt was made to grant aid in money administered regionally and by local authorities. Whatever the case, this set of measures only complements the resources provided in the first instance by the family.

This policy was based on two major assumptions. First, a role was certainly played by the idea - or the ideology - that family solidarity was irreplaceable, that no intervention, manoeuvre or programme of the state should intervene in family life and family choices; the corollary of this idea was that no action by the state in this field would be likely to succeed in any case. But a no less important role in this political choice has been played by structural variables, which are only indirectly concerned with ideology. Heading this list were specific political decisions, which over the past 20 years not only demonstrated a profound short-sightedness regarding their consequences for future generations², but simply developed to the utmost degree those special qualities of the Italian version of the state that commentators have described as 'clientalism' and 'particularism'. What this means is that meagre attention has been given to citizens' rights, which by definition are general, while maximum attention has been devoted, for purely electoral ends, to outside or corporate interests. The consequence of this is that special interests are met (as far as, whenever, and wherever possible), while more general interests, i.e. the needs of families, children, the elderly, etc. are left unresolved. M. Ferrera writes that 'in no other context (...) can one find such a widespread incidence of particularist methods of granting benefits ...'³.

These peculiarities of the Italian model are to be found in every sector of social welfare: pensions, housing, health and family allowances. The case of family

¹R. Titmuss, *Social Policy. An Introduction*, Allen and Unwin, London, 1974, pp.30-31.

²Cfr. G.B. Sgritta, 'Il mutamento demografico: una rivoluzione inavvertita', in *Il Mulino*, 1,345,1993.

³M. Ferrera, *Il Welfare State in Italia*, Il Mulino, Bologna, 1984, p.271.

allowances is almost a classic example. Originally, they were universal, i.e. they were available - in respect of dependent family members (spouses, minor children, children who were studying, disabled children and the older generations) - to wage-earning family members, to those receiving sickness compensation or unemployment benefits and to pensioners. The size of the allowances was relatively small, but a large percentage of the population received them. After 1988 (Act n. 153) however, the nature of the benefit changed radically: it was transformed from a universal measure to a form of means-tested assistance limited solely to families of wage-earners and pensioners. Certain categories of citizens experiencing evident hardship (unmarried women with children, social pension beneficiaries, the non-working disabled, etc.) were disqualified although their social and economic situations were the same as those of families receiving the allowance. As was to be expected, the number of beneficiaries declined dramatically (only 3.5 million families in 1994); furthermore, as allowances were not index-linked, the sums lost almost 40 per cent of their purchasing power between 1988 and the present day, and most importantly, the identity of heads of household receiving family allowances has also changed: more than 50 per cent are now pensioners.

It is symptomatic of this trend that the family allowance system has been substantially in the black for years now. According to the most recent data, in 1994 the *INPS* (National Institute for Social Security) collected from wage-earners 16/024 billion lire in contributions allocated specifically to family allowances, but disbursed only 4,827 billion lire to that end. The difference, more than 11,000 billion, has gone to reduce the *INPS* deficit in other areas of social security and assistance spending. As an official national report notes: 'family allowances for children which, in the sixties and seventies were still 5-10 per cent of a worker's wage for a couple with two or three children, have now dwindled to practically nothing in Italy, so that the economic burden of procreation falls wholly and exclusively on the parents'¹.

This explains the far from flattering position Italy holds within the European Community. According to a Eurostat Digest, in 1990 Italy was third from last on the scale of public spending for family allowances in per centage of GNP (0.6 per cent), which marks a further decline from the already unedifying position it held in 1980. What is more, when we consider the evolution of the allowance in constant prices, i.e. deflated by the consumer price index, Italy's position is even less comforting: between 1980 and 1990 the total value of family allowances diminished by as much as 9.9 per cent; in other words, over those ten years the amounts paid in benefits increased much less than consumer prices².

In reality, it is not only in the field of allowances that the ineffectiveness of family support policies is to be seen; the same verdict can be passed on the whole range of family measures, (with, perhaps, the sole exception of maternity leave provision, which is above the average for European countries). In the field of tax benefits, the situation is no better. In 1995, the tax deduction for dependent spouses was the

¹ Office of the Prime Minister, National Committee for Population Problems, *Italian National Report for the European Population Conference*, Geneva, 23-26 March, 1993, pp.11-12.

² Eurostat, *Digest of Statistics on Social Protection in Europe*, vol. IV, Luxembourg, 1993, pp.70-71.

equivalent of 818,000 lire per year (68,000 lire per month), while that for children was less than a quarter of that sum (16,000 lire per month). Four children would therefore actually lead to a lower deduction than that for a dependent spouse (756,000 against 818,000). The message to society seems clear: children are a luxury for whom the family must take sole financial responsibility (a somewhat singular interpretation of the concept of 'responsible parenthood'), while the maintenance of a spouse is a deductible expense on the wage-earner's tax return¹. Italian family income support policies heavily penalise those families with dependent offspring. A recent report by the *Commission for research into poverty and marginalisation* estimates that when all taxes, deductions and family allowances are calculated for families of various sizes, a gross annual income of a little over 20 million lire² would give rise to a net disposable income almost un-influenced by the number of family members. Thus, if we take 100 to be the net income of a two-member family, that of a three-member family (one child) would be 101.4, that of four members (two children) 102.9, of five, 105.3, of six, 107.2 and of eight 108.9.

A 'state of families'

How can the politicians' neglect of family needs be reconciled with the central position of the family in Italian society and culture? In fact, the contradiction is only apparent. The two aspects are different sides of the same coin. The disregard with which the Italian political classes have treated family concerns is, paradoxically, proof of the enormous strength of the family in Italy. A weak family calls for a strong family policy; conversely, a strong family is, within certain limits, able to compensate for the absence or inadequacies of family policy. In effect, families in Italy have functioned as 'social shock-absorbers' where policies have failed to materialise; it has been families who have shouldered the costs of development and socio-economic modernisation, exploring suitable adaptations as new productive, environmental and organisational challenges are thrown up by society and prevailing economic conditions. Italy is perhaps the only country in Europe which has been able, up to the present, to count on the family, and the work of the family (in particular, of women), as an 'inexhaustible' resource on which to unload the consequences of social and economic transformations and the absence of a modern social policy.

While elsewhere in Europe, to a greater or lesser degree, social policies have acted to support the family, the precise opposite has occurred in Italy: it is the family which acts as stand-in, substituting itself for social policies. The reason for this is not that the family has been ignored in Italy; on the contrary, it is because in Italy the family's capacities, the flexibility of its reactions to the certainties and uncertainties of existence, have been taken for granted, or at least have not been seen as posing problems. While in other parts of Europe social-democracy and the welfare state gained strength, in Italy we see the development of a unique regime that we might define as 'familial-democratic' or 'liberal-familial'; that is, a regime based on family responsibility and collective irresponsibility: a *state of families*.

¹Cfr. C. Saraceno, 'Una politica di sostegno alle responsabilità familiari', in *Il Mulino*, 3,1994, p.462.

²An income of about 20 million lire per year is equivalent to the earnings of about 28 per cent of Italian families in 1993. Cfr. Banca d'Italia, *I bilanci delle famiglie italiane nell'anno 1993*, Supplemento al Bollettino Statistico, anno V, numero 9,10 Febbraio 1995, p.41.

This unusual version of the welfare state held up relatively successfully in the 30 years between the end of the war and the mid 1970s, that is, during the so-called golden age of capitalism. During this period, Italy more than any other country can be seen to have 'internalised' the costs of modernisation and economic progress, as far as regards both the productive sector and the family¹. The problems arose later, when for a series of reasons an increasing 'externalisation' of these costs took place, which harshly illuminated the absence of a social policy capable of responding adequately to the claims and requirements of the population.

To put it in simple terms, the Italian model of a *state of families* found itself in a critical situation essentially for two reasons. The first is the globalisation of the market; the second is women's arrival within the 'sanctuary' of full citizenship and therefore their access to professional training and the labour market. Economic and financial globalisation has to some extent weakened the proverbial flexibility and innovative capacity of small family firms, reducing their competitiveness in the world market. As far as women's claim to full citizenship is concerned, this has coincided, on the one hand, with the rising costs of reproduction and welfare, with increased unemployment, (particularly of young adults, leading to their prolonged presence in the family home) and with the progressive ageing of the population (which has further complicated the life of women, who are almost exclusively responsible for the care of the elderly). On the other hand, this phenomenon has occurred without any appreciable changes being made in the support provided for families, in the organisation of services and hours of access to shops, public offices and so forth, or in task-sharing within the family.

Concluding remarks

The impression is that under the pressure of these transformations, the system is rapidly approaching the limits of its capacity for problem-solving and adaptation. There are unequivocal signs: above all, the continuing fall in fertility rates, but also the low number of marriages, the slow but constant increase in marital instability, increasing poverty, and the persistent and pressing claims coming from family associations and voluntary organisations.

It is within this context that we must interpret the timid but significant Parliamentary and governmental measures mentioned at the beginning of this paper. The resumption, during the past few years, of interest in family problems and family policies on the part of the public as well as the political and social powers that be, is a sign that old and delicate balances have been definitely shattered, and that if no effective action were to be undertaken to support families and the frailer social categories, there was a real risk of endangering the most significant social achievements of the post-war period in the sphere of civil rights, women's liberation and the living standards of children and the elderly.

Bearing in mind the unsatisfactory situation inherited from the past, the measures adopted are still inadequate. In order to overcome the innumerable difficulties being faced by families and women, action must be taken on many fronts. What is needed today is an improvement in those measures which enable women to **reconcile work in the home** with work in the market place; provision of child and

¹Cf. P. Rosanvallon, *La Nouvelle question sociale. Repenser l'état-providence*, Seuil, Paris, 1995, p. 114.

health care; equalising of the economic circumstances of couples with children and those without children; increased flexibility of working hours and family leaves; expanded child and elder care facilities and tax exemption levels. The seriousness of the problems is such that politicians have finally understood that these measures are urgent and indispensable. Unfortunately, this new awareness on the part of politicians comes at an extremely difficult moment for the enactment of social policies (and not only in Italy). The first and gravest obstacle to the implementation of this programme of reform is the economic crisis and the high, even dramatic, public debt. It is very difficult at this point, given the present condition of the state budget, to do now what was not done in decidedly better times. Systematic cuts are already being announced and carried out even in such sensitive sectors as health, wages, and pensions. Second, the frequent political crises, which thwart continuity in government, hang like the sword of Damocles over the fate of family policy. Third, the idea that the welfare state was in definite need of being cut down to size has become a prominent issue and reappears with troubling frequency and a vigour fuelled by the negative effects of the economic crisis. These situations could certainly give rise to regressive effects; and it would be a matter of grave consequence if, because of the economic difficulties with which the country is wrestling, solutions to the problems of the family and of women were once more relegated to the margins of the political agenda.

CHAPTER TEN

Luxembourg: Issues Concerning the Family in 1995

by

Monique BORSENBARGER and Monique PELS

Major legislative changes affecting families

On 2 January 1995, a Bill was presented to the Chamber of Deputies seeking to modify the amended law dated 20 June 1977 in order to: first, institute systematic medical checks for pregnant women and young children; and second, alter existing legislation relating to childbirth allowances: the amended law dated 30 April 1980 establishing a maternity allowance; and the amended law dated 19 June 1985 concerning family allowances and setting up the national family benefit fund. The Bill seeks the formal introduction into national legislation of the amendments necessary to comply with the wishes of the European Commission and judgements of the European Court relating to the enforcement of decisions regarding the residence conditions applying to childbirth allowances under the existing law. This law was adopted on 31 July 1995 and relaxes the residence conditions. For instance, it grants the first instalment of the childbirth allowance provided that the future mother is legally domiciled in Luxembourg at the time of the last pre-natal examination, the second instalment if the mother is legally domiciled in Luxembourg at the time of the birth and the third instalment if the child is brought up there continuously from birth.

There was debate about the implications of divorce for pension rights of spouses. In its planned reform of contributory pension schemes, which resulted in the law dated 27 July 1987, the Government had already proposed to introduce a system of sharing pension rights in the event of divorce, but the Council of State was strongly opposed, considering that the Government's 1984 plan should be reviewed in the light of the fundamental principles of our legal system and that it favoured divorced spouses over married couples.

This plan remained on the back burner until 1993 and the Government, following intervention by the Women's Working Committee, presented a new Bill on 8 March 1994. In its opinion dated 26 January 1995, the Women's Working Group considered that the Bill, as presented, could in some cases provide a solution in the distant future. However, as it does not resolve the problems of already divorced

women, the group wondered whether it would not be better to go back to the initial idea of sharing rights which would have the advantage of clarifying the situation at the time of the divorce pronouncement.

In August 1995 the electoral law was amended so that it is no longer obligatory for women to be registered on the electoral roll under the name of their husband; they will now be registered under their own names. In the same month, the 1992 Legal Aid Law was amended to provide for the appointment of a legal adviser on behalf of minors. A legal adviser may be assigned even if no request is made and this will happen whenever the minor's interest so requires.

Demography

Between 1985 and 1995 there has been an overall annual growth rate of around 14 per cent due to a rising birth rate, falling mortality and an increase in the balance of migration. In January 1995, Luxembourg had 406,000 inhabitants (+1.42 per cent compared with the previous year). The number of marriages declined by 1.1 per cent between 1993 and 1994. It had been falling since the early 1980s, reaching its lowest level in 1986 and then rising steadily until 1991, which marked the beginning of a new period of decline. The rate of first marriage is falling for both men and women, and remarriages account for about 30 per cent of the total number of marriages. The number of divorces, which had risen sharply since 1975 (when the law on divorce by mutual consent came in), is now continuing the downward trend first observed at the beginning of the 1990s. It fell by 7 per cent between 1993 and 1994, bringing the divorce rate to 0.33 whereas it had stabilised at 0.36 from 1990 to 1993. It does, however, remain slightly above the Community average.

The number of births rose by 1.8 per cent in 1994. The birth rate reached 13.5 per cent and has increased by 10 per cent over the last five years. The total period fertility rate was 1.72 in 1994, the same level as observed at the beginning of the 1970s. The average age of mothers at the birth of the first child has risen from 27.8 in 1990 to 28.24 years in 1994. The mortality rate was 9.4 per cent in 1994, indicating a further decrease in the number of deaths in relation to the previous year (3,800 as against 3,915 in 1993). The infant mortality rate reached its lowest ever recorded level in 1994: 5.3 per cent. Migration flows are still at a high level. Net immigration has stabilised at + 4,000 since 1990. The Portuguese continue to represent the largest contingent of migrants. The countries of the new European Union account for more than 75 per cent of total migratory movements.

Changing family forms

Nuclear families still predominate, representing three quarters of households in 1991. Nevertheless, some trends in changing family form have been strengthened. Between the two censuses in 1981 and 1991, only the number of one person households went up (+ 5 points). The number of households made up of two or four people remained stable (28 per cent and 17 per cent), while other types of households decreased by about one point.

The number of one person households has increased markedly over the last ten years. The proportion of households made up of a single person aged between 18 and 64 has gone up from one household in five in 1985 to one in four in 1991. Three quarters of these are young, active people and 60 per cent are women. The share of

births outside marriage has doubled in ten years: rising from 6 per cent in 1980 to 12.9 per cent in 1990 and 12.7 per cent in 1994. One child in eight is born to cohabiting parents. More than half of the women concerned are aged between 25 and 34.

Lone parent families (families made up of a mother or father with at least one child under 15 and living with no other person) accounted for seven per cent of all households with children in 1992 (Labour Force Surveys 1992). Male headed lone parent families only account for 10 per cent of cases and eight out of ten have only one dependent child. Lone parent families are formed after divorce in two out of three cases. Mothers obtain custody of children in 80 per cent of divorce cases. Reflecting the rise in births outside marriage, the number of lone parent families made up of single mothers has also increased. These women are younger than divorced mothers, one in two being under 28, and 90 per cent of them have only one dependent child as against two thirds of all female headed lone parent families.

Government financial policies relating to families

The tax allowance for dependent children was raised from LF237,000 in 1994 to LF243,600 in 1995 and 1996 (law dated 23 December 1994). The threshold above which the tax reduction for dependent children ceases to be progressive has also been raised. It was LF754,080 for lone parent families and LF1,239,000 for couples in 1994. For 1995 and 1996, it was set at LF764,790 for lone parent families and LF1,213,800 for couples. The tax reduction is LF60,000 for income above these amounts but below LF1,855,000. It is then applied on a sliding scale reaching zero at income equal to or above LF2.4 million.

The level of social transfers has risen rapidly over the period 1990-1995 from LF33 billion to LF58 billion, an increase of 74 per cent. The total budgets of ministries dealing with social affairs (family, health, labour, social security, housing) amounted to 33 per cent of the overall budget in 1990, exceeding 40 per cent for the first time in the draft 1995 budget. Allocations for social security still amount to more than 50 per cent of the social (products) budget. They rose by 70 per cent over the period, with the family registering the largest increase (+120 per cent). In 1994, benefits increased by 16 per cent (LF11.2 billion) due to the rise in the number of beneficiaries, the partial implementation of the *Yanez-Campoy* ruling of the European Court (1990), the increase in the child-rearing allowance and its extension to part time workers.

The *Yanez-Campoy* ruling gives Spanish and Portuguese nationals the right to receive the allowances payable in the country in which they are working, including the years 1986 to 1988, whereas the national family benefit fund had only, over that period, paid much lower flat rate allowances set by bilateral agreement. Since 1989, children remaining in their country of origin have been treated the same as other European Community subjects and receive the full amount of allowances paid in Luxembourg.

Eligibility for maternity and childbirth allowances has been changed (see chapter I, of the law dated 31 July 1995) following the ruling of the Court of Justice on 10 March 1993. The residence conditions of one year for mothers or three years for fathers have been abolished. The mother must reside in Luxembourg at least from

the time of the last pre-natal examination and the child must then be brought up continuously in Luxembourg.

Table 1. State social (products) budget. Total budgets of relevant ministries
LF millions

	1990 <i>Account</i>	1991 <i>Account</i>	1992 <i>Account</i>	1993 <i>Prov. Account</i>	1994 <i>Budget</i>	1995 <i>Budget</i>
Family	6,421	7,548	8,976	11,355	14,265	16,524
Health	4,619	4,517	4,037	4,637	5,073	5,207
Labour	4,275	2,745	2,516	4,665	3,232	4,374
Social Security	19,416	21,501	26,223	27,489	28,818	30,596
Housing	1,649	2,370	2,936	2,659	2,782	2,836
Grand Total	36,380	38,681	44,688	50,805	54,170	59,537
Absolute variation	3,053	2,031	6,007	6,117	3,365	5,367
Relative variation (%)	9.2	6.3	15.5	13.7	6.6	9.9
Total State Budget	109,814	114,877	118,672	132,952	137,730	147,833
Relative share %	33.1	33.7	37.7	38.2	39.3	40.3

Source: Bill relating to State revenue and expenditure budget for the 1995 fiscal year

Family benefits

There have been no changes over the past year in relation to family benefits, family allowances, back-to-school allowances or child-rearing allowances. The amounts have merely been updated in accordance with the price index from 1 May 1995.

The Women's Working Group drew the attention of the new Minister for the Family to certain iniquities resulting from current legislation regarding the child-rearing allowance. The latter is granted whatever the salary of one of the partners if the other is not working and, if they both work, their joint income is taken into account.

Table 2. Distribution of social welfare benefits from 1970 to 1994 in % of GDP.

	1970	1985	1990	1993	1994
Sickness	2.6	4.5	4.6	5.5	5.4
Invalidity - infirmity	1.7	2.7	2.0	2.5	2.6
Work accidents - occupational diseases	1.0	0.7	0.6	0.7	0.7
Pensions - survivors benefits	7.5	9.3	9.2	10.7	10.7
Maternity - family	1.8	1.8	1.8	2.8	3.0
Unemployment	0.0	0.3	0.2	0.3	0.5
Housing - various	0.1	0.1	0.2	0.1	0.1
TOTAL	14.7	19.4	18.6	22.6	23.0

Source: IGSS - Overall Social Security Report, 1994

The Women's Working Group wonders whether that can be justified and if it would not be worthwhile to reconsider all family-related allowances to remove elements of discrimination and inequity which drain the State budget while having neither a demographic nor a social justification.

Social welfare

Work in the social field is becoming more extensive and is taking a greater variety of forms. Apart from social security, social transfers include social work and social welfare.

Changes in benefits over the years 1990 to 1994 are characterised first of all by the substantial rise in family-related expenditure from 1.8 per cent of GDP in 1990 to three per cent in 1994, following the improvements in eligibility for the back-to-school and child-rearing allowances. The scale of these increases is partly confirmed by the second table. In 1994, distribution was again influenced by the considerable expansion in maternity and family benefits.

With regard to family policy, the Economic and Social Council (ESC) calls for: increased efforts to facilitate the return to work of a spouse who has been bringing up children; more fairness and greater selectivity in relation to family allowances.

Table 3. Distribution of social welfare benefits from 1970 to 1994: % of total benefits.

	1970	1985	1990	1993	1994
Sickness	17.7	23.3	24.9	24.2	23.4
Invalidity - infirmity	11.9	13.6	10.8	11.2	11.2
Work accidents - occupational diseases	7.1	3.8	3.4	2.9	2.9
Pensions - survivors benefits	50.9	47.9	49.1	47.7	46.6
Maternity - family	12.1	9.1	10.1	12.5	13.2
Unemployment	0.0	1.4	0.9	1.2	2.4
Housing - various	0.4	0.8	1.1	0.3	0.3
TOTAL	100.0	100.0	100.0	100.0	100.0

Source: IGSS - Overall Social Security Report, 1994

Housing

Between 1981 and 1991 the number of households increased by 13 per cent and sociological changes in the family unit intensify the pressure on housing already exerted by the absolute increase in population size. The number of people living alone has increased: single people and lone parent families are increasingly numerous and elderly people are less likely to live in families (the 1992 National Programme for Elderly People tries to make it easier for people to stay in their own homes). From 1980 to 1992, 24,986 housing units were completed, an annual average of 1,922 units. Until 1989, 60 per cent of these were single-family houses, a trend which was reversed from 1990 so that, in 1994, flats accounted for 56 per cent of the units constructed. The number of new housing units per 1,000 inhabitants has

risen from 3.7 units in 1984-85 to 7.6 in 1992. However, regional distribution is unequal, with a concentration in the centre and north and a reduction in the south.

Equally, demand for housing rose constantly from 1980 to 1991 when the number of building permits reached a record of 4,452 units. The situation was reversed as of 1992. Compared with 1993 (January to September), overall demand fell by 31.7 per cent in 1994, -7.6 per cent for individual houses and -45 per cent for flats. This fall is due to the explosion in property prices caused by the rise in land value due to uncontrolled financial speculation and increased interest rates. A stabilisation of the property market has brought selling prices down and buyers are obtaining favourable mortgage interest rates, which should make home ownership easier for families.

Three of the types of direct housing assistance granted by the State are related to household composition. The only change in 1994 concerned eligibility for the home ownership savings scheme allowance. There were no further changes in 1995. The dependent child condition previously imposed on beneficiaries of a home buying allowance was dropped by the Grand Duchy on 28 February 1994, bringing the eligibility conditions in line with those for the building allowance. There are a range of existing provisions including an interest subsidy which is granted to households which take out a property loan from a banking institution or a pension authority coming under the social security system. The rate of the interest subsidy is set in accordance with the income and circumstances of the beneficiary's family. In 1994, 65 per cent of beneficiaries were married, 20 per cent single and 10 per cent divorced.

An interest rebate was started in 1991 and amended by the Grand Duchy on 5 August 1993. Designed to benefit families, it is not subject to any form of means testing. It is calculated in such a way as to reduce the borrowing rate by 0.875 per cent per dependent child for loans up to an amount of LF5 million. In 1994, 92.5 per cent of beneficiaries were married, with a small proportion of divorcees (4 per cent) or cohabitantes (1.7 per cent). One in two households had two dependent children and one in three had one dependent child, these two categories accounting for 80.5 per cent of beneficiaries. We should also mention, amongst the forms of assistance related to household composition, the *crédit-taudis*, by which the State stands as guarantor for a maximum amount of one million francs for large families who are unable to provide adequate guarantees of their own to obtain a housing loan.

Protection of workers and reconciling work and family life

In 1994, the activity rate of the total population aged between 15 and 64 was 62.4 per cent: 47 per cent for women and 77.3 per cent for men. The overall activity rate remained stable (62 per cent) and the female activity rate began to stabilise after rising rapidly until 1992. The unemployment rate rose slightly from 2.1 per cent to 3.5 per cent. It doubled for men (1.6 to 3.1 per cent) and women (2.8 to 4.3 per cent) remaining slightly higher for the latter. More women were working part-time in 1994 (19.6 per cent as against 16.3 per cent in 1992), while the proportion of men working part time remained unchanged at 1.3 per cent. Choosing part-time work has become a 'stop gap', since the reason for most women choosing part-time work is their inability to work full-time. The female activity rate is relatively low in Luxembourg compared with the Community average. The State does not

contribute to child care expenses when mothers work. Furthermore, places available in day care centres for children are scarce and expensive.

The child-rearing allowance, instituted in 1989, is paid to people bringing up one or several children under two and not engaged in any professional activity. Since 1992, it has been extended by two years for three or more children and for families bringing up a disabled child. This led to a rise of 13 per cent in the number of beneficiaries compared with the previous year. In addition, the eligibility criteria have been relaxed and, since 1993, child-rearing allowance may be paid at 50 per cent for people working part time. The period during which the child-rearing allowance is paid ('baby-years') is credited towards the social security retirement pension as if the person had been in paid work (under certain conditions relating to social security affiliation). The State pays the contributions. This means that domestic work is increasingly being recognised by the social security system and accorded economic value.

A total of almost 9,000 families were receiving the child-rearing allowance in 1994, accounting for 15.6 per cent of family benefit expenditure, making it the second largest item after traditional family allowances (62.4 per cent). The number of beneficiaries of 'baby-years' has doubled in five years (1990 : 990 and 1994 :1,893). Proposed legislation relating to parental leave should enable fathers or mothers to devote themselves to bringing up their children over a set period. Parents could then resume their previous occupation. This proposal has still not received unanimous approval from the social partners.

Care of children, elderly or disabled people

Day care centres and crèches: limited places and high prices

The Government has undertaken to develop crèches, nurseries and day care centres to enable parents to continue their professional activity. About 60 nurseries, almost all of them government-regulated, provide more than 1,000 places for children aged two months to four years. The Ministry for the Family also has contracts with 42 day care centres for children (1,000 places), most of which can accept disabled children. The Government-regulated scheme applies a sliding scale of fees according to family circumstances. Nevertheless, prices remain high and can go up to LF30,000. These costs are explained by the high level of qualifications required and the high staffing ratios.

Proposed legislation relating to leave for family reasons is still under discussion. This would be special leave to care for sick children for families in which both partners are working and for lone parent families. Five days special leave per year and per child would be allowed. The employer would pay the cost and then receive reimbursement from the family allowance fund. The social partners have not yet come to an agreement regarding leave to provide care. For the moment, a sick child means that one of the parents must take leave. It is possible to call in the services of the single organisation providing care, which can respond quite quickly and charges in accordance with the household's income.

Elderly people: staying at home and dependency insurance

The National Programme for Elderly People set up in 1992 made provision for two packages of measures to ensure free choice, the first helping people to stay in their

own homes and the second fostering the development and extension of care and accommodation capacity in order to make up the serious deficit. Budget allocations have risen enormously: up by 336 per cent between 1988 and 1994. Much of this has gone towards improving infrastructure. Over the same period, investment expenditure rose by 1,177 per cent, as a result of the costs of transforming retirement homes into integrated centres for elderly people.

In view of the inadequate development of home services (help for senior citizens and medical or paramedical care at home), as well as the shortage of places in nursing homes (4,366 places at the end of 1995), dependent people have to stay in hospital waiting for a place to become free in a retirement or nursing home. There are other services, organised by associations or the communes, such as meals on wheels which cover more than 95 per cent of the country and the 24 hour tele-alarm service which provides security for people on their own.

Current debate is centred on dependency insurance. A working group has met under the aegis of the Ministries involved (Social Security, Budget, Family and Solidarity, Health) in order to evaluate existing provision and needs. The study was published in December 1995 and a Bill should be prepared this year. The idea is to set up a new branch of social security to complement health insurance and fund assistance and care for dependent people. Benefits for carers are also planned. There would be a mix of funding: social contributions in the form of duty on fuel and a solidarity tax. This insurance should prevent dependent people from requiring State aid.

Disabled people: integration and solidarity

A national programme for disabled people was set up in 1993 and is still in progress. The policy is based on three principles: first, differentiation: providing flexible, individually-tailored assistance; second, normalisation: day to day integration of disabled people; third, solidarity: society as a whole being jointly liable for care.

The idea is to foster the integration of disabled people in day care centres, schools, work places and daily life. Measures to help such people stay in their own homes are to be developed. There were no changes to allowances and assistance granted to elderly people in 1995, apart from the uprating applied on 1 May 1995.

Welfare payments

There was an increase of 3.5 per cent in the amount of the *RMG* (guaranteed minimum income) from 1st January 1995, on top of the increase due to indexing. In December 1994, the number of households receiving the *RMG* fell by 11 per cent in relation to the previous year: down from 3,652 to 3,075. *RMG* beneficiaries are divided into two categories depending on whether the supplement is paid by the national solidarity fund or the pension scheme. The first category includes two thirds of the households involved. The largest number of these are one person households (57.7 per cent), followed by lone parent families (19.5 per cent), nuclear families - two adults with or without children - (12.8 per cent) and disabled people living in their parents' households (7.9 per cent). Households with children account for only 28.4 per cent and 87.4 per cent of beneficiaries are nationals.

Regulation of marriage and relationships

Marriage and cohabitation

Cohabitation is still not recognised in Luxembourg. However, jurisprudence is beginning to close the gap between marriage and cohabitation, for instance by awarding damages, under certain conditions, to cohabitees for both material and moral harm. Even so, it has taken care not to compare cohabitees to married people either in the reasoning or causes which could give rise to a right to compensation or in relation to the amounts awarded as damages. Cohabitees have no status. In general, they cannot take advantage of rights deriving from social security. Under the relevant legislation, the spouse and children of the insured person are held to be co-insured by virtue of the rights deriving from the main insured person. The law in Luxembourg establishes a strict distinction between married spouses and cohabitees. Marriage is the only legal framework considered when a couple splits, whether in terms of civil law, inheritance rights, social insurance issues or issues relating to a couple's children. Nevertheless, illegitimate children have the same status as legitimate children, provided they are not the result of incest. When a couple separates, their position is the same as that of legitimate children in terms of both contributions towards maintenance and education costs and custody rights and visiting and accommodation rights.

In the absence of an established legal relationship, cohabitees cannot inherit from their partners. It is possible to make a contract to grant a share of the estate or make a bequest, but that bequest can be reduced if it prejudices the shares of the rightful heirs. Such bequests must be explicit, whereas surviving spouses inherit in the absence of provisions in a Will. Furthermore, there is no joint ownership or marriage settlement between cohabitees, so that it will always be difficult, if nothing is written down, to know which items of property belong to which partner. In the absence of legal regulation of cohabitation, the institution of marriage is more egalitarian and provides better protection for the weaker partner. Moreover, there are legal ways of ending marriage (divorce, with rules regarding the disposal of conjugal property), which is not the case for cohabitees who find themselves in uncertainty. This is why some people are calling for the protective rules of marriage to be extended to cohabitation.

A political move to put married people and cohabitees on the same footing did not succeed. The Socialist Party had suggested taking a great step in this direction before the last election. Amongst other things, its nine point programme for 1994-1999 proposed recognising marriage-like partnerships, laying down rules for the disposal of the communal estate in the event of separation and giving the same tax and social advantages as enjoyed by married couples (Neyens, 1995). As this point was not covered in the 1994 Government Statement, the Parliamentary Socialist Group has just submitted a Bill regarding cohabitation. This would provide cohabitees with a certificate, which acknowledges that two adults are living together and regulates their separation. This certificate would oblige cohabitees to draw up an inventory of their property before a solicitor. They could also go further and arrange a cohabitation contract before a notary. Apart from the inventory of property, this contract would indicate the respective contributions to household expenditure and the rules applying to winding up the partnership. For example, the certificate would enable one cohabitee to visit the other in hospital without anyone being able to refuse access. In the same way, production of the certificate

would protect the tenancy rights of a surviving cohabitee in the event of the death of the partner renting the premises.

The Parliamentary Group submitting the Bill recognised that this proposal would have only limited effects. 'The idea is above all to regulate the sharing of household property in the event of separation and thus to avoid either of the two parties concerned being prejudiced by the absence of legislation on cohabitation ... the present law does not settle the question of inheritance. It does not provide for any social consequences in terms of health, old age or accident insurance, RMG, household allowances and so on, although the positive effect would only be a logical extension of the fact that living together is already taken into account when calculating unemployment benefit and RMG' (Bill on cohabitation - Parliamentary Socialist Group).

Divorce and separation

In order to divorce, a couple must have been married since there is so far no legal provision regarding the separation of cohabitees. No changes have occurred with regard to the various divorce procedures, but it is now possible for children to be heard in court in the course of custody proceedings. Until December 1993, the child's opinion was not taken into consideration directly (a personal appearance before the court was considered to be too traumatic for the child), but the judge often ordered a social enquiry which took the child's view into account. Following ratification of the International Convention on the Rights of the Child on 20 December 1993, the law allows children to be heard in court and gives them the opportunity to defend their interests. According to the new Article 388-1 of the Civil Code, 'in any proceedings involving a child, the minor may be heard by the judge or any other person appointed for the purpose, unless the age or condition of the minor precludes this. Furthermore, the minor may ask to be heard and such a request can only be refused if very special reasons are given'. This Article enables the personal view of a minor to be taken account when awarding custody. However, provision is too recent for any conclusions to be drawn or for any precise trend in jurisprudence to have been observed. It should be noted that the individual interests of children are gaining increasing importance in family law proceedings to the detriment of the collective interest, whether of the couple or the family.

The previously mentioned Bill on cohabitation makes reference in its preamble to homosexuality and establishes a difference between marriage-like partnerships and other life partnerships. Marriage-like partnerships are defined as being a couple of the opposite sex living together without having gone through a civil marriage ceremony. Life partnerships are when couples live together without contracting marriage (no mention of the opposite sex). The authors of the Bill think that one of the reasons for the rise in cohabitation is the number of unions which cannot be put on a formal basis because of legal prohibition, such as adulterous couples, incestuous couples or same sex couples. They go on: 'As marriage is based on the idea of procreation, it assumes sexual heterogeneousness. This is also the general view of marriage-like partnerships. Existing legislation on marriage enshrines the principle of sexual heterogeneousness. This arises from Article 75 of the Civil Code, relating to the conduct of the marriage ceremony 'taking each other as husband and wife'. However, as the concept of cohabitation does not refer to possible human procreation, it seems logical to admit the existence of homosexual

cohabitation'. By way of conclusion, the Bill notes: '... The life partnership certificate, issued at the joint request of the two partners involved by the clerk of the registry office of the commune in which they live, would constitute official acknowledgement of the union of two adults'. This could open the door to homosexual couples, but meanwhile they are not recognised by law.

Family stress

Parental authority is founded on marriage and affiliation. If the parents are married, affiliation is established by presumed paternity. The affiliation of legitimate children is thus established singly and indivisibly with regard to both the father and mother. If this is not the case and there is no legal tie between the mother and father, the affiliation of an illegitimate child must be established separately in relation to the mother and the natural father. These affiliation rules do, of course, have repercussions on other associated rights: right to the family name, nationality rights, rights and duties of parental authority, inheritance rights, etc.

Once affiliation has been established, children are in principle treated equally irrespective of whether they are legitimate or natural. Parental authority refers to the set of rights and powers that the law grants to the father and mother over the person and property of a child. It is up to the father and mother to protect the security, health and morality of a child. They have a right and a duty of care, supervision and education according to Article 371 Paragraph 2 of the Civil Code. During marriage, parental authority is joint in so far as both parents exercise it together. In the event of divorce or separation, it is exercised by the parent to whom the court grants custody, the other parent then receiving access rights such as visiting or supervision rights (Article 378 Paragraph 1 of the Civil Code).

With regard to parental authority over illegitimate children, the provisions were amended by the law dated 20 December 1993 approving the International Convention on the Rights of the Child. Such parental authority is exercised by the father or mother who has voluntarily acknowledged the child, if it has only been acknowledged by one of them. If both have recognised the child, parental authority is exercised by the mother. However, parental authority may be exercised jointly by both parents if they make a joint declaration before the *juge des tutelles* (judge responsible for guardianship and custody). (Neyens, 1995).

Under Article 376 of the Civil Code, a father or mother may lose the right to exercise parental authority in the following circumstances: if unable to make their views known, by reason of incapacity, absence, distance or any other cause; if they are criminally convicted for non-fulfilment of maintenance obligations towards the child, so long as they do not resume fulfilling these obligations during a period of at least six months; if judgement has been given against them depriving them of parental rights, in respect of such rights as have been removed.

Loss of parental authority may be total or partial. Parents may request reinstatement of some or all rights from the court in whose jurisdiction the person to whom the rights have been accorded is domiciled or habitually resides. Such reinstatement may be requested at the earliest five years after the judgement. According to Article 11 of the law dated 10 August 1992 relating to the protection of juveniles, parental authority is transferred in the event of placement of a minor: 'if

the minor is placed outside the home of his or her parents, carer or guardians, the latter retain only visiting and correspondence rights. The court or juvenile judge makes the arrangements and can even, if the interests of the child so require, decide that the exercise of one or both of these rights should be suspended'. With regard to the person of the minor, all other attributes of parental authority are transferred to the person or institution with whom the minor is placed, with the exception of the right to consent to the adoption or marriage of the minor. In practice, the application of this article poses more problems than it solves and has attracted a good deal of criticism. There are various proposals to cancel or amend it.

The information and training campaign on domestic violence, assistance and counselling, conducted by the Ministries of the Family, Justice and Youth is continuing. Recent initiatives include:

- the establishment of an information centre for young women. This centre, which opened on 15 October 1995, aims to provide anonymous, free counselling, support and help to teenage girls suffering from problems at school or in the family, physical or sexual violence or psychological threats. It is open for two half days per week in Luxembourg City;
- a new association 'Protecting Children's Rights'. Various jurists faced with the problems of enforcing the International Convention on the Rights of the Child have been looking for appropriate solutions and eventually set up a non profit-making body known as 'Protecting Children's Rights' on 5 December 1995. The association is open to anyone interested in the problems experienced by some children in our country and its purpose is: 'to promote children's rights, particularly vis-à-vis the courts and public authorities and within the framework of national legislation and the convention relating to the rights of the child...' and to influence the legislative process, in particular by drafting laws which would provide better protection for children's interests.

The association intends to work towards an overall reform of the law on child protection. It also considers that it has a duty to inform and seeks to make the public aware of both the principles and provisions of legislation regarding children's rights, as well as the shortcomings and problems which persist in Luxembourg, despite the goodwill of the judicial apparatus and the Government authorities. The members of the association also consider it important to advise children of their rights so that they are able to exercise them. For this purpose, it is planned to appoint a person of trust or mediator (ombudsman). Finally, the association will hold training seminars for lawyers interested in defending the interests of children, as well as conferences for the public at large.

The 'Legal and Social Information' Service of the Ministry for Youth, set up in 1992, provides a permanent information service, the publication of a book 'Young People, Your Rights and Duties', in connection with the Year of the Family and weekly radio broadcasts in 1995. This service is increasingly being consulted by young people. The number of advisers rose from 68 in 1992 to 336 in 1995 (151 in 1993 and 206 in 1994), clearly showing that there is a real and substantial need for information. In the conclusion to his annual report, the Director of the service stated

that: 'by virtue of its mission to inform, advise and support, the Legal and Social Information Service for Young People is above all a laboratory of social life, a place of individual and collective learning and socialisation through the law' (1995 Report of the Legal and Social Information Service for Young People).

Policy process

On 1 February 1995, the new Government issued an order listing the Ministries and detailing the Ministerial remit. With regard to family policy, four Ministries share responsibility: first, the Ministry of Health which is responsible for social and therapeutic activities relating to elderly people, nursing homes, home care services and so on. Second, the Ministry of Youth, which deals with general youth policy - National Youth Service - non formal education and leisure activities - relationships with youth movements - Supreme Youth Council - training of instructors and directors of leisure activities - multi-service centres and residential centres for young people - study leave. Third, the Ministry for the Family, Women's Affairs, Disabled People and Accident Victims whose responsibilities cover many aspects of family policy including the Supreme Council for the Family and Children; training, consultancy and family benefits. It is also responsible for the promotion of the rights of the child; and childrens' services; policy for elderly people - home services - retirement homes - integrated centres for elderly people, etc.; integration of foreigners and social welfare for foreigners; solidarity - National Solidarity Fund - welfare - respite care - excessive debt - hostels for homeless people - local multipurpose social service - social services; promoting women's status.

Finally, the Ministry of Social Security which is responsible for social security legislation, combatting poverty and social exclusion, and the National Welfare Service.

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CHAPTER ELEVEN

Trends and Development in the Netherlands in 1995

by

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Though the main trends in family policy did not change, 1995 might be a crucial year with respect to the (political) thinking with respect to families. In the middle of a high tide of welfare cuts, the call for an explicit family policy, by means of a Minister for Family Affairs, was made by the opposition. The debate is still in the stage of 'family rhetoric', but the expressed concern with the position of families might join with the growing uneasiness among social demographers: the apparently growing incompatibility of partnership and parenthood seems to lengthen the cohabitation period, before partners get married and have children.

The first section of the report will discuss the main issues of actual policy and in the second section there will be discussion of the 'first signs' of two emerging trends.

Actual developments

Financial policies

Continuing budget cuts on the welfare state affect families in two ways: directly, especially by 20 per cent reductions in the child allowance system; indirectly, by continuing 'individualisation measures' which are leading to higher costs for multi-person households (eg ecotax on energy) and means-tested measures in social security (ie deductions for all 'other' incomes of household members). Examples to be mentioned in this context are: the obligation to apply for jobs for mothers of young children dependent on the General Assistance Act and the new General Widows/Widowers and Orphans Act (means tested).

After the privatization of the Sickness Act, the next step could be the abolition of co-insurance for partners. At present, insurance for the costs of medical care is free for partners without income and children in a family, being linked to the insurance record of the breadwinner. The only positive news for (some) families is the extra **attention given to 'poor households'** by the Ministry of Social Affairs in the report 'The other side of the Netherlands'. The Cabinet announced an extra budget of half a billion guilders in order to 'counter' the consequences for the budgets of poor

households. For instance, families with children receive an extra amount of Individual Housing Allowance. Most of these 'special support measures' were forced by way of debates in Parliament. The same might happen with the debates on work and family life.

Work and family life

The main issue in this respect is 'flexible labour'. On the one hand the Cabinet has presented a new Bill concerning the rights of 'flexi-workers', on the other, the labour unions are trying to establish a standard working week of 36 hours, in return for more flexible time opportunities (e.g. working on Saturdays) for employers. Most prominent and family-directed is the initiative for a Bill giving all workers the right to reduce working hours by 20 per cent. The Bill was initiated and passed by the Second Chamber of Parliament, but it may be rejected by the First Chamber.

Care

The conditions for the existing home care system are worsening as a result of the ongoing measures for privatization, ie replacement by contract workers. Moreover, experiments with client-centred budgets are on the way.

Family law

A temporary divorce boom is being observed; a 'registration-bill' and a debate on marriage of homosexuals is on-going; inheritance rights are being discussed.

Housing

Family issues are only touched indirectly in the debate concerning housing matters. General cuts in Individual Housing Allowance have taken place and are accompanied by the exception concerning special family allowances which are meant to compensate for the ecotax.

Family policy

Though the demand for a 'Family Minister' came as a surprise for most politicians, it may be argued that the 'climate' has gradually changed: the issue was discussed in the press for over two months (much longer than the average media hype). Further, the debate on family issues seems to reverberate in a number of other directions, such as: the family values, dimensions, focussed on the concern for deviant youth as a consequence of failing family education; the reconciliation of family and work for both men and women; the general trend toward more preferred 'cosiness'/'happiness at home' as a reaction to the harsh conditions of societal life in general.

The Cabinet has not given a public reaction to the Family Minister issue but is preparing a special 'family policy letter' to Parliament and has asked the Social and Cultural Planning Office for a special report on the situation and conditions concerning family education in the Netherlands. This report is to be presented in March 1997.

In the following section, the two most prominent trends are presented in more detail.

Family rhetoric and tensions between partnership and parenthood in The Netherlands

The annual report of The Netherlands takes the form of a discussion around two themes: first, a review of public debate on the subject of family form and family policies; second, a more empirical examination of the relationship between marriage, cohabitation and fertility within age cohorts, in an exploration of an hypothesis that there is tension between a conception of the family which emphasises partnership/marriage as opposed to that which emphasises parenthood.

Public debate on 'gezin' (family) in The Netherlands

It is not possible to present a developed piece of research containing the theoretical approach and hypothesis, research design, data analysis, results and discussion. The intention is more speculative: to present the tentative outline for a research process. The reasons for this limitation lie in the fact that the available time does not allow for work on large samples of relevant data and further, the observed theme has been particularly salient during the past year.

The terms which will loosely form the background for the public debate of family matters in The Netherlands are on the one hand the term *family rhetoric* as presented by Liischer (1995) and the term *'family semantic'* as presented by Tyrell (forthcoming). In his contribution which is seen as 'work in progress', Liischer defines family rhetoric primarily as 'texts, pictures and lectures, which are characterised by the intention to evaluate publicly 'the' family or specific families (family behaviour patterns) or present it/them as an ideal or as unwanted. (Liischer, 1995:52; translation H.-J.S.). Furthermore, the implications of the term are that it expresses an uncontested truth, be it as a conviction with respect to the one and only or natural family model, or the conviction that there is no realistic model possible.

In contrast, Tyrell uses the term 'family semantic' in relation to social structure, in particular by reference to the series of books on 'social structure and semantics' by Luhmann. With the divergent terms semantic and social structure in mind, Tyrell analyses the content of family terms as used in family sociology, family-related psychology and education. By making use of the term family semantic it is possible to discern different clusters of meaning and to work on questions such as: to what extent is there a dominant family semantic in a given discipline or period? What is the relationship between the semantic and social structures formed by private relations (three general positions are possible: identity of term and social structure; delay of the term in relation to the social structure; finally, the term as a forerunner or a pioneer of social structure)? Without being able to reproduce all aspects of both concepts in detail, we can see that they overlap and in a way focus on different kinds of public arenas. Liischer is oriented towards both political and scientific debate whereas Tyrell is more focussed on discussions within the social sciences. Given this constellation it is not surprising that Kaufmann makes use of the term 'family rhetoric' when analysing family policy in Europe (Kaufmann, 1993) by identifying ten standard aspects of discourse. Seven of these points of discourse refer to reasons for political measures in favour of 'the' family: 1. institutional, ie the family is/has a value of its own; 2. population related; 3. economic, ie the production of human capital; 4. societal, ie the output in relation to the performance of the family in a

broader sense than the economic, especially in a cultural sense (socialisation of values, cultururation); 5. social policy, ie compensation for family performances; 6. woman oriented, ie the idea to compensate for the disadvantages women undergo when caring for a family; 7. child oriented, ie the welfare of children is central. The final three arguments are of a more fundamental kind because the very question is whether or not the state or the authorities should intervene with respect to the family. These propositions may be presented as follows: 8. welfare state minded, ie the general and explicit responsibility of the state for family matters; 9. limitation of political intervention to the least possible level; 10. selective intervention for families in extreme situations (Kaufmann, 1993:143,144).

Given Tyrell's concerns, it is unsurprising that he should question whether or not a given family term used in the social sciences is making specific assumptions about the social structure at hand. Most significant is a question about whether or not the observed term 'family' is made up of two components: *a*) partnership or marriage of adult people of different sex on the one hand and *b*) parenthood on the other, and how the relationship between the two components is constructed.

In summary, which family term is being used? Does the term refer to the combination of partnership or marriage and parenthood, to one of the two elements or to some other social arrangement? The question is based on the thesis that the modern (western) family is a unit of marriage and parenthood. Secondly, what is the position that is given with respect to the family as a possible object of policy? Is the family seen as a political issue at all and if that is the case, what is the main point of reference? For example, it is widely believed that The Netherlands has an implicit family policy.

The public debate about the family can take a variety of forms and use a range of media. As previously mentioned, it is neither possible nor intended to cover the whole field of mass media, the scientific and political debate and moreover, there is no systematic or random selection of documents. The basis for the *ad hoc* analysis (presented here) is a collection of newspaper articles¹ which to a restricted extent document the arguments of intensive family debate which took place in 1995 in The Netherlands. The procedure has been to examine the articles with a view to identifying the elements of analysis mentioned in the two guiding questions. The resulting analysis will not be restricted to answering the two questions but will formulate hypotheses for further investigation.

A key note in the public and political debate on the theme of family in The Netherlands was given by the leader of the biggest Christian Party (CDA) in Parliament (*Tweede Kamer*). It is to be noted that the Christian Party (CDA) in the Dutch Parliament belongs to the opposition for the first time in the post war era; seen from this point of view the speech can be seen as an attempt to set the political

¹Every article is given a separate number. The texts 1 to 8 are taken from a documentation of a symposium with the theme 'The meaning of family?' (in Dutch: *De zin van het gezin?*) in the journal *TROUW* from Saturday 25 November 1995. The selection of these articles is based on the idea that the committee organising the symposium has taken care of a rather great variation of standpoints and the authors are well aware that they take part in a public debate on a national level.

agenda. As a matter of fact, some members of the Cabinet (four Ministers) are also attempting to define the political position of government with respect to family matters.

The contribution of the leader of the Christian Party (*CDA*) in the Dutch Parliament can be summarised as follows:

The diagnosis of national circumstances reveals two issues. At a general level, society is seen to be *losing cohesion*. This is perceived as a problem because togetherness and social ties are fundamental to the human condition. On a less abstract level, it is said that most people in The Netherlands live in families. The problem is that the government does not care for them. The contribution concludes that The Netherlands should establish the institutional preconditions to realise an explicit family policy which can avoid harmful political consequences of existing political measures or improve conditions for families by shaping political measures. In other words, a Minister with responsibility for family affairs should be appointed (on the same basis as in Sweden and Germany).

Findings

The number of the text is given first and then reference made to the author. In section (a) results with respect to the family term are presented and in section (b) results with respect to family policy are given.

Text 1: As already mentioned, the author is a politician.

- a) The family semantic is unclear with respect to the elements of partnership and parenthood; it may be supposed that the nuclear family is taken as a model but that the one-parent family and possibly other family forms are included;
- b) The family rhetoric referring to policy is clearly oriented towards the standpoint which - following the classification of arguments by Kaufmann (see above) - can be seen as the position of the general welfare state (position 8). Moreover, the reasons for this position are based on a moderate institution orientation (see Kaufmann's argument no. 1) and a defensive argument with respect to the costs of a malfunctioning of cultural reproduction of society. This argument is the negative version of the argument 4 of Kaufmann and in line with the problematic societal cohesion mentioned by the author.

Text 2: This contribution is given by a journalist and does not directly address the issues raised in text 1, but is rather a personal account. The family semantic is thus characterized by the biographical experience of the author.

- a) The family of orientation, in other words the author's family, is presented as a nuclear family in which parental functions are stressed. The on-going biographical experience reveals that the author observes a lot of divergent forms of living together (divergent with respect to sex, generation, numbers of involved people). The author finally defines 'his family' as a social entity which is neither built on the elements of heterosexual partnership of two

adults nor parenthood. Family is defined as a group of several adults who are not tied together by blood, economic reasons or sexuality. As no reference is given to partnership and/or parenthood, the family term could be called an alternative one with respect to categories of the guiding question. From another point of view, one could call the family definition a radical personal one because no allusion to institutional aspects are given.

- b) There is neither a general position with respect to the question of whether or not a family policy should be established, nor a reason given for any family policy. Judging by the concept of family the author prefers himself, the absence of family policy rhetoric hypothetically can be translated into the message: family policy is not a political issue and everyone is responsible for their own living arrangements.

Text 3: The author is a novelist and reflects how the family is dealt with in everyday Dutch language and attributed differently to a father, a mother, and a child.

- a) The author stresses the differences between relatives and family: relatives are what you have from birth and family is created by your own decision. Following the author, moreover, it is no problem to leave one's relatives but to leave family is seen as a sin. Family is primarily understood as parenthood and is linked to a lot of trouble and work. The founding of a family seems to continue - supposes the author with a smile - because it is a habit or some kind of instinct.
- b) No position is given with respect to family policy. It may be assumed that the author does not propose establishing an explicit family policy because it cannot influence the 'habit' or 'instinct' of people to start a family, although running a family is seen as a long-lasting chore implying hardships.

Text 4: The author is working as a scientist on adoption questions.

- a) The family definition is restricted to the element of parenthood and the family is categorically seen as the optimal way to guarantee the development of children. Adoption is, at the most, a second-best solution.
- b) No position is given with respect to family policy. Hypothetically it may be assumed that family policy is absolutely unnecessary because the 'parent-family' is ideal.

Text 5: The author is a psychiatrist.

- a) The family is seen as a social system that may not be given social support without having done research on the extent to which the very structure of family causes or implies problems (eg incest, violence). If the relationship between family form and problems can be determined, it is then possible to support particular types of family. The targeted family is not clearly defined but it may be assumed that the nuclear family is implied and the family is seen as a problematic social entity.

- b) Political action in favour of families must be directed to mental health agencies in a very broad sense and the introduction of a corresponding ministry is recommended. The political rhetoric is in favour of mental health and as such political intervention is generally positively welcomed but not guided by some reference to a clear-cut family definition.

Text 6: The author is a child psychologist.

- a) The author is a self-styled 'reactionary' because he immediately admits that he is convinced that the family is a 'cornerstone of society'¹. The family is seen as a combination of partnership/marriage on the one hand and parenthood on the other; the latter is not regarded as being perfect. Given this fact, the author is pleading for personal choice with respect to personally accepted social forms of living. Moreover, the author hypothetically supposes that a cultural change has taken place with respect to marriage: the decision to divorce seems to be taken more easily than in former times and the question arises whether family is a problem of luxury.
- b) No ideas concerning family and political action are proposed. Perhaps it is impossible for the author to influence cultural changes such as those assumed.

Text 7: The author is professionally dealing with ethics.

- a) The author develops a vision of the differentiated society in which norms and values are specific for the societal sub-system in question. Everyone is responsible for her/his own form of living. No special family definition is given. Generally it is assumed that family has undergone a long historical development from a fixed social system to a wandering social unit.
- b) As self-reliance is stressed more and more in contemporary society and as there are always people who cannot cope with demanding situations, the author pleads for a selective responsibility of the state in favour of families and their economic support. With reference to Kaufmann's points of discourse it can be said that the author refers to arguments 5 (social policy) and 10 (selective intervention in favour of families).

Text 8: The author is a psychiatrist specialising in children and youth.

- a) The author denotes marriage and parenthood as elements of family. Following the author, family is doomed and consequently:
- b) it makes no sense to improve the pre-conditions for families by means of policy measures. The author is pleading for a general responsibility for children and so it can be said that he is in favour of the modified, i.e.

¹ By referring to the idiom of the family as the 'cornerstone of society' the author makes use of an expression which is 'politically incorrect' in The Netherlands. The author starts his contribution with this form of self stigmatization maybe with the intention of winning the argument against those who are 'politically correct', i.e. by not making use of the cornerstone idiom - although a majority of of them is member of a nuclear family, a relevance for Dutch people at least not significantly lower than in other countries (see Ashford and Timms, 1992, chapter V).

restricted argument number 8 (general responsibility for children's living conditions) and argument 7 (child orientation). Consequently the establishment of a ministry for children is proposed.

Summary

Explorative analysis of the eight articles reveals that in three cases the term family is identified with parenthood; in one case former families are seen the same way. On only two occasions is family defined as a synthesis of partnership/marriage and parenthood. It is important to add that the evaluation of the bourgeois family type is totally different. In three cases the family term is unclear and in one case a family term can be observed which is defined without referring to partnership/marriage and parenthood at all. In short, it can be said that the displayed family terms are mostly restricted (to parenthood) or vague.

In addition to the leader of the largest Christian party, only one other author has argued in favour of family policy. Another contribution stressed the need for a children's policy accompanied by negative connotations to the family and therefore it is not appropriate to include it in the *pro familia* position. A fourth contribution pleads for a mental health policy. Four of the eight selected contributions do not take up the question of whether or not an explicit family policy and a family minister should be established in The Netherlands. In sum, the chosen articles do not coincide in any particular respect to the family policy question.

Taken together, the family definitions within the selected articles either *a*) do not form a (unanimous) basis for new political steps (family is or has no problem or everyone can live as she/he wishes); or *b*) describe problems which are in reach of a family policy which has to be established; or *c*) point to policies other than that of a family policy (mental health, children targeted).

Partnership vs. parenthood?

The incompatibility of partnership and parenthood may be presented as a new hypothesis for family development research. The modern or bourgeois family which developed some two hundred years ago in Europe can be regarded as a *combination* of two elements, i.e. marriage and parenthood. In other words, the modern family demonstrates the amalgamation of two elements, i.e. the principle of affiliation is blended with the principle of filiation (Tyrell and Schulze, 1988). The presence of this type of family expanded during the 19th century and reached its highest degree of inclusion in the 1950s and the early 1960s. Since this time more or fewer changes are observed, depending on the country where the data were collected and analysed. Given the new developments there are two lines of interpretation to be seen. Some say that changes have been few and there is no problem to be detected, whereas others say that the modern or nuclear family is doomed. Between those extreme positions a new hypothesis has been presented. From this standpoint it is said that the ongoing developments after the 'golden age of marriage and the family' can be attributed to a growing tension between the two elements which make for the modern nuclear family, i.e. marriage or partnership on the one hand and parenthood on the other. In short, the thesis runs as following: partnership and parenthood are getting more and more exclusive and so the development of private living arrangements are structured by the binary division partnership vs. parenthood.

Many arguments are brought forward in order to support the thesis (see Tyrell, 1993; Tyrell and Herlth, 1994; Tyrell forthcoming) and it is not possible to present them all. As an example the following argument is selected in order to explain why the thesis is being propagated. Partnership and parenthood are moving or have been moved from a cultural script in order to combine them to a situation where partnership or marriage on the one hand and parenthood on the other are becoming so important in themselves that the commitment to one of them excludes an adequate commitment to the other. The growing importance of a pretentious partnership is stressed by the fact that both partners (we only deal with heterosexual couples) are not only engaged in their relationship but also in professional careers which entail attention, concentration, mobility and flexibility. Parenthood on the other hand has to fulfil growing expectations and it is an activity which asks for long-term commitments. As a consequence, partnership and parenthood lose compatibility and every man and woman has to make a decision between the two.

The question is whether the thesis (when transformed into an hypothesis) can be supported by evidence? This can be examined by reference to data cohorts for The Netherlands.

A look at recently presented evidence

First we shall make use of data which were collected in a comparative research programme which included 10 European countries (see Kuijsten, Strohmeier and Schulze 1994). In order to make visible how the living arrangements of people in The Netherlands change, a cohort-specific approach was used. The situation of women in the early empty nest phase (age between 45 and 49) was looked at for the years 1981 and 1991 and then the marital status of young women (age between 25 and 29) was examined.

Table 1: Marital status of women at the beginning of the empty nest phase (45-49) and around the age of the first birth (25-29)

<i>Age of the women</i>	<i>Year of observation</i>	<i>Unmarried %</i>	<i>Married or Separated %</i>	<i>Divorced %</i>
45-49	1981	6.2	85.2	3.8
45-49	1991	5.2	81.3	3.9
25-29	1981	20.9	75.3	3.5
25-29	1991	41.9	58.6	3.1

The data show only a small difference in two years of observation (1981 and 1991) for the older cohorts of women. However, the position for young women belonging to the same cohort changes considerably between 1981 and 1991. It is sensible therefore to go on to look for evidence with respect to data that are related to the thesis of incompatibility between partnership and parenthood. This can be done by using data and interpretations based on the Netherlands Fertility and Family Survey 1993 as presented by Manting and Post (1995).

The researchers examine the living arrangements of different birth cohorts of women (1950-53; 1954-57; 1958-61; 1962-65; 1966-1968). The data show that the number of unmarried people who live together has risen considerably and note that after the first half of the 1980s levels of cohabitation have not risen further. The reason lies in the fact that cohabitation rates among people under 20 have decreased; this can hypothetically be attributed to the fact that education is prolonged and cohabitation comes about after completion of at least the biggest part of professional education. Rates of cohabitation are especially high among those in the end of their third and at the beginning of their fourth decade of life. The average period of cohabitation has prolonged and covers about three years for those under the age of 30. The prolongation of cohabitation is accompanied by the fact that marriage and family building are tied together: the fertility rate for married mothers is rising if one looks at the mentioned subsequent cohorts of women.

The fact that more children are born out of wedlock (De Jong, 1995) is directly related to the fact that cohabitation is more popular. That does not mean that fertility rates have risen for unmarried mothers: 95 per cent of all live births are attributed to married women belonging to the age bracket between 20 to 24 years of age of the cohort 1950 to 1953; in the same cohort and at the same age, cohabitating women give birth to one per cent and non-cohabitating women give birth to four per cent of all live births. Seventy-seven per cent of all live births are attributed to married women belonging to the age bracket between 20 to 24 years of age of the cohort 1966 to 1968; in the same cohort and at the same age, cohabitating women give birth to 12 per cent and non-cohabitating women give birth to 11 per cent of all live births

A very important aspect of change is the relationship between the end of education, marriage and birth of the first child. The transition from school to marriage ceremony is losing more and more ground and living alone or cohabitation is the phase that more usually comes after education. The relationship between marriage and first birth shows a striking difference with respect to cohabitation and birth of the first child. The chance of married women of the cohort 1966 to 1968 having a child is 20 per cent per year, whereas the chance of cohabitating women becoming a mother is one-seventh of the rate of married women. On the other hand the fertility chance of cohabitating women is higher than the chance of women without a partner. The birth rate for women without a partner in the years between 1966 and 1968 is one per cent (see Manting and Post, 1995).

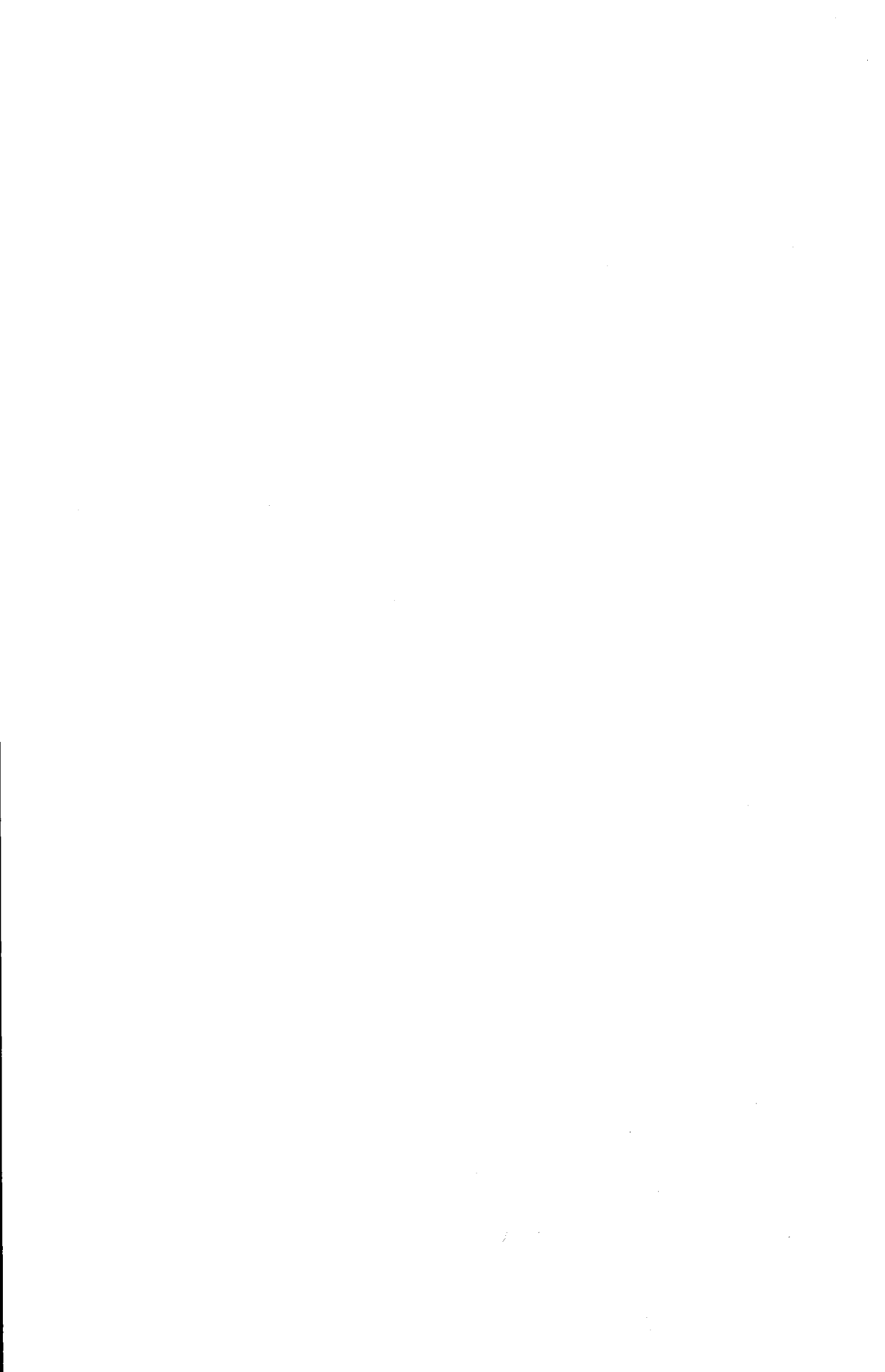
The data show that the rate of fertility of married women among the selected cohorts is rising but there is almost no change to be seen with respect to cohabiting women or women who live on their own. The fact that marriage and birth of a child almost coincide and that marriage and birth of the first child in many cases are preceded by cohabitation gives rise to questions which are related to the compatibility thesis.

The presented data support the hypothesis that partnership or marriage on the one hand and parenthood on the other are becoming more and more exclusive. With respect to the data presented, the exclusiveness may be called sequential exclusiveness in that as we did not look at the end of the fertility period. But there are also indications of a considerable percentage of women who will not have had a child at the end of their fertility phase; a prognosis points to 20 per cent and this

percentage is higher than the one which could be observed with former cohorts (see Latten and Cuyvers, 1994: 70). Sequential exclusiveness of partnership and parenthood is very likely to mean that marriage is made part of parenthood and the relation between the two adult partners only plays a dominant role before they marry and is being reduced from the moment that parenthood related marriage has taken place. From then on the parent-child relationship is dominant and the couple relationship has a low profile.

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CHAPTER TWELVE

Family Policies in Austria in 1995

by

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Austria joined the European Union on 1 January 1995. Since this is the first time that Austria has been included in the annual work of the European Observatory, the following report will also provide some baseline information on the system of family policy in Austria.

Background: the basic structure of family policy in Austria

Legal background

Austria is a Federal Republic (*Bundesstaat*) with about seven million inhabitants. It consists of nine provinces (*Bundesländer*). The federal constitution does not define an explicit responsibility for family policy. Only in one respect are matters of family policy explicitly mentioned in the constitution: It is stated that 'population policy referring to family allowances' is the competence of the federal government. This formulation is not just a legal detail. It shows that in the constitution, family policy is seen only in a very narrow perspective. Yet hardly any political group currently influencing family policy in Austria would like to see family policy being reduced to this perspective.

Apart from this explicit formulation the federal government is responsible for many matters which are of direct relevance to family policy. To give some examples, this refers to the legislation in civil law, to labour market policy, the basic policies for higher education and health policy. On the other hand, the Austrian provinces also have substantial responsibilities for family-related matters. Important cases in point are child care services, primary school education, and housing policies. Moreover, the provinces are free to establish all kinds of (economic) support to families, either through services or through monetary transfers.

Goals of family policy

Explicit goals of family policy have to take a position concerning their understanding of the term 'family'. The federal constitution does not mention this term - although it has repeatedly been proposed in the political debate by Catholic and Christian Democratic groups. There are, however, some provinces which declare in their provincial constitution the support of the family as a guiding principle of public policy.

On the surface, most politicians nowadays take a liberal position regarding the plurality of family forms. The choice of a particular form of family life (especially the decision between marriage and cohabitation) is declared as a purely private matter into which the government should not interfere.¹ Influencing the individual's fertility behaviour or the choice of a particular family form is not a declared goal of public policy (see, Findl, Hlavac, Münz 1994, p.29). Nor is it seen as a desirable concept of public policy by families themselves (see, Gisser *et al*, 1995, p.128) However, in everyday policy, different preferences of politicians can be identified when they express concern that public policy gives incentives not to marry or, on the other hand - that unmarried couples are still discriminated against.

The official declarations on policy goals are usually vague in this respect. Rather, it is stressed that people should be enabled to live a family life 'according to their preferences', that they should be in the position to have children according to their wishes and that they should be enabled to afford this. Last, but not least, reconciliation of work and family life is declared as goal for public policy as is the support of the idea of partnership between the sexes based on equality. To an increasing degree also the matter of pre-school child care has entered the political declarations on family policy. Finally, it is also obvious that other dimensions of public policy, for example in housing, health, education and employment, are of significant relevance to the well-being of families. This is also reflected in the programs of political parties and interest groups.

Without doubt, the International Year of the Family in 1994 increased the public awareness of matters of family policy. Among many other activities 15 working groups have discussed the various aspects of family policy. The result was a draft for a broad, long-term program on Austrian family policy. (Schattovits 1994). Although this program was published by the Federal Ministry of Family Affairs, it has not reached the character of an official government concept. Moreover, in late 1994 the Austrian Institute for Family Research (*Österreichisches Institut für Familienforschung*) was founded with the goal of increasing the knowledge on family matters and improving the basis for rational decisions on family policy.

Actors and decision making structures

Understanding the decisions in Austrian family policy requires knowledge of both the formal and informal decision making structures.

Formal decision making structures

At the federal level the formal competence for family policy lies within the Federal Ministry of Family Affairs and Youth. Until 1994 this ministry was also responsible for environmental matters; while the concentration of responsibilities could be interpreted as a political upgrade of family matters, this change was more a consequence of 'political arithmetic' than a reflection of a rising appreciation of family policy.²

¹The only exception is homosexual marriages which are not legally possible.

²In the current negotiations to form a new coalition government (February 1996) it looks possible that the new Austrian government will no longer have a separate Ministry of Family Affairs.

Seen from the perspective of political and economic power, the ministry's real scope for decision making in family policy is very limited. Though the formal competence for administering the family allowance fund (*Familienlastenausgleichsfonds*) is located in the ministry, the room for discretion is very small since major decisions are made or being pressed for by the Ministry of Finance. Moreover, even on the formal level, important areas of legislation are within the responsibility of other federal ministries. The most important example is the administration of parental leave and parental leave payments (*Karenzurlaub*) which is administered by the Ministry of Labour and Social Affairs.

On the provincial level, the formal responsibilities for family policy are organised in various ways. There is usually a separate administrative unit dealing with family affairs. On the political level, family matters are often combined with the responsibility for social affairs.

Informal decision making

The political landscape of family policy in Austria is complex. In recent years, the federal government has been formed by a coalition of the Social Democrats (*SPÖ*) and the Austrian People's Party (Christian Democrats, *ÖVP*), with the Freedom Party (*FPÖ*), the Greens and the Liberals acting as opposition parties in Parliament. The Minister for Family Affairs comes from the *ÖVP*, while the *SPÖ* has a Minister for Women's Affairs in the government. While the Social Democrats hold the relative majority at the federal level, the *ÖVP* has the relative majority in six of the nine provinces. At the federal level, therefore, all matters of family policy have to be a compromise between *ÖVP* and *SPÖ*, while at the provincial level the *ÖVP* has more opportunities to implement its own values.¹

Within the political parties, family matters are generally not of great weight. Outside or in the forefront of political parties there are a number of interest groups which exert substantial influence on family policy. This is particularly true for the Catholic Family Association (*Katholischer Familienverband*), the 'Family Alliance' (*Familienbund*) and the 'Friends of Children' (*Kinderfreunde*).

In general, the *ÖVP* and the Catholic Family Association promote a more conservative view of family policy, while the *SPÖ* emphasises more concern for the evolving role of women. Yet, one should be cautious with these generalisations since there are conservative and progressive positions throughout the political spectrum.

Major long-term developments

Austria's family policy in 1995 has to be seen against the background of a number of long-term developments. In what follows the most important ones should be sketched out:

Demographic changes

Family policy in Austria faces similar demographic trends as in many other European countries. The total number of Austrian families has substantially

¹However, at the provincial level, family policy is also sometimes within the competence of Social Democratic government members.

increased during the last 25 years. This is true for two parent families¹ as well as for one parent families. The number of two parent families with children has increased from 1,088 million in 1971 to 1,164 million in 1993, while the number of one parent families has increased from 224.000 to 290.700 in the same time period. This also implies that the percentage of one parent families out of all families with children has increased from 17 per cent to 20 per cent during that time² (Eichwalder, Engenhardt-Klein 1994, p.400).

At the same time, family size has reduced steadily. The average number of children per family³ declined from 2.10 in 1971 to 1.81 in 1993 for two parent families and from 1.46 to 1.39 for one parent families. A similar trend can be observed in household size. The number of single person households is increasing steadily. According to Microcensus sources in 1993, 27.9 per cent of all households were single person households; on the basis of census data as early as 1991 the percentage was estimated at 29.7.

In the long run, Austria's birth rate has reduced substantially⁴. In the early sixties between 17.9 and 18.8 children were born per 1000 inhabitants. This rate went down to 11.4 in 1987 but has slightly increased since 1988 (11.9 in 1993).

A number of other important trends should be briefly mentioned: since the early seventies the number of new marriages per year has substantially declined, while the number of divorces has gone up. Currently, about 34 per cent of the marriages (currently formed) will end in divorce.

There is no good statistical evidence on the number of cohabiting couples. For the purpose of Microcensus questionnaires 112,000 unmarried couples declared that they live together (Goldberg 1995, p.66). Yet, there is no doubt that this figure under-estimates the real situation substantially. To give an example, it is known that at least 48 per cent of the couples entering a marriage have lived at the same address before they marry.

Long-term changes in family law

In the early seventies the Social Democrats gained power in Austria. One of the early main reforms they implemented was a fundamentally new order of rights and obligations within families. An equal distribution of rights and duties between husband and wife was laid down in law, which was a substantial progress after a legal situation in which the man as the head of the family was in the position to decide - among other things - the place where a family lives or whether a married woman was allowed 'to work' (see Badelt and Bittner 1995, pp.3-4).

This family law reform also transferred the father's legal obligations towards the children to both parents who now have equal rights and duties regarding their children. Furthermore, the legal discrimination against children whose parents are not married has been abolished.

¹The regular Austrian family statistics do not differentiate between married and cohabiting couples.

²A recent study published by the Federal Ministry of Family Affairs provides a comprehensive overview of the situation of various family types in Austria (Bundesministerium für Jugend und Familie 1995).

³Calculated on the basis of families with children.

⁴For a long-term overview see Findl, Hlavac, Munz 1994, pp.10-12, Gisser *et al.*, p.27.

While the family law reform was very controversial at the time of its implementation, most political groups now subscribe to the view of equality between husband and wife. This, of course, does not mean that equality between the sexes has been reached in reality. Apart from the slow rate of changing sex roles in social life and in people's mentality the social security consequences of the family law reform have not been achieved to date. To give an important example, women who do not work in the labour market still obtain their basic social security through marriage and can end up in a precarious situation after divorce.

Family policy and the role of women

Family policy is invariably concerned with the role of women in society. As mentioned previously, family policy and women's policy are not always consistent; in both policy areas preferences are formulated differently, and there is often competition for the same scarce resources. In Austria this potential controversy is even more marked because different parties are in charge of the relevant ministries.

Apart from the changes in family law there are some other areas in which the position of women has been substantially improved in the long run. This is particularly true for the access of women to higher education, in which equality has been reached in many - but not all - respects (see *Bundesministerin für Frauenangelegenheiten* 1995, pp.127 -226). Moreover, over time, the labour force participation of women has substantially increased. About 60 per cent of all women in the age group between 15 and 60 are now in the labour market. Still, labour force participation of women decreases with the number of children and most women leave the labour market at least temporarily when they have a child. To give an example, according to Microcensus Data 1993, the total labour force participation rate of women with children under 15 was 64 per cent; it was 71 per cent for women with one child under 15, 58.8 per cent for women with two children under 15 and 46.6 per cent for women with three and more children under 15.

These facts have to be seen against the ambiguity of values on the role distribution between the sexes on which numerous decisions in family policy are based. Most politicians (both male and female) complain about the empirically well-supported fact that women still have the major role in the unpaid work at home, in child education and in care for the elderly. They also stress the right of both parents to 'freely choose' between work at home and in the family. But in practice, public policy does not give many incentives to change the uneven distribution of unpaid work or to make it easier for women with children to enter the labour market (see Badelt 1991). A good case in point is the extremely low speed with which improvements in the provision of day care services are achieved.

Family policy and the financial crisis of the welfare state

To a great extent, family policy consists in economic support to families or children. Therefore, family policy is closely linked to the financial situation of the Welfare State.

There is, in principle, broad agreement in Austria's policy that families should be supported, although there is no clear concept of what portion of the costs of child care should be borne by the state. Empirical evidence indicates that the economic support of families in Austria through transfers in kind and cash payments is

substantial. On the other hand, it is also obvious that a considerable portion of families live near or under the poverty line, because there is a dimension of poverty exclusively related to the number and age of children (see Badelt, 1990;1996).

While there are few doubts about these facts, the practical system of economic support for families has always been controversial. In the fifties, a system of family allowances was established that was meant to be complemented by a family-oriented tax system. The logic of this 'dual system' of family policy was a combination of horizontal redistribution through family allowances and taxes in which the responsibility for children is taken into account.

In the seventies the Social Democrats basically re-organised the economic support for families by extending the direct cash transfers and supplementing them by in-kind services, for example in the areas of education and transport. At the same time, tax privileges for parents have been widely abolished. This system is now challenged from various sides. On the one hand, there are groups advocating a tax reform in which the family would again be the tax unit (Schmitz, 1995). On the other hand, there are claims to introduce more vertical redistribution into the family support system, which is accused of working too much in the interest of wealthy parts of society (Guger 1995).

The basic question behind this debate is the unresolved controversy as to what degree financial family policy should be confined to horizontal redistribution and whether this system is adequate to fight successfully against family poverty. Also, the matter of intra-family distribution is not recognized to a sufficient degree (Jenkins, 1994; Badelt, 1994, pp.187-189).

Apart from the political controversies on how to organise economic support, families were for decades used to the idea that support would always be improved in some way or other. This situation started to change dramatically in late 1994. Due to the severe problems of the federal budget, substantial cutbacks in family-related transfers were implemented in 1995. More cuts are following in 1996.

Family policy and the private enterprise sector

Numerous areas of family policy affect the interest of employers, especially in the private enterprise sector. There is a direct financial connection, since many measures to support families economically are financed through employers' contributions or other forms of non-wage labour costs. Moreover, the issue of reconciliation of work and family life also affects organisational matters of everyday working life.

As a consequence, the political opponents in family policy often are not so much the big political parties but interest groups of families on one side and interest groups of employers on the other. Also employees' associations (especially the trade unions and the Chamber of Labour) are sometimes reluctant to lobby for family interests since the financial burden on employers following from family policy could reduce the chances to achieve other costly goals for employees; and it is the employees who are the primary interest group unions have to work for. Given the overwhelming power of the social partners in the Austrian political landscape this fact has important implications for family policy.

Although these political structures do not look very advantageous for the interests of families, some aspects of the reconciliation issue have been regulated (compared to other EU countries) in very generous ways. This refers particularly to leave arrangements for mothers which were introduced in 1957.¹ This is even more true for the extended leave for parents, who (for children born after July 1990) are currently entitled to a two year parental leave², during which a special flat payment (*Karenzgeld*) is paid out of the fund of the federal unemployment insurance.

On the other hand, financial and practical arrangements to stay in the labour market while having a small child have not been developed to a similar extent. The scarcity of flexible, working-time arrangements and the scarcity of high quality day-care facilities for young children can serve as cases in point. Also, opening hours of schools make it very difficult for parents of young children to take on a paid job in the labour market.

Areas of family policy: political issues and changes in 1995

In what follows a brief overview of the major areas of family policy will be provided. While the emphasis will be laid on changes in 1995, a short recapitulation of the situation before 1995 will be given where necessary.

Major legislative changes affecting families

In 1995 only one concrete change in basic legislation on family-related matters took place: on May 1, new regulations on the choice of family names became effective. Under the new system married partners may agree on either the name of the man or the woman; in addition every partner may keep their own name. Moreover, double names are still possible. Parents have to agree on the last name of their future children at the time of marriage; if they do not agree, the child automatically will carry the name of the father.

Other areas of basic legislation have been discussed without any concrete decisions being taken, especially the integration of elements of positive discrimination against women into the constitution. During the early nineties several laws to fight discrimination against women in the labour market became effective (*Gleichbehandlungsgesetz, Frauenförderungspläne*). The political debate was focused around the question of whether the principle of equality in the constitution (*Gleichheitsgrundsatz*) would have to be modified or clarified.

The issue of children's rights has been debated in Austria only by academic scholars and interest groups. Major legislative changes are not yet under preparation.

Government financial policies towards children

As mentioned earlier, Austria has one of the most developed systems of financial support to families in Europe. The system works through several channels which will be described in this section. One important development should be made clear at the outset: 1995 was the first year in which substantial cut backs in the economic support to families took place. In general, these cuts would not put families in

¹12 weeks at that time, since 1974 16 weeks with full pay.

²With the consent of the employer there is even the possibility of a three year leave on a part-time basis. The one year leave (for mothers) was introduced in 1961. For 1996, a reduction of the extended leave back to 18 months is planned.

positions worse than two or three years before. Also, these cuts have to be seen in the context of other expenditure reductions in the Austrian Welfare State. Still, it is likely that 1995 will turn out as the first year of a completely new development in Austrian family policy.

General monetary transfers to families

The Austrian Family Allowance Fund (*Familienlastenausgleichsfonds*) is mainly financed through employers' contributions (4.5 per cent) and payments out of income tax revenue. One of the major grants paid out by the fund are the family allowances. In 1995 these allowances were reduced by AS100, - per month, per child. After this reduction they are now AS1,300, - for every child until the age of 10, AS1,550, - between age 10 and 19, and AS1,850, - for children older than 19. (If they attend a school or university, the allowance is paid until the age of 27.) Higher allowances (without age limit) are paid for severely disabled children.

This reduction was a compromise after a long political debate. The *SPÖ* asked for a flat payment to all children independently of age, the *ÖVP* rejected this proposal. A similar discussion took place in early 1996, when new expenditure cuts for the 1996 budget were under debate.

In addition to the regular family allowances the federal government (and some provincial governments) has paid smaller allowances to their employees (*Haushaltszulage*). A change in the system brought reductions of these payments for families with one or two children.

During recent years all Austrian provinces have introduced special allowances for small children (up to three or four years, but in some provinces only one year). Some of these allowances are work tested, other are income tested. General reductions of these allowances did not take place in 1995.

Special transfers for particular life phases

In addition to the regular family allowances, the Austrian support system for families provides numerous special transfers for children or families in particular phases of their life cycle. The idea is to help families at a time when help is particularly needed. Some of these transfers are in cash, others in kind.

A first bundle of support applies to the birth of a child. Apart from maternity leave and special job protection for pregnant women, a birth allowance of AS15,000, - is paid (*Geburtenbeihilfe*). This allowance is currently paid in four instalments, which are linked to medical checkups of the pregnant mother and the child until the fourth birthday. This allowance was not changed in 1995, and the government plans to abolish this allowance in 1996.

Eight weeks before and after the delivery date mothers are required to take maternity leave for which they are fully paid. After the expiration of this period they (or the father of the child) can take an extended parental leave (*Karenzurlaub*) until the second birthday of the child¹; with consent of the employer part-time leave can

¹ Starting in July 1996, the government plans to reduce this extended parental leave to 18 months, unless the other parent is willing to take over the leave for the last half year.

be taken until the third birthday. During parental leave the parent is entitled to a flat payment (*Karenzgeld*) which was AS5,424, - per month in 1995. The entitlement to receive the payment is derived from contributions to unemployment insurance made by the parent before the child was born. In 1995, the number of contribution weeks necessary to obtain the payment was increased for parents having a second or third child. This made it more difficult to receive the payment.

Another important transfer to families with children comes from the educational system which is generally offered free of charge to parents in Austria. This refers to both the school and university systems (only for afternoon care small fees have to be paid), but also includes free school books (not for universities) and free transport to and from school. Books and transportation expenses are financed through the family allowance funds. As part of the austerity program of the federal government in 1995 small deductions for transport (AS300, - per child, per year) and school books (10 per cent of value) have been introduced. Some political groups lobby for the introduction of general tuition fees at universities, but these groups have not succeeded so far. Moreover, suggestions have been made to abolish the family allowance for students, at least if they stay in the university considerably longer than is necessary for their particular studies. It is likely that this kind of discussion will be continued in 1996. Current plans of the government are to stop paying for the transport of students at the age of 19.

It should also be mentioned that substantial cuts in school budgets have forced many schools to cut back on their services starting with the new school year in autumn 1995. This became effective in the form of larger class sizes, fewer excursions, fewer electives, and so on.

Two other areas of considerable economic support for parents with young children should be mentioned. The family allowance funds finances a broad health programme for pregnant women and children until the age of four (*Mutter-Kind-Paß*). This service is available free of charge. Finally, the Austrian provinces have developed a far-reaching (and very complicated) system of financial support for housing, in which eligibility depends on family income and family size. A detailed description is not possible in this report for lack of space.

Special transfers for particular groups

A number of family support programs are directed to support low-income families or one parent families. Some of these programs have suffered from the general expenditure reductions, others have survived 1995 without changes.

An intensive political debate took place around the extended parental leave payment for single mothers and low-income families (*erhöhtes Karenzgeld*). Critics pointed out that this system (monthly payment of AS8049) was too generous, would give incentives not to marry and would push responsibilities from the father over to society. There were suggestions to abolish the extended payment completely and to stay with the general payment as mentioned earlier.

Finally, the system was changed as follows: the extended payment was reduced (regular leave payment plus AS2,500); a mother who wants to receive the extended payment has to declare the father of the child; if the income of the father exceeds

certain limits, until the fifteenth birthday of the child, the extended payment has to be paid back to the authorities. This should be administered by the internal revenue services.

The new system was scheduled to become effective on 1 January 1996. The technical details of this system still are not really clear. It is likely that a main effect of the system is to give disincentives for mothers to apply for the extended payment at all.

The same group eligible for the extended parental leave payment may also qualify for a special assistance payment (*Sondernotstandshilfe*) until the third birthday of a child, when mothers can show that they cannot take a paid job because of lack of child care facilities. Like an unemployment compensation this payment is not a flat rate but depends on the original wage the mother had before having the child. The eligibility criteria were not changed in 1995. Yet, communities had to take over 33 per cent of the costs of this program which was formerly financed exclusively by the unemployment insurance. This new regulation sometimes turned out to be a trap for single mothers. Communities have been accused of only pretending that child care was available, so that mothers would not qualify for the payment, although in fact they could not find child care.

While the two programmes mentioned above are very important for low-income (and single) parents during the first three years of a new born child, there are also other programs tailored to the same target group but not being focused to this particular time period. The Ministry of Family Affairs can grant special assistance allowances in cases of emergencies (*Familienhärteausgleich*), there are special family-related payments in the general welfare system (*Sozialhilfe*), and, finally, the federal government provides advance maintenance payments to minors, if the father who is legally obliged to make these payments failed to do so. (*Unterhaltsvorschußzahlungen*). In these areas 1995 did not bring any legal changes, but the general shortage of public money made it more difficult for parents actually to get support, since all decisions in this area involve a certain element of discretion.

The treatment of families in tax laws

As was explained earlier, the treatment of families in income tax laws has always been a controversial issue in Austrian family policy. The discussion has even been intensified in 1995, since the cuts in direct monetary transfers to families have triggered a political debate on the general fairness of the treatment of families in the income tax laws. In general, the Austrian tax system takes the individual income as basis of taxation. However, there are some exceptions to this principle, since parents can receive special tax credits for family-related matters.

Since 1993 the most important tax related support for families is a tax credit for the first child of AS350 per month, for the second child AS525 per month and for the third and later children AS700 per month. For lower income groups these credits are paid out in the form of a negative income tax, which in effect means that the credits have the character of an additional family allowance. The credits have been introduced as a result of a decision of the constitutional supreme court (*Verfassungsgerichtshof*) which ruled that the treatment of families in the income tax law was unconstitutional. Since then, these credits, especially the fact that there are higher credits per child for families with more children, are at the centre of

controversial political debates. At the moment it looks as if the system will be kept also in 1996.

Compared to these credits other tax 'privileges' of families are of minor relevance: there is a tax credit for the only breadwinner, for lone parents, for the payment of alimonies, and several other credits which are tailored for employees in general, but are indirectly also relevant for families. Moreover, the Austrian tax law has several tax allowances for special kinds of expenditures, for example private health or retirement insurances, for housing loans, and so on (*Sonderausgaben*). The size of these allowances varies with the number of children and the number of breadwinners in a family, which has an important effect on the tax load of families. These regulations were not changed in 1995, but severe reductions of the allowances are planned for 1996, especially for higher income brackets.¹

In 1995, one of the most controversial issues in the political debate on the tax treatment of families was the question of whether every family member should be entitled to a tax free minimum income. This idea has been heavily advocated by the OVP and the Catholic Family Association (see Schmitz, 1995). Since such a system would benefit higher income groups more than smaller ones the Social Democrats are very critical of this proposal.

Economic support of families through insurance schemes

Austrian families also receive economic support through various public insurance schemes. To give an important example, dependent family members (spouses and children) are covered by the breadwinner's health insurance without extra contributions. The same is true for widows' and orphans pensions as well as for the worker's compensation (*Unfallversicherung*). Since 1993 women who take care of children are rewarded by four years notional contributions to the retirement pension system, which makes it easier for them to get a retirement pension of their own.

Apart from free insurance coverage there are also insurance based transfers which vary with the number of dependants for whom the insured person is responsible. A good example is unemployment insurance, in which payments depend on the contributions but also on the number of dependants (*Familienzuschläge*). Since 1995, the additional payments an unemployed person can receive on this basis, are income tested. Any income of the spouse of an employed person which exceeds AS 14.000 per month will reduce the additional payment to the unemployed.

Although the economic support through insurance schemes is very cost intensive, it is not generally challenged in the current political debate. Only the free insurance of spouses who do not take care of children has been brought under debate. At the moment it is not yet clear whether this suggestion will have any concrete implications.

Protection of workers and reconciliation of work and family life

As has been shown earlier, Austria has a widely developed system to 'resolve' the problems of reconciliation of work and family life by means of far-reaching leave

¹ This will probably have stronger effects on families with one breadwinner than on those with two incomes.

arrangements (see Badelt, 1991). This however, is only true for parents of children until the age of three. Far reaching maternity legislation provides various forms of protection for pregnant mothers. This includes general health protection, job security and relieved working conditions, for example additional breaks for nursing mothers. Maternity leave and extended maternity leave payments have been described earlier. However, there were cut-backs in this area in 1995 and more are planned for 1996. An employed person is entitled to a special nursing leave on full pay (*Pflegefreistellung*) for the maximum of one week¹ per year, if the absence from work is necessary to take care of a sick 'close relative'. This includes not only children but also spouses, cohabiting partners and parents.

In general, there are no particular changes to report in this area in 1995. There is a continuous discussion on the flexibilisation of working time, but this discussion comes more from a perspective to increase the competitiveness of firms than to improve reconciliation of work and family life. There is also increasing concern to make it easier for women to re-enter the labour market after a break to raise children. Several projects to improve the chances of re-integration have been launched, but the general problem is still unsolved.

Care of children

There is comprehensive empirical evidence that in the Austrian society care of children still is the primary responsibility of women (recently, *Bundesministerin für Frauenangelegenheiten*, 1995, pp. 38 -39). Whether or not the paid work of women should be supported through the provision of high quality day-care facilities for small children and after-school care for school children is not so much a matter for open political discussion. As was pointed out earlier, most political groups officially subscribe to the idea of 'freedom of choice' for both sexes. In reality substantial difficulties to find day care for children poses a significant problem for mothers in accepting paid work (for empirical results see Badelt, 1991, pp.116-130; Gisser *et. al*, 1995, pp.70-82).

There is no agreement in public policy on how many places in nursery schools and kindergartens are actually lacking. Even empirical studies come to contradictory results. However, there are no doubts that the problem is particularly severe for the age group under four and in certain regions. It is not just the number of places available, but also the opening hours which cause problems (see Denk and Schattovits, 1995 and Gisser *et al*, p.100).

In early 1995, the then new government announced that an additional billion schillings should be made available to support the development of day-care facilities. Since this matter is within the responsibility of the provinces, the federal government planned to give financial incentives to the provinces to become more engaged. However, in 1996 the implementation of this program will probably be cancelled because of budget problems.

Care of older and disabled people

There are many similarities between the care of children and care of elderly and disabled people. What they have in common is the fact that most of this work is

¹ Two weeks if children under 12 are concerned.

done by women free of charge. In 1995, the implications of this fact for family policy have been raised to an increasing degree in the political debate in Austria (*Europäisches Zentrum, Bundesministerium für Jugend und Familie* 1994).

Starting in July 1993, a general care allowance was introduced in Austria. In 1995, persons in need of care could get between AS2,635 and AS21,074 per month, depending on the degree of care they need. Although this seems to be a substantial economic support, it still covers only a small portion of the actual costs of care. The care allowance also has important implications for families. Since most of the care work is done within families, the allowance provides the chance that female carers are at least partially reimbursed for their work. Several empirical studies are currently investigating the implications of this system (for example Badelt, Österle 1994).

In political debate there is still criticism of the care allowances. Critics point out that it would be more economical to provide services instead of cash and also that informal care in the families should not be supported financially.

Regulation of marriage and relationships

As indicated earlier, some fundamental reforms of family law enacted in the 1970s have introduced the principle of partnership into the legal concept of marriage. In 1995, no legal changes in this area actually took place, but there was political debate in a number of relevant areas.

In divorce law the Minister of Justice supports a change to the current regulation according to which guilt plays a key role in after divorce arrangements. (Currently the 'guilty' partner has to pay maintenance to the other partner if the other partner cannot support himself or herself.) This proposal is heavily criticised by the Catholic Church. There are interest groups lobbying for a re-introduction of the possibility of shared guardianship by divorced parents, but no decisions have been reached so far.

Another proposal from the Minister of Justice calls for a judge to be able to reduce financial commitments of divorced women when the former husband does not fulfil his obligations toward creditors. In practice it happens quite often that housewives sign loan contracts together with their spouse, for which they are made responsible after divorce. The Minister of Women's Affairs is lobbying for a new regulation in marriage law, according to which men should become explicitly obliged to contribute to housework and educational work with their children. Critics point out that such a regulation would mean a too far-reaching intervention into private affairs and, in addition, could not be enforced.

There is also an ongoing discussion on the rights of homosexuals. While there are only few groups advocating the legal possibilities of homosexual marriages, there was a concrete motion in Parliament to lower the 'protection age' of homosexual males.¹ This motion failed because of a majority vote by the ÖVP and the Freedom Party.

¹ Under current criminal law homosexual males who are older than 19 may not have sexual contacts with males under 18.

Finally, there is concern on the abortion issue. In Austria, abortions are free of legal sanctions during the first three months of pregnancy, if the mother had been counselled by a physician. Hardly any political groups now want to change this regulation, but there is always public discussion on the number of abortions and on ways to prevent them.¹

Families under stress

Regulations concerning domestic violence, sexual abuse, removal of parental authority, and the like have not been changed in 1995. In general, there is growing awareness - and concern - about these issues in the Austrian public. This can also be seen from studies which have been completed during recent years and which indicate that violence in all its forms is a growing problem in families, (see *Bundesministerium für Umwelt, Jugend und Familie* 1991; *Bundesministerium für Jugend und Familie*, 1995a). The Ministry of Family Affairs, several provincial governments and a number of non-governmental organisations (NGOs) have tried to set up all kinds of help for people concerned, mostly women and children. They also get public support through grants.

Other service provision

In many parts of Austria during recent years counselling centres have been established to support families with problems they may have in their relationships and with education. The Federal Ministry of Family Affairs finances nearly 300 counselling centres all over the country, where advice is given free of charge. Recent empirical evidence indicates that about four per cent of the families make use of these centres (Gisser *et. al.* 1995, p.133). In addition, there is the legal obligation for public health insurance to finance psychotherapy as far as it is deemed necessary from a medical standpoint. It is not surprising that interpretations of this fact differ considerably between psychotherapists and health insurance agencies.

In 1995, the Ministry of Justice and the Ministry of Family Affairs have jointly started a 'mediation project' to support couples and their children during the painful process of divorce. At the moment it is not yet clear whether this service will be offered on a broader scale in the future.

Finally, both the Ministry of Family Affairs, some province governments and again NGOs are increasingly engaged in educational programs to teach young adults how to live a marriage relationship. The role of the church should also be mentioned in this context.

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¹ For recent empirical evidence on attitudes toward abortion see Gisser *et al.* 1995, pp.41 - 42

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CHAPTER THIRTEEN

Portugal: Issues Concerning the Family in 1995

by

Karin WALL

Introduction: the socio-economic and political context

In 1995 the general economic climate in Portugal was slightly better than in the preceding year, with a GDP growth of 3.0 per cent (as compared to 1.1 per cent in 1994) and an inflation rate of 4.6 per cent (5.5 per cent in 1994)¹. The unemployment rate increased from 6.8 per cent in 1994 to 7.2 per cent in 1995 - with women and young people having higher unemployment rates (eight per cent and 16.2 per cent respectively in 1995); long-term unemployment has also increased over the last few years. Thirty-six per cent of the unemployed population in 1993 were long-term unemployed, and this has increased to 40.9 per cent in 1994 and 46.5 per cent in 1995².

The general economic situation since 1991 has not been favourable to families (for example, the rate of growth in government expenditure on families has declined from 3.1 per cent in 1992, to -2.7 per cent in 1993 and -1.5 per cent in 1994³), and during this period poverty and social exclusion have become more extensive. Although the economic prospects for 1996 are fairly optimistic in spite of expenditure constraints, the difficult economic situation is expected to continue to affect the resources and well-being of families.

Elections were held in October 1995 and a new government (Socialist Party) took over in November. Education, social protection and the problem of social exclusion are high priorities on the programme of the government. Family policy is a specific issue on the agenda⁴ and special attention is given in the government programme to some of the major problems of families: inadequate support services for the family, the education of disabled children, inadequate levels of social protection,

¹ Economic Européenne, *Rapport Economique Annuel pour 1995*, Commission Européenne, 1995.

² Labour Survey, National Institute for Statistics.

³ Banco de Portugal, Departamento de Estatística e Estudos Económicos, *Indicadores Económicos -1989-1994*.

⁴ Cf. Programa do XIII Governo Constitucional, Presidência do Conselho de Ministros, November 1995, Chapter IV - Social Policy.

the isolation of lone parent and immigrant families, the reconciliation of work and family life, violence and drug addiction. It is thus anticipated that social policy priorities will impact positively on families, especially low income families and more vulnerable families, over the next few years.

Taxes and benefits

Fiscal policies

There were no structural changes in taxation arrangements during 1995. There is no specific tax free income level, but the structure of allowances and deductions effectively ensures that a person earning the national minimum wage (52,000 escudos) does not pay income tax. In 1995, single taxpayers had a tax-free allowance of 32,000 escudos and married taxpayers 48,000 escudos. Cohabitees are treated as two single persons. These amounts are increased by 60 per cent when either the taxpayer or their dependent child is disabled. Child dependent allowances were raised to 17,500 escudos in 1995 and 'dependants' continue to be defined as those who are not wage-earners or who earn less than the national minimum salary, and are under 18 years of age (25 if they are students). Social security contributions payable by employees remain at 11.00 per cent whereas social security payable by employers has decreased to 23.25 per cent (from 24.5 per cent in 1994).

Family benefits

So far there have been no changes in the form of family allowance, which continues to be small but universal. The amounts paid for each child increased in line with inflation from 2,450 escudos in 1994 to 2,580 escudos in 1995 and, for the third and subsequent children (in the case of families whose income is below one and a half times the national minimum salary) from 3,680 escudos to 3,880 escudos. Other family benefits such as the birth grant (a one-off payment of 22,930 escudos), the nursing allowance (4,220 escudos per month for first ten months), the marriage grant¹ (19,060 escudos), the funeral grant (a single payment of 26,670 escudos), and the benefits for families with disabled children (allowances for disabled children, special education allowance for disabled children attending a training establishment, allowance for care or assistance by a third party) were also uprated in line with inflation.

Changes in conditions of entitlement were announced at the end of 1995 by the new Ministry of Solidarity and Social Security, the initial idea being that selectivity should be introduced, with the most 'needy' families receiving higher benefits. In December, it was announced that this targeting of benefits would not be implemented during 1996, but that there would be a move in this direction by selective uprating of those benefits which target groups with higher risks of social exclusion. Benefits such as the means-tested family allowance for the third child or the benefits for families with disabled children are therefore expected to have an extra uprating.

Other social security benefits/minimum incomes

Allowances for unemployed people in Portugal exist in two forms: unemployment benefit, based on insurance principles, and unemployment assistance, which is

¹ Paid on first and subsequent marriages.

aimed at those without insurance entitlement and is related to the number of dependent family members and average per capita monthly income in the family. In 1995 no changes were introduced to the structure of the benefits or the conditions of entitlement. The national minimum wage, which is used as the basis for unemployment assistance, was raised to 52,000 escudos in 1995. Claimants are entitled to 100 per cent of this amount if there are four or more dependent members in the family; to 90 per cent if there are two, three or four members; and to 70 per cent if they are single.

In December 1994 there was a general uprating of pensions¹. Minimum amounts for invalidity and old-age pensions were fixed at 27,600 escudos per month. The social pension and the social invalidity pension (non-contributory benefits for those over 65 who are not entitled to a pension under the contributory scheme and have income below a certain level) were increased from 16,600 escudos in 1994 to 17,500 escudos in 1995. In November 1995 these pensions were routinely updated. According to Decree-law n° 1417 (24 November 1995), the aim was to increase the purchasing power of pensioners, especially those receiving the lowest pensions. The social pension was uprated 14.3 per cent (to 20,000 escudos) and old age pensions under the contributory scheme were uprated differentially: 4.5 per cent for pensions under 125,000 escudos, four per cent for pensions between 125,000 and 250,000 escudos, and a fixed increase of 10,000 escudos for pensions over 250,000 escudos. Minimum amounts for invalidity and old age pensions under the contributory scheme were uprated from 27,600 escudos in December 1994 to 29,000 escudos in December 1995. The allowance for care or assistance by a third party, a supplement paid to pensioners requiring constant attendance, went up from 9,650 escudos to 10,100 escudos for pensioners under the contributory scheme and from 8,150 to 8,550 escudos for pensioners under the non-contributory scheme.

During 1995 there was no form of general minimum income guarantee in Portugal. There has been some debate over the last few years concerning the introduction of some form of income support intended to provide a minimum income. In Parliament, a law on income support introduced by the Communist Party in 1993 was rejected; in March 1994, a decree-law proposing a Guaranteed Minimum Income was introduced by the Socialist Party and also rejected. The issue of a Guaranteed Income became an electoral promise of the Socialist Party during elections in 1995 and is now a priority on the agenda of the Ministry of Solidarity and Social Security. A new law is expected in early 1996 and implementation of the GMI is to begin in the second half of 1996, as an experimental project covering 8,000 families from different regions of Portugal and different types of situation.

Reconciling work and family life

Leave arrangements, flexible working and the protection of workers

In 1995 there were several legislative changes relating to leave arrangements, flexible working and the protection of workers. Paid maternity leave, which can be claimed by insured women with entitlement to 100 per cent of the average daily wage, was increased to 98 days² and paternal leave, for two consecutive or alternate days, was introduced across the board (previously only civil servants were eligible).

¹Decree-law in n° 1066, 5th December 1994.

²Decree-law n° 17/95, 9th June revises Law n° 4/84 of 5th April.

The new Decree-law also allows parents the option of sharing the leave or allocating the 98 days paid leave to the father¹, rather than this being limited to cases involving the mother's death or illness as in the previous legislation.

Wage-earners (either parent) continue to be entitled to miss work up to 30 days per year to care for a sick dependent child under ten years of age (or 15 days to care for a sick child over ten years, a spouse or a relative in ascending line). Until December 1995 most wage-earners did not receive pay whilst taking such leave; exceptions were single parents (where *per capita* income was less than 70 per cent of the national minimum wage) civil servants (who lost only one sixth of their pay) and some employees mainly in the public and service sectors. Decree laws 332 and 333 of 23 December 1995 provide entitlement to a benefit equal to 65 per cent of the average daily wage for all wage-earners taking leave to care for a sick child from 1996. In relation to unpaid parental leave, either parent is entitled to a special unpaid leave for six months but only to care for a child under three years of age; the 1984 Bill did not specify the age of the child. Parents with children under 12 years of age also continue to be entitled to flexible working hours and part-time work, and the new decree removes this upper age limit in respect of disabled children.

Some changes were also introduced by the new Decree-law concerning the protection of pregnant women, women workers within the 14 weeks after confinement, and nursing mothers. Employers have a legal duty to evaluate and inform women workers of the nature, degree and duration of exposure to risk. Women workers who are prevented from working due to the danger of exposure to risks in the workplace are entitled to paid leave. The Decree-law also exempts women workers from night work (between midnight and seven in the morning) for a period of 112 days before and after giving birth, half of which are supposed to apply to the period before giving birth. Finally, the decree-law also rules that any termination of contracts concerning these women workers must be authorised by the Ministry of Employment and Social Security.

Child care

There is a wide variety of formal arrangements for child care in Portugal. These include childminders, crèches, nurseries with crèches, and nurseries. Provision for pre-school children, aged between three and six years, has been increasing but still remains fairly low when compared with most other European countries. A 1994 report² on pre-school provision estimated that 53 per cent of children in this age group were in formal arrangements: nursery schools belonging to the official network of the Ministry of Education, nursery schools provided by the private non-profit social solidarity institutions (accountable to and subsidised by the Ministry of Employment and Social Security) or directly by the Ministry of Employment and Social Security, and private profit-making or cooperative nursery schools. The nurseries run by non-profit institutions, open for 10 to 12 hours, with canteens and payment according to family income, are still the most prevalent form of pre-school formal child care. However, the number of day nurseries belonging to the Ministry of Education network has been increasing, albeit slowly - from 2141 schools and 49,820 users in 1985/86, 2,853 schools and 68,382 users in 1990/91 and to 3,049

¹Fourteen days leave must be taken by the mother, except in the case of illness or death.

²Formosinho, J. (1994) *A Educação pré-escolar em Portugal*, Conselho Nacional de Educação, Lisbon.

schools and 72,428 users in 1993/94¹. The care model and the functioning of these establishments is different: educational aims are important, there are no fees, and the nursery is open five hours a day, closing for two hours during the lunch hour. The absence of canteens and these opening and closing times often make it difficult for parents to reconcile work and child care responsibilities.

Increasing the number of *pre-school day nurseries*, for the three to six age group, is a priority for the new Ministry of Education, which plans to include another 12,000 children in the official pre-school network in 1996 and the same number in 1997. A Decree-law issued in July (n° 173 of 20 July 1995) defines the mechanisms and the financial support provided by the Ministry of Education to pre-school education establishments (created by local authorities, not-for-profit institutions, cooperatives and other organisations). Financial aid is granted by means of contracts between the institutions and the Ministry of Education and the amount of support, for staff and equipment, is 2,800,000 escudos per year for each classroom. Changes to this Decree-law, which was issued by the previous government, are proposed. The government has announced its intention of increasing pre-school education by developing co-operation between local authorities, parents and the state, although the precise form this co-operation will take is not clear.² One of the first measures implemented was the opening of a competitive recruitment programme to integrate 699 pre-school teachers into the official pre-school network. This had been envisaged for several years, following an agreement under which local authorities provided the classrooms and the Ministry of Education the teachers. By 1995 only forty teachers had been admitted, and many classrooms were ready to open but had no teachers.

Although the extent of formal provision for under three year olds has been increasing, it still remains meagre³ and, in comparison to pre-school education for the three to six age group, has tended to receive little attention in the debate on public policies and priorities concerning day-care provision. Informal child care arrangements are still the most prevalent form for this age group, with grandmothers, other family members, unregistered childminders and domestic employees stepping in to look after babies and toddlers when mothers work. Within the formal sector, crèches run by the not-for-profit social solidarity institutions are by far the most prevalent form of child care arrangement for this age group. Official arrangements provided directly by the Ministry of Employment and Social Security exist in the form of crèches and, since 1984, in the form of registered childminders and family crèches (a group of registered childminders linked to a crèche). Only the latter have increased over the last few years: according to social security statistics, in 1991 there were 403 childminders, 33 family crèches and 51 crèches; in 1993 there were 515 childminders, 52 family crèches and 47 crèches⁴.

¹ *Sistema Educativo Português, Situação e tendências*, 1991DEPGEF, 1994 and Provisional data for 1993/94, DEPGEF, 1996. The number of schools for 1993/94 is underestimated because it does not include data for the Açores.

² Cf. 'As cegas no pré-escolar' *Revista JAll* April 1996

³ In a study carried out in the Coimbra district in 1993, 15 per cent of the babies aged 3 to 12 months were in formal child care arrangements. Cf. S. Portugal, *As Mãos que Embalam o Berço - O Estado e a Sociedade-Providência no Apoio à Maternidade*, Master's Thesis, Faculdade de Economia, Universidade de Coimbra, 1995.

⁴ Social Security Statistics, Vol. 'Acção Social', 1991 and 1993.

Care of elderly and/or disabled people

In Portugal, the family is predominantly responsible for meeting the needs of the elderly and disabled. Financial and service-based forms of support are still poorly developed, with the public and not-for-profit sector provision aimed primarily at supporting the less well-off social groups. Concern about the situation, especially the care of the elderly, has however been a constant trend in public debate over the last few years and there is more awareness concerning the poor quality of care and the maltreatment of elderly and disabled people in many of the existing homes¹. This has led to some policy response over the last few years: for example, an effort to increase domiciliary services and day care centres (mainly by the not-for-profit sector), the creation in 1991 of the programme 'Elderly people in homes', and in 1994 of a programme for the integrated support for the elderly and more systematic inspection of homes. The programme 'Elderly people in homes' created in 1991 has advanced slowly: only a small proportion of new beds were created when 3,500 had been anticipated by the end of 1994; also, of the homes for the elderly which had been designated as unfit only three were closed by 1995. The new Ministry of Solidarity and Social Security has stated that it is committed to fulfilling the aims of the programme and began in early 1996 by closing down two more homes².

Three main types of services are available:

Residential care in homes. The supply of residential care places is low and has led to long waiting lists, poor quality in most homes and high prices for good quality care and accommodation. According to social security statistics, the majority of homes in 1993 were provided by private organisations (mostly not-for-profit social solidarity institutions) under agreements with the regional social security centres. In 1993 there were 25 official establishments, and of 657 private establishments, only 97 did not have agreements with the centres³.

Care in day centres. These day centres also have difficulty in meeting demand but the number of people benefiting has increased from 11,370 in 1987, and 27,967 in 1992 to 30,410 in 1993⁴. Ninety-three per cent of the centres in 1993 were private establishments which had agreements with social security centres.

Home care, where food and domestic services are provided in the elderly or disabled person's home. These services play an important role in keeping people in the community and the number of users has increased from 20,568 in 1992 to 21,973 in 1993.

Another type of service - provided by families, who accommodate one to three disabled or elderly persons needing care in their homes - was created in 1991 by the Ministry of Employment and Social Security⁵. According to social security statistics for 1993, there were 71 elderly persons and 12 disabled persons were benefiting

¹A study carried out in 1995 by DECO, a consumer organisation, showed that in the Lisbon area most of the homes were expensive and had very poor conditions (Cf. S. Valente et al., *Lares de Terceira Idade - Concelho de Lisboa: Qualidade da prestação de serviços. Situação dos Idosos Residentes em Lares*, DECO; Lisboa, 1995). A report carried out by the government in 1990 had already pointed out the same problems and had shown that, in a sample of 298 homes, only 59 were licensed.

²Cf. Article in the paper *Público*, 13 January 1996.

³Social Security Statistics 1992 and 1993, Vol. II - 'Acção Social'.

⁴Social Security Statistics 1993, Vol. II, number of users at 31 December 1993.

⁵Decree-law n° 391, 10 October 1991.

from these services. Gaps in formal services are met in a variety of ways. One way is through informal networks based on the family and on neighbours (an elderly person may be taken in during the day or given meals by another household; physically dependent parents are often taken in by one or by several of their children). Support groups are also established by local authorities and churches. There are no services of respite care in Portugal and no form of support for carers themselves. Disabled and elderly persons who need permanent care from another person can claim a small supplement over and above their pension.

Regulation of marriage and relationships

Marriage, cohabitation, divorce

There have been no changes in the regulation of marriage or cohabitation. Decree-law n° 163 of 13 July 1995 introduced changes in the procedures of divorce by mutual consent. Couples with no children (or couples where parental responsibility has been regulated) can now carry out divorce procedures by mutual consent in the civil register, without passing through the courts. The alteration is still causing some public debate. The Association of Families in Braga has expressed the opinion that the changes 'facilitate divorce' and intends to submit a petition to Parliament asking for their repeal. Those who defend the new law maintain that the amendments do not affect the legal procedures, which continue unchanged, but merely allow the administrative process to be speeded up, as they eliminate delays in arranging the first and second meetings between the spouses¹.

Parental responsibilities and rights/children's rights/adoption

There have been no changes to the law on adoption issued in May 1993. All parents have a legal duty to maintain their children, regardless of whether they are, or ever were, married, but if unmarried, parental responsibility is exercised jointly only if the parents make a declaration to this effect; otherwise parental responsibility is presumed, in favour of the mother. Decree-law n° 84 of 31 August 1995 introduced changes in the civil code concerning the principle of parental authority in cases of divorce or separation. Parents may now opt for joint parental responsibility. The new law also establishes greater recognition of the interests of the child, namely the child's interest in maintaining a close relationship with the non-custodial parent, during the legal proceedings which ratify parental responsibilities.

Contraception, abortion, medically assisted fertility treatment

There have been no changes to the 1984 law on the availability of abortion. Legal provisions concerning medically assisted fertility treatment continue to be debated but no law has been approved. A new technique - the ISCI, an intra-ovocyte injection of spermatozoa - is also being used in Portugal.

Other legal aspects concerning sexual relationships

According to the new Penal Code (Decree-law n° 63 of 15 March 1995), sexual relations with all children under the age of 14 are punishable with imprisonment from one to eight years. Previously this applied only to girls. Both copulation and anal coitus with children under 14 are now punishable by imprisonment from three to 10 years. Heterosexual or homosexual activity with adolescents aged between 14 and 16 is punishable by imprisonment up to two years or a fine.

¹ Cf. Correia, A. (1996) 'A casa dos divorçios tranquilos', in *Público*, 12 February.

Families under stress

Domestic violence continues to be a matter of concern, especially the ill treatment and abuse of children. In this respect the new penal code of March 1995 introduces some legal developments, mainly by establishing more severe penalties for offences. It is an offence punishable by imprisonment of one to five years (previously six months to three years) to maltreat, employ in dangerous or forbidden activities, or load with excessive work, certain categories of people. This covers children, disabled persons, persons who are disabled by age or illness, as well as spouses or those who can be considered equivalent to spouses. This article of the penal code thus extends the possibility of sanctions against maltreatment to a wider range of persons, by including not only minors, spouses and subordinates as in the former code but also elderly, sick and disabled persons, and cohabitants.

Rape, either heterosexual or homosexual, is now punishable by three to ten years imprisonment (two to eight in the former code) and artificial fertilisation without consent is punishable with imprisonment up to eight years (formerly five years). Moreover, all penalties for sexual abuse and for artificial insemination without consent may be extended by one-third if the victim is a relation in ascending or descending line, an adopted or tutored person or a person who depends hierarchically, in an economic or work relationship, on the aggressor. Another legal change introduced (article 177-3) permits the extension by half of penalties for violation and for sexual abuse of children if the offence leads to pregnancy, serious physical damage, transmission of AIDS, or the suicide or death of the victim.

There are still no women's refuges in Portugal but a number of initiatives are under way, with several institutions having proposed to help set up shelters (Municipality of Lisbon, *Misericórdia*) or having announced the opening of a refuge in 1996 (Soroptimist Club in Porto, in collaboration with the Municipality of Porto). The Portuguese Association to Support Victims (*APAV*), a voluntary organisation created in 1990 and supported by the Institute for Social Reinsertion/Ministry of Justice, offers advice and now has six face-to-face services offering advice and counselling: in Lisbon, Cascais, Porto, Braga, Coimbra, and Vila do Conde. Data produced by *APAV* for 1995 indicates that most of the cases reported refer to problems of domestic violence and, secondly, to corporal offences and sexual abuse. Another NGO - the Womens' Association against Violence - and the Commission for the Equality of Rights of Women have also promoted information campaigns. The Commission, as well as the Ministry of Justice, have offices which provide legal consultations.

There have been no recent changes in relation to the withdrawal of parental authority and service provision in respect of abused or neglected children. Service provision in this field is a fairly recent feature, is still being developed and has difficulty in meeting demand, especially in the case of neglected or abandoned children who require monitoring or accommodation (for example, the capacity of the 14 existing state institutions for re-education is small). New initiatives have arisen primarily in the voluntary and not-for-profit sector; for instance, the Association for Family and Minors Law, a private social solidarity organisation, has recently created three centres to receive a small number of neglected or abandoned children, with the support of local authorities and the regional social security centres.

A report in 1995 relating to a study commissioned by Parliament to the Centre for Legal Studies/Ministry of Justice on the question of 'Maltreated Children' identified ten main types of maltreatment of children in the Lisbon area, taking into account different types of family, social contexts and aggressors: emotional negligence, emotional abuse, emotional and physical violence, negligence leading to accidents with or without injuries, rejection *in utero*, abandonment - street children, close confinement, sexual abuse, and physical abuse¹. A second report is under way. Its aim is to deal with the issue of maltreatment at a national level and to present an overview of the capacity of different establishments and professionals in this field. The new government has stated its commitment to tackling the problems in this sector. The government programme states that the forms of support and treatment must be developed and diversified in collaboration with local authorities and not-for-profit institutions, and that new means of intervention must be developed in relation to delinquent minors. It also proposes to alter legal provisions and to assess the experience of the Commissions for the Protection of Minors which were created in 1991².

The policy process: actors and agencies

There have been some changes in government structures. The Ministry of Employment and Social Security has become two ministries: the Ministry for Qualification and Employment and the Ministry of Solidarity and Social Security, the latter with two secretaries of state - the Secretary of State for Social Security and the Secretary of State for Social Integration. The Directorate-General for the Family and the National Commission for Third Age Policy are now within the jurisdiction of the Ministry of Solidarity and Social Security. A High Commissioner for the Promotion of Equality and the Family, reporting directly to the Presidency of the Council of Ministers, was also created³. The aim underlying the creation of High Commissions (a High Commissioner for Immigration and Ethnic Minorities was also created) is to stimulate action and promote integrated policies in these areas.

Family policy in the government programme is summarised in the following terms in the chapter on social policy⁴: the future government proposes to support family associations; to promote cooperation between public and private institutions (with a view to giving greater protection against violence, insecurity and drug addiction and trying to reduce uncertainty concerning the future of the family); to promote the development of support services and infrastructures (especially domiciliary services and forms of support for families caring for dependent persons); to promote measures with a view to removing discrimination against lone parent families; to promote the cooperation of families in relation to the education of children (special attention being given to the education of disabled children); to promote the protection of children at risk; to introduce measures that promote the integration of immigrant families; to create a Guaranteed Minimum Income; to promote a revision of family benefits, by a changing balance between principles of

¹ Ana Nunes de Almeida, Isabel Margarida André and Helena Nunes de Almeida, *Os maus tratos às Crianças em Portugal*, Centre for Legal Studies, Lisbon, 1995.

² Decree-law n° 113, 17 May 1991.

³ Decree-law n° 296-A, 17 November 1995.

⁴ Programa do XIII Governo Constitucional, Presidência do Conselho de Ministros, November 1995, pp. 190-220.

universality and selectivity in entitlement to social security benefits; to promote measures leading to better reconciliation of work, leisure and family life; to promote a fiscal policy more favourable to families with low incomes; and to revise conditions of entitlement to unemployment benefits and social assistance, by adapting them to real unemployment situations and the difficulties experienced by families.

CHAPTER FOURTEEN

Family Policy in Finland in 1995

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Sirpa TASKINEN

Finland joined the European Union in 1995. This is the first national report on family policy in Finland and in order to provide a perspective, it begins with a short historical overview of social policy in Finland.

A short history

A planned family policy started in Finland in recent decades, but it has been shaped by many earlier political decisions. Family policy refers here to three different ways of supporting families in their functions and defining their rights and responsibilities, namely: norms given by legislation or by other authorized means; benefits and subsidies; and services.

What is now known as 'welfare' was formerly given by the family, the village, or the Church. 'Family' has historically meant extended family for the East of Finland while in the West, a nuclear type has been more prominent.

The time of Siveden-Finland. By about the year 1000, permanent settlements had developed in the present Finnish area, and a national culture established. The Finnish national epic *Kalevala* contains many references to family life and to the relationships between spouses; e.g. advice to the young husband that he first should teach his wife by speaking nicely, and only if that does not work, to take up other measures! In 1155 the Swedish King Erik the Good invaded Finland and secured the position of Christianity. It brought new norms in family life, like not to spare the rod in child upbringing, or that the husband should be the head of the family. Reformation at the beginning of the 16th century turned most Finnish people into Lutherans. From the middle of 18th century there emerged a separatist movement, fanned by the inability of Sweden to defend and foster Finnish interest. As the result of the war of 1808-1809, Sweden surrendered Finland to Russia. However, the Swedish-speaking upper class held its position even after that, the culture remained western, and Finnish legislation still contains many features from the laws of 1734. Under the Russian regime, Finland became an autonomous *Grand Duchy*, a union being created between Finland and Russia in the person of the Czar who was then the Grand Duke of Finland. Finland had its own government, administration, and currency (from 1860). In 1906, the Diet of the Four Estates was

replaced by a unicameral Parliament. Full political rights were granted to women in 1906 - the earliest in Europe.

Economically, the time of Grand Duchy was very favourable to Finland. The groundwood and pulp industries were established, which even to this day form the basis of exports. The concept of social policy was introduced to the Finnish public in the 1870s. The German idea of social policy, with its emphasis on the mitigation of class antagonism, was the prevailing paradigm of social policy in Finland until the end of the Second World War. Statutory welfare began with the Paupers Edict of 1879, which obliged relatives, municipalities and employers to assist persons in need. The first Industrial Injuries Act came into force in 1895.

The time of Independence. On 6 December 1917 Finland declared herself an independent Republic. However, this was followed by a bitter Civil War in 1918 between the leftist 'reds' and 'whites' which the latter won under the leadership by General Mannerheim. The reluctance of the upper classes to consent to social reforms was one of the main factors behind the controversy. The war left deep scars on Finnish society and slowed down the development of welfare: the rebellious should not be rewarded. A Child Welfare League was established by General Mannerheim. It initiated many programs which were later adapted as public social services for children and families. An example is a Clinic for Maladjusted Children (1925) which later served as a model for child guidance centres.

The late 1920s and 1930s were a period of great economic and social progress. Land reforms and agricultural policy greatly increased the number of independent small-holding farmers who then constituted a politically stabilizing force. In 1921, an Act prescribing a compulsory eight-year period of education free of charge was passed. In taxation, reductions were made for guardians of minors. During the depression of the early 1930s, which did not hit the Finnish industry as hard as elsewhere, the state assumed some responsibility for unemployment by organizing relief work. However, this responsibility was largely withdrawn after the depression. The principle of all help for the poor was to give the minimum that was necessary - in no way should assisted people live better on welfare than those who took care of themselves.

The Acts on Child Welfare, Alcoholics, and Vagrants were passed in 1936. They formalized earlier practice and instituted new forms of social welfare. Above all, they initiated a trend to create separate systems for different target groups. They were aimed to prevent phenomena regarded as dangerous to society and served the community rather than the client.

Population policy was another goal in the 1930s and 1940s. The Population League was established which has had a great impact on family policy. The first law which had intentional relevance for family policy was the Maternity Allowance Act 1937. The roots of the benefit were in a controversy between employees and the then powerful agrarian population about the developmental lines of the social insurance system: should the social insurance cover all citizens or only employees, and what should be the priority between sickness insurance and old age pensions? As old age and unemployment pensions won priority - the National Pension Act was passed in 1937 - the Maternity Benefit Act (1937) was a compensation to the sickness

insurance (which was not introduced until 1960s). The benefit was first granted only to poor mothers, but in 1949 it became universal. The special nature of the Finnish version of benefit is the form: it is granted either in cash or in kind. Most families even today choose the maternity pack which consists of baby clothes and equipment. After the Second World War, foreign donations for the pack were received; e.g. material from USA and shirts from the Pope. The maternity benefit has also been used to encourage pregnant women to attend the maternity health centres established by law in 1944. The success of these programs can be measured, for example, by mortality rates. Finland has one of the lowest rates of mortality of the mothers (under one per 10,000), stillbirths (3.8 per 1,000), and infant mortality (4.7 per 1,000) (1994). Along with the maternity centres, well-baby clinics were set up free of charge, including vaccination programs for children.

After the Second World War, the economic, political, and social situation changed dramatically. Finland lost 12 per cent of her land, and faced an enormous task arranging living conditions for the 420,000 Finnish Carelians who almost unanimously had left their homes which had been surrendered to the Soviet Union. Extensive land reform was carried out, enabling war veterans and evacuees to continue in their previous form of employment or to become independent farmers. In the short term this was a satisfactory solution which minimised social unrest but later became clear that many of these farms were too small to give a living to a family, and after a decade or two migration started both inside the country and abroad.

Finland also had to pay big war indemnities to the Soviet Union, mostly in metal industry products. The beneficial effect of it was a renovation of heavy industries and diversifying of the formerly one-sided industrial structure. Economic recovery took place rapidly, and full employment was achieved. During and after the war, there was a shortage of male workers. Already in the 1950s married women increased their presence in the labour market. This also related to the rapid modernization of the post-war Finnish society, when there was a large movement from the agrarian life to cities. Since the time of the renewed women's movement in 1960s, it was also easier for women to start working outside the home.

The war had affected families in many ways. Many Finnish children were evacuated to Sweden and Denmark; some of them never returned, and some of those who did, suffered psychological problems. Orphans were placed mostly in children's homes. The Lutheran Church established Offices for Family Affairs (1944) worried by the break-up of marriages. After the war, a sharp rise in the birth rate gave added impetus to family welfare policy. This period saw the creation of allowances for families with at least five children under 16 (1943) and home-founding loans (1945), but these were carried on only for a short time. In public schools, children have received a free meal from 1943, and for long school distances, free transport has been arranged since 1946. Children also receive free health examinations in schools.

Civil servants had received child additions to their salary since 1923, and some big enterprises had supported the families of their employees during the war. In 1948, child allowances became a universal benefit and a permanent income transfer for families. At first, the allowance was of equal value for all children. Later it increased

according to the number of the children; the allowance increases from the second child up to the fifth. This is to compensate the relative poverty of big families, although the principle has often been questioned. Child allowance has never been taxable, although demands for it to be so arise from time to time. Since 1970, child care allowance is paid for a child who is in need of special treatment due to illness, handicap or injury.

Large-scale expansion of statutory social insurance began in the 1950s and 1960s. Numerous new laws were introduced: Disability Allowance Act (1951), Social Assistance Act (1956), Welfare for the Mentally Subnormal Act (1958), the Welfare for Intoxicant Abusers Act (1961) and the Child Maintenance Advances Act (1963). A new national pension system became effective in 1957. Families with two or more children became eligible for housing allowances in 1961, and new types of public loans for housing were introduced (1966). Along with the sickness insurance system, a Maternity Allowance with a right to a maternity leave around the birth was established in 1964. Later it has been developed to a Maternity, Paternity and Parental Allowance, and the amounts of compensation and the length of the periods have been extended several times.

In the late 1960s, a new left-centre coalition came to power. At the same time, there was a reunification of the central confederation of workers' trade unions and a rapidly increasing unionization amongst blue-collar and white-collar workers. Together, these developments made room for large-scale collective bargaining, which included reforms of social policy, taxation and various welfare schemes.

National Survivors' Pension was introduced in 1969. Unemployment pensions were included under occupational and national pensions in 1971. In 1968, comprehensive schools replaced the old parallel school system. Educational costs for the students are relatively low because of public funding of the high schools, universities, and other institutes. During the 1960s, the State granted study loans for students, and in 1972 a major extension of study allowances took place. Housing allowances were extended to one child families in 1971, and to childless couples in 1975.

The development of social services accelerated in the 1970s following a period of rapid economic growth. The Municipalities became responsible for running health centres in 1972. For families, the most important of the new laws on services was the Child Day Care Act (1973) which made the municipalities responsible for the adequate services of day-care facilities. An extensive, sharp and controversial debate preceded the drafting of this law. The discussions concentrated on two main issues: (a) the 'right' place of the child and her mother, (b) the impact of day care to the economy of the municipalities. In Finland, the rate of female labour market participation is one of the highest in the Western World. Numerous studies could not establish any connection between the development of the children and their home or day care. The economy of the municipalities was not jeopardized. Contrary to many other countries, Finland does not have a separate system for pre-school but early education is included in day-care facilities.

Other statutory services developed in the 1970s were open care for mentally handicapped children, home help, and child guidance centres (1972). The latter were changed to family and child guidance centres in 1984 giving services also in

respect of matrimonial problems. An Abortion Act from 1950 was liberalized in 1970. The rate of abortions has declined ever since and is low (7.9 per 1000 females aged 15-49); teenage pregnancies are also quite rare due to the family planning services provided in the health centres.

The rights of children were one major target of family legislation in the 1970s. Under the Paternity Act paternity shall be established and confirmed even for children of unmarried parents. It is a duty of the municipal child welfare supervisor to pursue this, though the mother has the right to refuse permission to the establishment of paternity. All children received the right to inherit from their biological parents; however, the adopted children only inherit from their adoptive parents. The Child Maintenance Security Act was revised in 1977 guaranteeing a maintenance paid out of municipal funds if the parent ordered to pay maintenance is not able to do so, if paternity is not established, or if a single person adopts a child. The Child Custody and Right of Access Act (1984) prohibits corporal punishment of children. In public schools, corporal punishment was forbidden in 1921.

Several major reforms of social welfare and social insurance were implemented in the 1980s. The Social Welfare Act, which took effect in 1984, is a framework law replacing outdated and separate laws on welfare. The law lays down the main principles and goals of social welfare, and it contains provisions on general social services, last-resort income security and the administration of social welfare. The Child Welfare Act (1983) superseded the act of 1936. Legislative reforms were made in welfare for alcoholics and drug addicts as well as for disabled persons. Within the sphere of social insurance a reform of the national pensions legislation was made, updating accident insurance, as well as scale adjustments for social benefits and making most of them subject to taxation. Even unemployment security was reformed (1985).

In 1985 the Child Home Care Allowance Act was introduced after wide public discussion. It can be paid to parents of children under three who are not using municipal day care services. Entitlement to the allowance begins after the payment of parental allowance has ended. Opponents saw it favouring the agrarian people, housewives and the wealthy who can afford to employ a nurse. On the other hand, the municipalities saw it as means to save day-care expenses, and the old debate about the value of home care for children was raised once again. In 1988 the parents of children under school-age were given the right to shorten their working hours, but without compensation.

The Act on Equality between Women and Men came into force in 1987. It aims especially to promote the status of women in working life. The Marriage Act, revised in 1988, changed considerably the conditions for divorce. No guilty party is pleaded, and the divorce can be obtained after six months even if the other party resists. After this law, the divorce rates rose, and they have not come down despite expectations.

The most important progress in the 1990s has been that every child under three years received a subjective right to a place in public day care (1990), or else his/her parents are entitled to a home care allowance. The child allowance was extended up to 17 year olds.

Table 1. Family Policy in Finland

(): reference to the year of the original law and/or last revision, []: not in force anymore

FUNCTIONS OF FAMILIES	MEANS OF SUPPORT		
	NORMS	BENEFITS	SERVICES
Establishing bonds between the spouses	Marriage Act (1929,1990), Act on Equality between Women and Men (1987)	[Tax deductions for newlyweds (1943)] [Home-founding loans (1945)]	Offices for family affairs by the Church (1944), Family guidance centres (1982), Divorce mediation (1990)
Procreation	Abortion Act (1950,1970)	Maternity allowance (1937, 1949,1993), Maternity, paternity and parental allowance (1964,1995), tax deductions for parents, free or subsidized medical care	Maternity health clinics (1944), Family planning in health centres (1972), Hospitals and policlinics
Giving children name and status	Paternity Act (1975), Child Maintenance Act (1975), Adoption Act (1980), Names Act (1985)	Child Maintenance Advance Act (1977)	Child welfare supervisors (1977), Adoption counselling (1980)
Basic care of children	Child Custody and Right on Access Act (1984), Child Day Care Act (1973), Child Home Care Act (1990)	Child allowance (1948,1995), Treatment and rehabilitation assistance (1990), Child home care allowance (1990)	Well-baby clinics (1944), Child day care (1973)
Socialization and education of children (and parents)	Comprehensive School Act (1921), Child Day Care Act (1973)	Free or subsidized education in schools and pre-school, (free materials, health care, and meals), Study loans (1960s), Study allowances (1972)	Child day care, Comprehensive schools, Family and child guidance centres (1972)
Protection of family members	Child Welfare Act (1936, 1990), Child Custody and Right of Access Act 1984, Criminal laws on violence (revised 1995)	Supported activities for children at risk, admission to shelters is paid by the municipality, free family guidance	Child protection services, Shelters, Therapies
Emotional care of family members	Unofficial public norms on family life and on roles of the family members	Free family guidance, subsidized leaves for recreation	Family guidance, Therapies for individuals and families
Exchange of goods and services	Unofficial public norms on household labour distribution	Housing allowance (1961), Living allowance (1956)	Home help services (1950)

Finland's economy experienced an exceptionally steep decline in the early 1990s. The Gross National Product decreased by 13 per cent in three years. Unemployment reached records of over 19 per cent of the labour force. The level of almost all allowances and benefits has been lowered since 1993. One of the most disastrous of the cuts was that of housing allowances in 1993; when the new conditions for the allowance were introduced over 25 per cent of former recipients lost their entitlement to the benefit. Consequently, the number of households receiving living allowance has risen 1.6 times. The municipalities have also cut services for families; e.g. the personnel in family guidance centres was reduced by nine per cent. The places in day care were reduced by 10 per cent in three years, partly due to the unemployment of the parents, but very much because municipalities have wanted to save costs.

Funding

In Finland, both the State and the local Municipalities have the right to impose taxation. In addition, the State gives subsidiarity to the Municipalities for arranging social, health and educational services, for which they have the responsibility. Welfare is financed in almost equal shares by the State and the Municipalities. Over a half of welfare expenditure goes on public social services. Fees are charged for some of the social services, but these cover only about 10 per cent of the costs of all social services. Charges can be waived for low-income families or for social reasons. The basic security benefits are funded through social security contributions collected from employers and insured persons, in part by the State and, to some degree, also by the municipalities. The basic national unemployment security is financed entirely by the State.

Social insurance contributions are paid by employees, the self-employed and other persons with taxable income, as well as employers. The pension insurance of persons employed by the private sector is financed through insurance contributions based on salary and paid by employers. The pension insurance of farmers as well as other self-employed persons is financed in part through insurance payments made by the self-employed persons and in part with State funds.

Voluntary welfare has a long tradition in Finland, and private organizations have started many programs which have later been established as public social services, especially for children and families. Organizations still play a major role in supplementing official welfare for minors, old people, and persons with disabilities. Most of the services of the private societies are organized by salaried employees. Organizations receive a reasonable part of their funding from public resources.

The parishes of the Lutheran Church of Finland run children's day clubs, supply home help and auxiliary services for the old, as well as cooperate in home nursing and in welfare for the disabled, addicts and other troubled persons.

Characteristics of family policy

To summarize, Finnish family policy follows the so-called Scandinavian (or Nordic) welfare model which is characterized by the following (see Table 1):

- The State and the Municipalities have major responsibilities for the well-being of the people.
- Social security is a combination of universal, flat-rate benefits for all citizens and earnings-related benefits for wage and salary earners and the self-employed.
- The basic unit in the provision of social benefits and services is mainly individual, and not the family.
- Equality of citizens is regarded as very important: the same services and opportunities should be given to everyone regardless of their economic situation, social class or place of residence.
- Social and health services are mostly publicly financed and publicly provided. As a consequence, the social expenditure takes a high share of the gross national product, and the gross taxation rate is high. (Table 2)

Table 2 Social security expenditure by main groups, FIM million

	1991	1992	1993	1994
Families and children	21,798	23,708	23,371	27,259
Sickness and health	43,738	42,291	42,521	42,445
Unemployment	13,182	22,525	27,813	28,126
Old age and disability	72,592	77,607	80,603	83,214
Other	3,028	3,370	2,903	3,220
Administration	4,819	4,898	4,922	4,975
Total	159,158	175,399	182,133	189,239
Total/GDP %	32.4	36.8	37.8	37.2

Developments in family policy in 1995

Legislative changes affecting families

The Government presented to Parliament a report on Child Policy, containing an overview on the situation of children in Finland. The report includes several proposals affecting, for example, the status of the child in legal processes. Parliament still is dealing with the report in 1996.

Finland gave the first Country Report to the UN on the implementation of the Convention of the Rights of the Child. Although the situation of Finnish children is rather good when compared to other countries, the report stressed further emphasis on the following issues: first, there is a shortage of facilities for psychiatric treatment in certain parts of the country; second, the need to guarantee the best interest of the child and respect the child's right to self-determination in legal decision-making processes; third, to guarantee special services to all children in need, regardless of the resources of the home commune; fourth, that children speaking foreign languages should have the possibility to learn their own language

besides Finnish or Swedish (which are both official languages in Finland); fifth, sexual offences against children should be made subject to public prosecution, and the pre-trial investigation documents should stay confidential. The possession of child pornography as well as purchasing sexual services from minors (under 16 years, the limit for criminal intercourse) should be made a criminal offence.

Demography

In 1994 the population of Finland was 5,098,754 (1994). There were 1,379,852 families, of which 643,799 have children under 17 years. Cross sectional statistics imply that the prevailing number of children in the family would be only one (44.8 per cent), and in 38.0 per cent of the families, there are two children. There are four or more children in only four per cent of the families. The average number of children in families is 1.79. However, most children do or will have at least one sibling not present in statistics because the siblings are over 17 or have not yet been born. Most of the families are nuclear, and only three per cent have three generations. The amount of single parents as well as of cohabiters is growing: of the families of children under seven, 16.5 are cohabiting (in comparison to 15.8 of the year before). (Table 3). Although the annual number of marriages has remained the same, couples marry later than before. The mean age at first marriage for females is 27.3, for males 29.3 years. The number of divorces has risen from about 10,000 in the late 1980s to 13,751 (1994).

Table 3 Families by type of family in 1994

	All families	Families with children aged	
		0-17 years	0-6 years
Families	1,379 852	643,799	314,658
Type of family (%)			
- Married couples without children	28.1	.	.
- Cohabiting couples without children	9.6	-	-
- Married couples with children	43.0	71.4	70.7
- Cohabiting couples with children	5.9	11.7	16.5
- Mothers with children	11.4	14.8	12.2
- Fathers with children	1.9	2.0	0.7

Government financial policies towards families

There have been numerous working parties, studies and discussion at all levels of society on the impact of the economic situation on the whole social and health system. In 1995, the worst economic decline seemed to be over. However, unemployment was still very high, and the public deficit had been growing from 10 per cent of the GDP in 1990 to 70 per cent in 1995. As the municipalities had cut services, the quantity and quality of social and health services had decreased and the fees the clients have to pay have increased.

There has been a tendency to blame social expenditures and labour costs for the depression, although economists do not support this view. However, the

discussions have created an atmosphere where reductions have seemed inevitable. Thus, almost all benefits were reduced again in 1995. The greatest pressure has been towards the benefits of the unemployed, since the costs had risen over all expectations. Family benefits have also been targeted, although several political parties had earlier made promises not to tackle these. For the first time, even child allowances were lowered in 1995. Since child allowances are progressive, the reduction was six per cent for the first child, and rose to 16 per cent for the fifth and subsequent child. In compensation for earlier cuts, the paternity allowance was lengthened by six days so that this leave does not shorten the parental leave period, as earlier.

Protection of workers and reconciliation of work and family life

The planning of a study on reconciliation of work and family life was started in 1995, and at the end of the year the EU funding was secured. Several enterprises have started experimentations on different basis, e.g. with two six hours shifts. The results are still preliminary, but at least in the beginning, they are quite encouraging.

Care of children, and older and people with disabilities

Against the resistance of the municipalities, the subjective right for a placement in public day care was enlarged to all children under the school age (seven years), starting from the beginning of 1996. The number of day care centres started slowly to grow again.

The tendency in care of the old, disabled, and mentally disturbed people has been to close institutions and to launch open care. Earlier it was motivated by a wish to provide more humane care; lately by economic reasons. However, resourcing of open care has not always been adequate. There have been accusations of neglect, and some studies are being carried to find out the facts.

Regulation of marriage and relationships

In 1995, a lively discussion started about the registration of homosexual relationships. The debate is still going on, and no decisions have been made.

Families under stress

In 1995, all violence in the family was made subject to public prosecution. The Equality Commission announced a writing contest for women to find ways to recover from family violence. Hundreds of papers were sent in, and a publication resulted from the entries. Several programs helping abusive men were started by League for Shelters and by the Association Men against Violence.

Other service provision

Programmes of pre-school education have been planned together with the education authorities and child day-care to be launched in both schools and day care centres. There are also plans to lower the age of school admission from the present seven years, but public opinion does not entirely favour it. Starting school is seen as the end of a free childhood.

An extensive project on family planning has been carried out by the National Research and Development Centre for Welfare and Health (*Stakes*). It deals with sex education, preventive measures, as well as the treatment of childlessness.

The policy process: actors and agencies

The International Year of the Family was adopted as the main theme in 1994 by virtually all associations and organizations dealing with the issues of children and families. Different events, seminars, and working parties stimulated activities among the public and agencies. The foremost result of the proposals was the start of the project on reconciling family life and work, mentioned above. Otherwise, the economic situation has not favoured other innovations and proposals that were made to support families.

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CHAPTER FIFTEEN

Sweden: Issues Concerning the Family in 1995

by

Ulla BJÖRNBERG with Gudny EYDAL

The political context - financial constraints

Due to economic and financial crises in Swedish society during the 1990s, an overarching goal in Swedish politics in recent years has been to reduce public expenditure in order to gain a more stable economic situation. As a part of the general goal the government presented in December 1994 a budget proposal with an aim of saving 57 milliards of Swedish crowns. Among the suggested savings, three milliards should be cut within the budget for family policies. This goal was accepted by the Parliament and has been implemented during 1995. Many suggestions are in a process of preparation through investigations and have been followed by lively debates. Several of the new rules, following the decisions taken are valid from the beginning of 1996 and some were implemented from July 1995. In the budget proposal of 1994, one major savings policy was that cash transfers to individuals should have priority for cuts before expenditure on social services. Another was that state subsidies for social services should be avoided, meaning cuts in the household budgets of individual families. Another policy was that there should not be any changes in kind, i.e. the principles of the welfare system should remain but the levels of payments within the social security system should be reduced.

The social democratic government, which came to power in 1994, mainly refer to pragmatic economic reasons rather than ideological reasons as rationales for reductions in transfers to individuals and households. The philosophy behind the pragmatic saving policy within the social security system could be expressed as a kind of 'back to basics'. The different kinds of social securities - unemployment, sickness, parenting - should be implemented according to their original purpose. For instance, there had been a tendency to give more and more individuals sick leave where basically the problem related to the interface between the individual and the labour market. This practice should be stopped. From now on the purpose **should be** to **analyse** each individual case to see which measures have to be undertaken in order to get the individual back to work. The purpose now is to elaborate plans for individuals when they receive sick insurance, or unemployment

benefits, in order to assist them in regaining fitness for the labour market. The aspect of activating should be emphasized before the aspect of maintenance, which, as social insurance shall remain temporary in nature.

During the 1990s municipalities, where social services are administered and financed, have implemented large savings programs for social services due to budget restrictions. Before 1994 there was a ban on raising municipal taxes, and state subsidies to the municipalities for social services were reduced. At the same time the incomes of the municipalities were reduced due to the economic recession. The incomes of the municipalities were reduced by 11 per cent from 1994 to 1995. During the same period expenditures have been reduced by roughly eight per cent (Kommunerna fram till 2020, 1995).

When the cuts in transfers were presented in the budget proposal in December 1994, it was predicted that families with children would experience tighter economic situations during the years to come. Until now there has not been any systematic evaluation of the consequences of cuts in the social benefits on the household budgets of different types of families. According to an investigation on the purchasing power of different kinds of households, the purchasing power of low-income families and single mothers has been reduced, but high-income families have not experienced loss of purchasing power (*Hur förändras ekonomin för olika hushåll*, 1996). A study of the development of poverty in the population since the beginning of 1980 to 1993 suggests that the distribution of income is developing towards increased inequality. At a general level income levels have increased among households but not for the lowest income groups. There is a tendency towards increasing poverty. In the same report it is suggested that poverty seems to be temporary and related to unemployment, age (younger persons are more exposed) and ethnicity (Gustafsson, 1996).

Recently an investigation by the Ministry of Social Affairs has suggested that lone mothers experience economic problems to a higher extent than other groups (*Ensamförelldrarna - en utsatt grupp?* 1996). The increased economic problems of lone mothers and their children can partly be explained by increased unemployment among lone mothers since 1992. There is general concern that some families and individuals are facing greater social problems due to unemployment, housing segregation, increased violence among people in public spaces and within families. For instance, since 1990 the reported cases of violence against children have almost doubled (from 2,175 to 4,382). Reports of sexual abuse of children have increased by 37 per cent (Statistics Sweden, 1995). The increase could partly be explained by increased awareness in the population about the problems, and by the media paying more attention to issues related to child abuse. But it could also be an expression of greater problems in families with unemployment and economic difficulties. In Parliamentary debates a need for a more holistic view of the problems has been emphasised in order to develop a long-term perspective on welfare issues (Riksdag & Departement 1995;16).

Families in Sweden, a few facts

According to the last census in 1990, there were about one million families with children, amounting to 21 per cent of all households. Among these families 44 per cent had one child and 40 per cent two children, i.e. 84 per cent of all families with

children had one or two children. Around 18 per cent (185,000) of the families are one parent families (*Folk-och bostadsräkningarna*, 1990).

At the end of the eighties, Sweden had in international comparison high birth rates (2.1 crude birth rate). This rate has been steadily sinking to about 1.8 in 1994. The rate of employment among women with children and among women in general has decreased between 1990 and 1994. For instance, among women with children below seven years the activity rate decreased from 85 per cent to 72 per cent. The lower rates can partly be explained by increased unemployment in this group which increased from one per cent in 1990 to nine per cent 1994 (*Arbetskraftsundersökningarna*, 1990-1994).

Government financial policies towards families

Child allowance

For children under 16 residing in Sweden, child allowance was payable at the rate of 750 SEK a month until 31 December 1995. This is a universal, non-means-tested benefit. A special benefit for large families - with three or more children - is linked to child allowance. This special benefit is set to be successively phased out. For children over 16 still attending compulsory school, extended child allowance is payable in the same amount as the general child allowance (Social Insurance in Sweden, 1995). It was decided in 1995 that child allowance should be reduced by one sixth in the general amount for all children from 1 January 1996. There has been a reduction in the special benefit for large families - with three or more children, which is linked to child allowance, 1995 and 1996. It was decided in 1995 that this special benefit will be abolished completely for children born after 1 January 1996.

Housing allowance

Low-income families with children are entitled to housing allowances. This is a national, means-tested scheme. Income, housing costs and family size are used to determine the amount of housing allowance. During 1995 it was stated by the government that the national budgeted costs must be reduced, but by the end of 1995 there have not been any reductions or other changes for families with children. A general attitude expressed by political authorities is that families with children should not suffer from restrictions concerning housing allowance. Housing allowance has however been abolished for single persons above 29 years (*Lagen om oilmän försdkring* 1996).

Lone mothers

Child maintenance shall be paid by the non-custodial parent: whether the parents are unmarried, separated or divorced does not matter. Parents can make an agreement on the amount of the maintenance but in the case of disputes the court decides the level of maintenance to be paid in respect of a child. Each child is entitled to a certain minimum amount which is guaranteed by the state. In cases where the non-custodial parent is not able to pay at least the minimum sum, the state grants the minimum amount. Child maintenance can be advanced by the Public Social Insurance office and the amount paid is reclaimed from the parent who has to pay maintenance.

The system of advanced child maintenance is currently undergoing change. The costs for the state of the system have increased considerably in the last decade. The

recovery from parents who have to pay maintenance had been sinking drastically over the years. A recent investigation suggests that a group of mothers receive the benefit without really needing it (Bidragsförskott, 1995). There is a need for reducing the public costs of child maintenance. The government has presented a proposal to change the system. According to the proposal the level of maintenance support will be slightly raised. More attention will be paid to the paying capacity of the person who has to pay maintenance. The control of repayment will be more efficient (*Underhållsstöd till barn till sårlevandefordrarnar*, 1996).

A reduction in financial support to women and men with children and attending adult education was introduced in 1995. These parents (only one parent per household) were entitled to an extra child allowance of 990 SEK (£99) monthly per child below 16 years, taxed. This child allowance was abolished 1995. In particular women have suffered from this change and it is assumed that many lone mothers have been prevented from attending adult education because of the abolition of this financial support (*Ensamföräldrarna-en utsatt grupp?* 1996).

Social assistance

Social assistance is available for individuals/families who have incomes beneath a certain income ceiling. At a national level social assistance is regulated in the Social Service Act where it is generally stipulated that 'the assistance should be designed in such a way as to strengthen his [the applicant's] resources for living an independent life' (Salonen, 1993,19). What is meant by a 'reasonable level of living' has been established judicially as a result of a court ruling and is related to the recommendations issued by the National Board of Health and Welfare, since no minimum level is stipulated in the law (*Statistik Socialtjänst*, 1995:6). There are now great variations in the implementation of norms between municipalities and in 1995, 40 per cent of the municipalities implement a lower norm than is recommended by the Board. The number of appeals regarding social assistance has increased during the 1990s (*Socialstyrelsen*, 1995:4; *Socialstyrelsen*, 1995:24). The general tendency in the municipalities is to scrutinise the needs of the applicants more carefully. Since 1991, a Parliamentary committee has been working on a review of the laws on social services and it is under debate whether to stipulate a minimum level of assistance in law.

Between 1985 and 1993 the number of households on assistance increased by just over 25 per cent. Single persons without children account for the largest share (60 per cent), both in terms of the increase in the number of households on assistance and with regard to the increased costs. Just under a quarter of the increased social assistance costs concern married and cohabiting persons. Assistance to lone mothers represents just below 10 per cent of the total increase of costs (*Socialstyrelsen*, 1995:4).

In total, municipal expenditures for social assistance have increased by 16 per cent from 1993 to 1994. In 1992, 10 per cent and in 1994 12 per cent of all children in the population were members of households which received social assistance some time during the year (*Socialstyrelsen*, 1994:4; *Statistik Socialtjänst*, 1995:6). However, since 1994 the increase in expenditure has ceased and it is forecast that 1996 expenditure will remain at the same level as for 1995 (*Dagens Nyheter*, 1995).

Married and cohabiting couples with children (13 per cent) and married/cohabiting couples without children (seven per cent) increased most with regard to their proportional share of the corresponding households (*Statistik Socialtjänst* 1995:6).

According to a recent report by the National Board of Health and Welfare there is an increase in long-term dependence on social assistance. Long-term dependence is regarded as serious both with regard to the affected individuals and to municipal costs. The authors emphasise that social assistance is meant to be a safety net for persons in temporary financial difficulties, not a long-term scheme for social support. It is stated that dependence on social assistance must be approached through its various causes. In particular young, low-educated and unemployed persons and immigrant (refugee) families are important target groups (*Socialstyrelsen*, 1995:4)

Protection of workers and reconciliation of work and family life

Parental insurance

Parental insurance is a universal social insurance benefit, to which all parents are entitled when having given birth to or adopted a child. The insurance covers a right to have leave with a job guarantee and a right to financial support during the leave. Parents are entitled to total of 450 days of parental leave. These days can be divided between parents as they wish, except that each parent is entitled to minimum of 30 days. Parents can take 25 per cent, 50 per cent or 100 per cent parental leave, depending on how much time they choose to work outside the home and how much time they chose to care for their child.

Each parent is entitled to maximum 180 days and minimum 30 days (from 1 January 1995), i.e. 360 days altogether as paid parental leave. If the mother or father wants to claim for more days than they are entitled to, they must have the other parent's acceptance. This is however not valid for the so-called 'father month', which is new from 1995. It was introduced to stimulate fathers to take parental leave. If the father does not use his 30 days, these days cannot be taken by the mother.

Parents are also entitled to 60 days temporary parental leave in the case of sickness of their children or sickness of their child carer (120 days per child under special circumstances). Lone parents are entitled to the same amount of days as cohabiting parents.

Another two days paid parental leave per year to be used for a parent involved in parental education, adjustment of the child to a pre-school or a similar societal institution, or for paying a visit to such an institution, was abolished from 1 July 1995.

The income compensation in parental insurance has gradually been reduced. In 1994 parents were entitled to 360 days with 90 per cent income compensation. In 1995, 90 per cent compensation was paid for 60 days and 80 per cent for 300 days. From January the compensation has been reduced to 85 per cent for 30 days for each parent and 75 per cent for the 300 days. After 360 days, 90 days are covered by a flat rate low amount (60 SEK per day = £6), so-called 'guaranteed-days'. To qualify for income compensation within parental insurance, the parent must have been

entitled to sickness insurance 240 days before the birth of the child. Those who have not qualified for sickness insurance or not been gainfully employed are entitled to the minimum daily amount (60 SEK a day). A new rule was introduced in 1995 allowing one of the parents to take leave for the full period if the other parent has not qualified for parental leave at all (*Lagen om oilmän försäkring* 1995; 1996; *Social Handbok*, 1996). The temporary parental allowance is 80 per cent of the parent's salaries. It has been reduced to 75 per cent from January 1996. The mother can apply for parental insurance 60 days before the child's approximate birth. When a pregnant woman has to stop work due to the pregnancy, she may, under certain conditions related to working conditions, be entitled to a special pregnancy allowance.

Another change during 1995 is that pregnant women will have an unconditional right to take leave seven weeks before and seven weeks after delivery. This new rule is an adaptation to the rules within the European Community (Riksdag & Departement, 1995:19). Such leave is normally supposed to be financed within the parental insurance. This is a change in practice from previous years where women could be prescribed sick leave due to problems related to pregnancy. Women with physically demanding jobs are exceptions to this rule.

Child care

Provision of child care began to be implemented from the beginning of the 1970s. The primary objective of child care has been to provide care for children with employed parents, but other motives are prevalent as well. Those children who are judged as having 'special needs', in particular children in families with social problems and scarce resources, disabled children and children of single mothers have been provided with public child care with the motive of giving them a stimulating environment and pedagogical support. Inability to pay should not prevent parents from using public child care. When places are not sufficient, children with lone mothers and children with social needs, i.e. children 'at risk', have priority.

Since 1995 every child in need of care shall be granted (by law) a place in public child care. The law represents a closer statutory definition of requirements concerning staff training, the appropriate size and composition of groups and suitable facilities. The amended legislation also requires the municipality to make child care services available 'without unreasonable delay' after parents have applied for them. Public child care does not necessarily mean that the whole chain of provision is to be public. Basically the responsibility for provision and financing is public. The administration and practical child care can be private, i.e. taken care of in private day-care centres or co-operatives.

Child care is administered by the municipalities. In general, the fees which parents have to pay for public child care have increased since 1993 by seven per cent (*Avgifter i Kommunerna - Kommunernas barnomsorgstaxor*, in print). Investigations suggest that fees vary considerably between different municipalities - differences of almost 70 per cent between lowest and highest fees (*Dagens Nyheter*, 1996; *Läraryrket*, 1995). The fees also vary according to different types of day care. What is usually taken into consideration is earnings of the parents (85 per cent of the municipalities), number of hours that the children spend in day care (87 per cent of

the municipalities), and the number of children per family (*Kommunerna fram till 2020, 1995*). Parents never pay the full costs.

The organisation and design of available child care services are subject to great local variations. Within public child care there are several options:

- Day care centre run by the municipalities.
- Family child-minders, taking care of children in his/her own home.
- Open pre-school for children cared for by parent at home as well as by a child-minder. It is organised on a drop-in basis, and the parents and child-minder cannot leave their children there, they have to stay there as well. The staff organise social and educational activities. The open pre-schools have been heavily reduced in number in the recent years.

Within private/public child care:

- Co-operative day care. This type has increased substantially in recent years. The most usual form within private child care are day-care centres run by parents in co-operatives, with public financial support. The pre-school teachers are professional. Usually parents contribute with some work such as cooking, cleaning, administration.
- Private day care. This is also financially supported by public money and such centres have to follow the same laws and regulations as public child care. The day-care centre is run by an entrepreneur, who is responsible for the employment of staff and the everyday practical aspects of child care. The private child care centres often have a particular pedagogical profile.

For children of school age, child care is provided for those with employed parents. Since 1993 the care of school children has been reduced in many municipalities for children between 9-12 years. In the metropolitan areas children aged 10-12 are offered public care only if they are judged to have a special need. The reasons why older children have lower priority is that many municipalities have started to offer school start for six year old children (obligatory age for starting school is seven years). These children are given priority for school care before the older children (*Socialstyrelsen, 1994:4*).

During 1994 there was great political debate concerning the system of parental leave. The conservative government decided to introduce a flat-rate parental allowance of 2000 SEK a month, taxable, for parents, to be used during the child's first three years. Either parent could take leave with parental allowance as an alternative to using publicly subsidised child care. The rationale for this reform was that child care should be a matter of choice between parental care or public child care. This reform was abolished a few months later in 1995, mainly for financial, but also ideological motives related to gender equality. It was suggested that few men would stay away from the labour market with the proposed low amount of allowance to cover their loss of income. Further, it was said that women would be disadvantaged by staying away from the labour market for a long time with poor financial support.

Budgetary cuts and changed quality?

In the beginning of the 1990s there were changes in child day care due to budgetary cuts. An investigation undertaken by Statistics Sweden concerning municipal saving strategies has shown that the largest savings have been made within child care. In the large cities costs have been reduced by almost 15 per cent in 1993 and 1994 (Socialstyrelsen, 1994:4). Reduction of staff has been the most common strategy. Within day care centres group sizes have increased from 15-20 and the staff-child ratio has risen to about 5-6 children (from 3-4) per full-time employed staff member in groups between 3 and 6 (Kärrby and Giota, 1995). This, in turn, has inspired misgivings about the prospects of upholding standards and about the impact of municipal retrenchment on activities for children and young persons. A recent investigation of the municipalities in Sweden suggests that parental fees for child care vary considerably between different municipalities. Fees for child care have increased much in recent years and this might mean that some parents can no longer afford a place. Many municipalities try to restrict places for children of unemployed parents, which has been highly criticised, because most parents consider child care as a citizenship right of children and not of parents in employment.

Reduction of staff means greater problems in integrating children with special needs, disabled or socially disturbed children, among whom we find children of refugees and immigrants, or children with social problems. The ambitions are still to protect these children but there are great problems. There is now a tendency to find special solutions for these types of children, i.e. to put them into separate groups or even into separate institutions (Socialstyrelsen, 1994:4). A study carried out in 1992 had the purpose of evaluating some of the changes. The investigators concluded that larger group sizes did not necessarily lead to lower quality. What was important was the leadership and the professional competence of the pre-school teachers. Also very important was the relationship between the staff and the parents, and the researchers concluded that more could be done by elaborating parent-staff relationships. In groups where many children already had social problems, larger group sizes had a higher probability of reducing child care quality. The rating of child care quality was based on a scale, Early Childhood Environment Rating Scale (Kärrby and Giota, 1995; Bjurek *et al*, 1993).

In a report on consequences of the shrinking economy from 1990-1994, the authors conclude that most of the cuts in municipal budgets have been at the expense of social welfare of children (Socialstyrelsen, 1994:4). We still have only sporadic knowledge about the consequences of the rationalisations, cuts and savings. It appears that the consequences in big cities are more severe. Some groups suffer far more than others, in particular those with low education and among lone mothers and immigrants. More systematic studies are needed in order to make solid evaluations of the consequences at different places.

Care of children and of older disabled people

Disabled children

The municipalities have the ultimate responsibility towards the disabled; it is the responsibility of the municipalities to make sure that disabled individuals are able to participate and live in the community on their terms (Fahlberg and Magnusson, 1993).

In 1994 a new Act concerning Support and Service for Persons with Certain Functional Impairments (in Swedish called *LSS*) came into force. According to these laws disabled individuals (including children) have a right to a personal assistant with financial support from the public sources. If the need for assistance is 20 hours or less a week, the municipality pays, if the need for assistance exceeds 20 hours, the state pays (Swedish Handicap Policy, 1994). Personal assistants are often kin-related to the disabled person. In February 1995 it was decided to limit the working-hours of kin-related personal assistants according to the laws on regular working hours. It was also decided that a disabled individual cannot be an employer of a kin-related person employed as a personal assistant (*Socialstyrelsen*, 1995:5).

The *LSS* reform is under debate, since it turned out to demand unexpected costs. The government is now investigating how to reduce costs. Some proposed measures have been suggested in the political debates, for instance, that children below 16 years should not be entitled to a personal assistant, but this has been strongly opposed in the public debates. A committee is preparing proposals.

Mentally retarded persons are no longer permitted to be admitted to major institutions according to the *LSS* (1994) (*Disability Policies in Sweden*, 1995). The municipality is responsible for provision of suitable housing. The municipality also carries the responsibility for providing home help service for disabled persons who pay for this service according to their income.

Participating in education, labour market, culture and leisure is important part of every individual's life. It is a goal that disabled individuals should have the same opportunities as others in the society in these areas. According to the Social Service Act, disabled children are assured the right to places in mainstream pre-schools and schools. Local authorities have the duty to provide the support needed for the disabled child. In the case of children with functional impairments, who cannot be given places in an ordinary pre-school, they are offered placement in special departments which are linked to regular pre-schools. A majority of children with mobility disabilities take part in ordinary education or special classes linked to ordinary schools. There are schools for children with intellectual disabilities, usually adjacent to ordinary schools. Parents of children whose functional impairments require special care are entitled to a care allowance until the child is 16 years. These care allowances are intended to cover both compensation for care and extra costs (*Disability Policies in Sweden*, 1995).

Regulation of marriage and relationships

Abortion and diagnosis of foetus

New rules have been introduced in order to strengthen the position of the woman concerning her pregnancy and to make decisions concerning herself and the foetus.

According to the Abortion Act of 1974, a woman has the right to an abortion up to the end of the 18th week of pregnancy if she asks for it. The upper time limit for an abortion is determined by the foetus' ability to survive *ex utero*. At present this means that abortions may not be performed after the end of the 22nd week. After the 18th week permission must be obtained from the National Board of Health and Welfare, which can approve an abortion in certain circumstances (*Family Planning*

in Sweden, 1994). A new rule from 1995 is that if the woman needs to discontinue her pregnancy for her own health reasons, this shall no longer be called 'abortion' but 'discontinuation of pregnancy' (Riksdag & Departement, 1995:18).

All women who ask for an abortion shall be offered the opportunity to consult a social worker both before and after abortion. This rule is an extension of services to woman and is also new from 1995. Before 1995 consultation was offered to women from the 12th to the 18th week of pregnancy. Another new rule concerns diagnosis of the health of the foetus. It is up to the woman herself to decide whether she wants to undertake such a diagnosis. Furthermore, she is entitled to obtain all the information available about the results of the diagnosis, i.e. to be fully informed about the health of the foetus.

Around 18 abortions per thousand women were carried out in 1985 and almost 20 in 1993. The percentage of abortions in relation to all known pregnancies has been constant at just under 25 per cent since 1975. Abortions are most frequent among women about 30 years of age. Ninety-four per cent of the abortions are carried out in the primary care services before the 12th week of pregnancy (Family Planning in Sweden, 1994).

Divorce and custody disputes

In case of divorce where children are involved, a proposal has been presented to Parliament that the opinion of children on matters of custody and visitation should be given more attention. However, children should not be forced to express their opinions about such matters in court, but should express their opinions within the framework of an investigation by a social worker before the case is presented at court. It has also been proposed that children shall have a greater influence on matters of custody (Riksdag & Departement, 1995:20).

A report (*Vårdnad boende umgänge*, 1995) has been prepared with several proposals concerning custody disputes. Many reforms have already been implemented in order to minimise the risk of custody disputes between divorced or separated parents. It is, for instance, a general rule that a child remains in the joint custody of the parents even after divorce, unless one of the parents requests that the joint custody be annulled. However, joint custody cannot be awarded if one of the parents is opposed to such an arrangement. In the report it is proposed that the court could refuse to annul or order joint custody if it is considered to be against the best interests of the child. It is also proposed that the court will be authorised to decide which parent the child should live with, even where the parents have joint custody. It was supposed that parents generally reach an agreement on this matter, but this supposition turned out to be wrong.

The most important proposal made in the report concerns the procedures in custody disputes. It is proposed that social workers should assist parents in so called 'co-operation talks' with the aim of helping parents to reach agreement. One purpose is to minimise the involvement of courts in custody disputes. Co-operation talks have been an established practice in some places for several years already. An evaluation of the talks undertaken by the committee show that they are a useful instrument for solving custody disputes. Approximately 80 per cent of these discussions led, in 1993, to parental agreements. These talks are beneficial to society

from an economic point of view - quite apart from the value for the involved partners in avoiding sometimes distressing court disputes.

The policy process: actors and agencies

Developments arising from the International Year of the Family

A basic principle underlying Sweden's participation in the International Year of the Family was that the Year should provide an opportunity for taking stock of what was being done in various sectors. The National Action Program which was adopted was oriented towards inventory, research and information on family matters and issues of interest for family policy. Thus, the task of the Committee was not to investigate nor to propose measures but to collect experiences. One conclusion of the Committee is that measures should be taken to promote the long-term supply of information and scientific knowledge in the domain of children and families. One suggestion which has been discussed is the possibility of establishing a longitudinal demographic data base on children. In addition, the Committee has found it to be particularly important to highlight problems of the following groups: Isolated mothers and absent fathers and children living in conflictual relationships after divorce; young people, living in unstable relationships with adults; Immigrant and refugee families, particularly isolated immigrant mothers and their children but also separated men and second generation immigrant youth.

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CHAPTER 16

Trends and Developments in the UK in 1995

by

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Introduction

Families and family policy remain very central to political debate in the UK. In December 1994 Virginia Bottomley, then Minister for the family, claimed that the International Year of the Family had ensured that 'families have taken their rightful place in the heart of the social policy agenda' (IYF Agenda for Action, 1994)¹. She also elaborated her view of the four essential duties of government in relation to families. These were first, to acknowledge the privacy of family life and thus to recognise the responsibility of parents and the importance of keeping the state out of private family matters; second, to ensure that the framework of law underpins family life in a changing world; third, to ensure that protection and help is available when family relationships do not provide the support that they should; and finally, to support public agencies, including voluntary bodies, which provide practical help for families. Thus the role of the state is defined as secondary to that of the family: the government picks up the pieces when things go wrong but otherwise leaves families to get on with things in their own way. However it has been argued that, alongside an agenda which stresses the 'burden' of public expenditure and the need to cut costs, this has led to policies which have sought to increase the role of families and reduce the role of the state (Jones and Millar, 1996)².

Although average living standards are rising, the trends noted in last year's report towards greater income inequalities and polarisation between 'work-rich' and 'work-poor' families continue to provide the context in which to place the experience of families. The latest figures from the *Households below average income* series³ show that of the population as a whole in 1992/3, 45 per cent live in families with children (38 per cent couples and seven per cent lone parents). Of the bottom income decile (measuring income after housing costs), 58 per cent live in families with children (47 per cent couples and 11 per cent lone parents). About 24 per cent

¹ International Year of the Family Agenda for Action (1994) *Speech by the Rt Hon Virginia Bottomley MP* London: Department of Health Press release 94/576, 8 December 1994

² H. Jones and J. Millar (eds) (1996) *The politics of the family*, Aldershot: Avebury

³ DSS (1995) *Households below average income: a statistical analysis 1979-1992/3*, London: HMSO.

of couples with children had incomes, after housing costs, of less than half the average, as did 58 per cent of lone parents. In 1995 there were a number of publications, from various diverse groups and organizations, which highlighted the problems that increasing economic polarization and insecurity are causing. The Joseph Rowntree Foundation, in their *Inquiry into Income and Wealth*, concluded that 'in many areas of the UK the living standards and life opportunities are simply unacceptably low in a society as rich as ours' and argued that this 'is a problem not only for those directly affected, but also damages the social fabric and so affects us all' (Barclay *et al*, 1995, Summary)¹. A report based on discussions in a series of seminars organised by the Family Policy Studies Centre (1995, p5)² concluded that there was a need to 'reassess strategies for dealing with poverty and work concerns and to base new policies on an appreciation of how different types of families are differentially affected by both a changed labour market and a relatively unchanged benefit system.' Young and Halsey (1995) in a report published by the Institute for Public Policy Research³ argue that 'the plight of children is again... posing the most serious social problem of our time' and they put forward a series of policy proposals intended to support and sustain family life in the context of 'community socialism'.

Families themselves remain characterised by insecurity with (as discussed below) continuing high rates of divorce and low rates of marriage. Debate about both the causes and consequences of these trends has been intense - much more so than debate about the causes and consequences of family poverty. For example, Morgan (1995) has argued that the Conservatives have positively discriminated against married couples and working fathers in favour of lone parents. She suggests that state support for lone parents has led to a decline in marriage and the rise of a class of young men whose status is self-defined by predatory sexual behaviour and violence. Her conclusions are controversial. However there have been some reductions in benefits for lone parents, intended to improve parity between lone and two-parent families (see section 3 below). The proposed reforms of divorce law have also been highly controversial (see section 1 below). The Board for Social Responsibility of the Church of England published their report *Something to Celebrate* (1995)⁴ and this too created much controversy. The proposal in the report that the phrase 'living in sin' was inappropriate to describe cohabiting couples received the most media publicity but the report as a whole stressed (p.210) 'the need to recognise and value the different ways in which people live in families at the end of the twentieth century'. The report concluded with a list of 12 'recommendations to the nation'.

Major legislative changes affecting families

Child Support Act 1995

Following the publication of the White Paper *Improving Child Support*⁵ in January 1995, a number of changes were introduced to the child support system in a package

¹ Barclay P (chair) (1995) *Report of an Inquiry into Income and Wealth*, York: Joseph Rowntree Foundation.

² Bayley R, Condy A., Roberts C. (1995) *Policies for families: work, poverty and resources*, London: Family Policy Studies Centre.

³ M. Young and A.H. Halsey (1995) *Family and Community Socialism*, London: IPPR.

⁴ Board for Social Responsibility of the Church of England (1995) *Something to Celebrate*, London: Church of England.

⁵ DSS (1995) *Improving child support*, London: HMSO

of Regulations and the Child Support Act 1995. These changes have been made in the light of the running of the scheme in order to address the main areas of concern that have arisen, to avoid undue hardship for the parents involved, and to enable the Child Support Agency to operate more effectively.

The changes have been introduced in stages since April 1995 and include: an allowance in the assessment formula for travel to work costs and provisions to recognise existing property and capital settlements; a cap on maintenance assessments which restricts the amount an absent parent is assessed to pay to a maximum of 30 per cent of net income; changes to streamline administration including simplifications in the review procedures and in the definitions of housing costs and earnings for the purposes of the maintenance assessment; provisions paving the way for the introduction of future changes which will allow for a departure from the formula assessment in circumstances to be prescribed in regulations, and for the payment of a Child Maintenance Bonus to lone parents moving off income support and into employment. One of the aims of these changes is to make the scheme more acceptable to absent parents, thus making them more willing to pay child support and hence benefiting the lone parents. Others have argued that these changes will mean lower assessments and hence less money for lone parents. Much depends, of course, on whether payments can be successfully enforced.

Carers (Recognition and Services) Act 1995

Introduced as a Private Members Bill, the Act became law in June 1995 and comes into force in April 1996. It will enable people looking after disabled or sick relatives or friends to have their needs for support assessed. The Act gives recognition in statute for the first time to the needs of carers when deciding what services are to be provided. It does not, however, guarantee that a service will be provided. These provisions do not, however, apply to young carers (for example, children and young people who may be providing care for their parent or parents) and this is an area of growing concern and controversy.

Jobseekers Act 1995

In October 1996, Jobseeker's Allowance will be introduced, replacing Unemployment Benefit and Income Support for unemployed people. Unlike Unemployment Benefit, which is payable for up to one year, the contribution-based Jobseeker's Allowance will only be payable for up to six months. The income-tested Jobseeker's Allowance will be payable for as long as the claimant meets the entitlement conditions. The Act also includes measures to encourage the unemployed to be more active in seeking work. At the start of a claim all claimants will be required to complete and sign a Jobseeker's Agreement, as a condition of receiving benefit. Sanctions include the fact that Employment Service officers can deduct benefit if a claimant fails to undertake tasks to improve their chances of employment; inducements include a 'back to work bonus' of up to £1,000 to encourage part-time employees receiving JSA and Income Support to leave benefit for full-time jobs.

Marriage Act 1994

Introduced as a Private Members Bill, the Act brings about two changes: that couples no longer need to wed in the district of residence of one or both of them, and that they do not need to marry at a registry office anymore. The first of these reforms has been in force since the beginning of 1995. The second, implemented in April

1995, allows the Secretary of State for Health to make regulations permitting local authorities to approve sites other than their own registry offices.

Pensions Act 1995

Introduced to create a regulatory framework to protect pension scheme members and to equalise the retirement age between men and women to 65, to be phased in over 10 years from April 2010. Amendments to the Matrimonial Causes Act 1973 and the Family Law (Scotland) Act 1985 extend the powers of the courts to take account of pension rights on divorce. In particular, the provisions enable courts to require a pension scheme to pay maintenance, against the pension in payment to an ex-spouse, on behalf of the scheme member; and to include part or whole of lump sums payable on death for benefit of the former spouse. The regulations to implement this provision will be effective from July 1996, but will not require schemes to make payments direct to ex-spouses until April 1997.

Children (Scotland) Act 1995

This Act deals with the rights and responsibilities of parents and guardians towards children and decisions about family matters, the promotion of children's welfare by public authorities, the operation of the Children's Hearings system, and amendments to the law on the adoption of children. The underlying themes of the Act are that the welfare of the child is paramount and intervention should only occur when to do so is better for the child than not, and that children's views should be taken into account regarding major decisions affecting them and their future.

The Act aims to promote the continuing involvement of both parents in the care of their children even when children are 'looked after' by local authorities. Local authorities also have a duty to safeguard and promote the welfare of children defined as 'in need'. This includes, among others, children adversely affected by the disability of other family members and so there is some provision in this Act for assisting young carers in Scotland. Local authorities are expected to prepare and publish children's service plans and publish information about the services which they make available.

The Children (Northern Ireland) Order applies similar provisions in Northern Ireland.

Disability Discrimination Act 1995

Received Royal Assent in November 1995, this Act outlaws discrimination against disabled people by employers with 20 or more staff, by all service providers (other than those providing education or operating transport vehicles), and by those selling or renting property. It also places new requirements on schools, colleges and universities to publicise their access arrangements for disabled students. The Act also gives the government power to set access standards for new taxis, buses, trains and trams. A National Disability Council is created (February 1996) to advise the government on discrimination against disabled people. Unusually, this is UK-wide legislation and hence includes Northern Ireland, where a separate Northern Ireland Disability Council has been established.

Forthcoming legislation

Family Law Bill 1995

In England and Wales this will end the reliance on fault-based facts to prove the irretrievable breakdown of marriage (upon which 75 per cent of divorces are based)

as a quick route to divorce, and provide that irretrievable breakdown of the marriage will be evidenced by an eighteen month period of reflection and consideration, after an initial statement of belief that the marriage has broken down. A greater emphasis will be placed on the use of comprehensive mediation rather than solicitors for couples to decide arrangements for children, money and property. The Bill also includes the power for the Lord Chancellor to make grants for marriage guidance and research. The Bill incorporates the abandoned Family Homes and Domestic Violence Bill and seeks to extend in cases of domestic violence the same rights to cohabitants as spouses. The Bill allows victims of violence to apply for occupation orders excluding the abuser from home. A 1976 Act of Parliament gave cohabitants the same right as spouses to ask for help to exclude an abusive partner, but the new Bill extends this protection to former spouses, former cohabitants and other relatives sharing a household. The Bill also allows for the first time the transfer of tenancies between cohabitants and former cohabitants. The Family Law Bill has provoked much debate in Parliament and there has been some opposition from a number of right-wing backbench MPs in the Conservative Party. The crucial issues of the removal of fault-based facts from divorce legislation, and the length of period for reflection and consideration have been the subject of free votes in both the House of Lords and the House of Commons.

Sexual Offences (Amendment) Bill

Presented as a Private Members Bill in the House of Lords, this Bill sought to make any sexual offence against a child under the age of 18 committed abroad, liable to be tried and punished in the UK if committed by a UK citizen. Although the Bill was not passed in July 1995, mainly because the proposed legislation was considered too difficult to enforce, the government has proposed instead to re-evaluate legislation on conspiracy to cover sexual offences committed abroad.

Housing and Construction Bill

Includes the government's plans to change the homeless legislation and new arrangements for allocating social housing, as set out in the White Paper¹. Each local authority will be required to establish and maintain a register of those seeking social housing and operate an allocations scheme. The government proposes to prescribe only the key principles on which allocation should be based, but this, it says, should reflect the underlying values of society. Allocation schemes should 'balance specific housing needs against the need to support married couples who take a responsible approach to family life, so that tomorrow's generation grows up in a stable environment.' A concern is that vulnerable groups, such as homeless people, single mothers and women leaving home through domestic violence, will lose their right to preference on social housing waiting lists.

Demography of families and households

Marriages and cohabitation

New data from the Office of Population Censuses and Surveys (OPCS) shows that the number of marriages fell to its lowest level for 50 years in 1993². The number of

¹Dept. of Environment (1995) *Our Future Homes: Opportunity, Choice and Responsibility*, London: HMSO.

²Haskey, J. (1995) Trends in marriage and cohabitation: the decline of marriage and the changing pattern of living in partnerships, *Population Trends* 80, Summer 1995, OPCS, HMSO.

marriages which were the first for both partners was also the lowest recorded since 1889, despite a much larger population. One important feature identified by OPCS is that marriage rates have fallen considerably at the youngest ages - those in their twenties. This is due to the increased popularity of cohabitation among young people and postponement of marriage. Living together before marriage has become the preferred option for the majority.

Divorce

The latest figures from OPCS show that the number of divorces in England and Wales declined by 4 per cent between 1993 and 1994 - the first fall since 1989¹. OPCS provisionally estimate that the divorce rate (the number of couples who divorced per thousand married couple) was 13.4 per thousand in 1994. The average age of divorce also continued to increase in 1994; both husbands and wives were 0.3 years older than their counterparts in 1993. The average age of husbands and wives who divorced in 1994 were 39.3 years and 36.7 years respectively.

Births

The number of live births in England and Wales fell by 9,000 in 1994². This was the fourth consecutive year to show a fall. Between 1993 and 1994 the total period fertility rate fell from 1.76 to 1.75. The fertility rates of women aged under 30 continued to decrease in 1994, while that of older women increased. The greatest increase - that of five per cent - was to women in their late 30s. The mean age of childbirth stood at 28.4 years in 1994.

Births outside marriage

The per centage of births outside marriage was 32 per cent in both 1993 and 1994³; the first time in 20 years that there has not been a rise. The number of births outside marriage fell by a thousand in 1994 - the first fall since 1976.

Teenage conception rates

The latest figures published for conception rates for women under 20 show the first drop in ten years⁴. In 1991 the rate was down to 65.1 conceptions per thousand women under 20 from 69.1 in 1990. In 1992 the rate fell again to 61.7. This is in line with the Health of the Nation's target to reduce the rate of conceptions amongst women under 16. (The rate has also fallen for under 16s -10.1 in 1990,9.3 in 1991, and 8.5 in 1992).

Abortions

The rate of abortions in England and Wales in 1994 fell for the fourth consecutive year to 12.2 per thousand women aged 14-49 in 1994⁵. The number of abortions in 1994 to women resident in England and Wales was 157,000, representing a fall of 0.8 per cent from 1993. In Northern Ireland abortion remains illegal, except where necessary to save the mother's life or prevent risk of serious physical or mental harm to her.

¹ *Population Trends 82*, Winter 1995, OPCS, HMSO.

² *Ibid.*

³ *Ibid.*

⁴ OPCS Monitor FM1 95/2 *Conceptions in England and Wales, 1992*. London: HMSO

⁵ *Population Trends 82*, op cit.

Government financial policies towards families

Social security benefits

Measures to reduce the rights of non-residents and refugees to claim social security benefits have been introduced, amid much controversy. In August 1994, the government introduced legislation which bans people who are not habitually resident in the UK from receiving income support, housing benefit and council tax benefit. There have been some well-publicised cases of people returning home to the UK from working abroad and being refused benefit.

From February 1996, people from outside the European Economic Area who are subject to immigration control and who apply for asylum after arrival in the UK will have no access to benefits; and those whose application for refugee status is refused will lose benefit immediately (instead of being able to receive benefit until the appeal process is completed). These changes will mean that 70 per cent of asylum seekers will be disqualified from claiming benefits. In 1994 there were 42,000 asylum seekers or refugees - these measures seek to save £200 million a year.

The rates of One Parent Benefit and the lone-parent premiums in income-related benefits will not be increased in the annual upratings of benefits in April 1996. This is in order to redress what it sees as the current discrimination in the benefits system in favour of lone parents compared with two-parent households. At the same time the government is introducing a number of other measures designed to help lone parents into work.

Child Support Agency

Criticism of the Child Support Agency (CSA) continues with the publication of several reports on the high proportion of incorrect assessments that it makes. One report by the Chief Child Support Officer found that only three in ten (29 per cent) of assessments of monthly sums to be paid by absent parents were correct and were calculated according to the proper procedures. However, the latest report of the Social Security Select Committee commented that the Agency is 'now on a surer footing and a whole range of indicators suggest that improvements are being made'. The latest figures from the CSA show that £187 million was paid by absent parents in the financial year 1994-95. This represents an average of £43 a week for lone parents with one child and £70 for those with two children. In 1995 60,000 lone parents stopped claiming benefits within four weeks of being contacted by the CSA, saving another £200 million.

Housing benefits

Income support is no longer available to cover mortgage interest for the first nine months of unemployment for those who became unemployed and had taken out a mortgage after October 1995 (announced by the Chancellor in the November 1994 budget). The government has put forward a new policy to cut extra help with housing costs by stringent controls on exceptional hardship payments paid to tenants of private landlords. The new arrangements require local authorities to calculate a claimant's eligible rent for housing benefit purpose with reference to the Rent Officer's determination. However, authorities have a discretion to pay higher amounts of benefit to claimants to prevent 'exceptional hardship', where there is a shortfall between the amount of benefit payable and the contractual rent. The rules now give authorities powers to look at each case on an individual basis and to take

into account local conditions, the needs of the claimants and also, where applicable, the circumstances of members of the claimant's family.

Research

According to a new report, the government's failure to uprate social security benefits in line with earnings has contributed to the growing inequality between the incomes of the rich and the poor¹. A report looking at the support young people receive from their families and from the state found that the extension of dependency (by effectively raising the age of access to benefits to 18 years in the 1980s) and the withdrawal of state support (young people aged 18-24 do not qualify for adult levels of benefits) means that increasing numbers of young people are forced to seek help from their families when they might have been expecting to have become independent of them². A major inquiry into income and wealth³, published in 1995, found that income inequality in the UK is at its greatest since the second world war, and that since 1977 the number of people with an income less than half the average (often used as a proxy for measurement of poverty) has trebled. Moreover, there are twice as many children in the poorest tenth of society as in the richest tenth. The inquiry also reported a polarisation between dual income families where both parents work, but are able to spend less time with their children, and lone-parent families or families with neither parent in work.

A study by the Institute of Economic Affairs has challenged the claim that the number of people living in poverty in Britain has risen dramatically in the last decade⁴. The author of the report argues that the widely used definition of poverty of someone with an income less than half the national average takes no account of generally rising standards in society. The author also notes that when poverty is measured by expenditure patterns the results are very different.

At the end of February the Joseph Rowntree Foundation (an independent, non-political body) published a review of the family debate in the UK⁵. One of the report's main findings is that for the last 30 years successive governments have eroded the relatively favourable direct taxation of working parents. For example, the direct taxation burden of a couple with two children under 11 has risen from nine per cent of average gross earnings in 1964/65 to 21 per cent in 1978/79 and 22 per cent in 1994/95. Consequently, despite political rhetoric about family life there has been a drift away from recognising the costs and demands of parenthood. The report calls for more effective action to support families.

Reform of the welfare state

A report by the House of Commons Social Security Select Committee has said that welfare spending is spiraling out of control and has urged the government to fund research into ways of preventing the benefits system creating a 'dependency culture'⁶. The Chancellor of the Exchequer, Kenneth Clarke, has defended the

Bradshaw, J. and Lynes, T. (1995) *Benefit Uprating and Living Standards*. York: Social Policy Research Unit, University of York.

²Jones, G. (1995) *Family support for young people*. London: Family Policy Studies Centre

³Joseph Rowntree Foundation (1995) *Inquiry into Income and Wealth*. York: JRF

⁴Pryke, R. (1995) *Taking the Measure of Poverty*, IEA, London.

⁵(Utting, D. (1995) *Family and Parenthood: supporting families, preventing*

⁶ House of Commons Social Security Select Committee (1995) *Review of Expenditure on Social Security*, London, HMSO.

welfare state against those in the Conservative Party who want an end to universal provision. He said that they were playing into the hands of Labour Party critics who foresee the creation of a 'poverty-stricken underclass.' A new book by Frank Field says that Britain's welfare system is 'broken-backed'¹. He believes that the welfare system should be reconstructed over a 20 year period by progressively replacing means-tested assistance by a new insurance system run by a National Insurance Corporation. The Conservatives have indicated that they may drop their commitment to a universal Child Benefit in their next election manifesto. The Labour Party has also hinted that might means-test Child Benefit if it comes to power. The Labour Party has announced that it is setting up a review of the welfare state. Central to this are measures which help the jobless back into work. Other principles underlying the review include: a recognition that benefit strategy must relate to other policies, such as child care and employment generation; the affordability of provision and the promotion of personal responsibility; and a crackdown on fraud and error.

Protection of workers and reconciliation of work and family life

House of Commons Employment Select Committee proposals to help working parents were rejected by the government. Ministers said that they would impose costs on employers and destroy jobs. The proposals included the recommendation of five days paid or unpaid statutory paternity leave, the extension of statutory maternity leave to those not presently eligible, an increase in statutory maternity leave from 14 to 18 weeks and extending tax relief on child care. There has been debate about who should bear the cost of maternity pay (90 per cent of average weekly earnings for six weeks, followed by 12 weeks at flat-rate). At present employers can recoup 92 per cent from the government (small businesses can recoup 105 per cent). Press speculation that the government proposed to shift costs onto employers aroused strong opposition from the employers organisation and the trades unions.

Care of children and of older and disabled people

Children

The Department for Education and Employment is planning to introduce a child care vouchers scheme from February 1997 onwards. Each parent with a four year old child will be given vouchers to the value of £1,100 to spend on child care. The vouchers can be spent in the public, private or voluntary sectors, and on full-time or half-day classes in playgroups, nurseries or schools. Institutions wanting to take part in the scheme will have to meet stated learning outcomes. The scheme will cost £730 million (of which £545 million can be reclaimed from local authorities). The scheme is designed to offer parents more choice and flexibility about where to send their children.

Critics have pointed out that very few private providers offer pre-school care for as little as £1,100 per annum and parents will have to top up the fees. A concern is that those parents living on a low income will not be able to top up the fees and therefore will find it difficult to take advantage of the scheme. The use of vouchers may penalise local authorities which spend the most on nursery education, and lead to

¹ Field, F. (1995) *Making Welfare Work: Reconstructing Welfare for the Millennium*, London, Institute of Community Studies.

lower standards in nursery schools. So far, only three local councils have decided to participate in the pilot first year of the plan.

In Northern Ireland money from the EU Structural Funds has been used to support the development of early years services, including nursery education. This provides an interesting precedent for other regions.

There were 34,900 children and young people on the child protection register at the end of March 1994 (up seven per cent on the previous year)¹. According to the Association of Directors of Social Services, most social services departments are running into the red on their children's services budgets because of the soaring demand for their help. The association warns that child protection work will have to be cut if budget restrictions are to be met. The results from a major programme of research on child protection commissioned by the Department of Health were disseminated in 1995. These suggested that child protection work should be complemented and balanced by family support services which would enhance the preventive aspect of work with children and families, rather than the reactive approach to individual incidents of child abuse. The Department of Health announced a new research initiative 'Supporting parents' in October 1995, in the context of informing the government's parenting initiative and wider family policy.

Following the controversial High Court judgment over smacking in 1994, guidelines have been issued confirming the right of childminders to smack children in their care where they have the consent of the parents. Local authorities should no longer refuse to register these childminders solely on the grounds that they are not prepared to give an undertaking not to use corporal punishment. Department of Health guidance published in December 1994 states that childminders should not normally smack a child as a means of dealing with bad behaviour, and in no circumstances should shaking be used.

The UN Committee on the Rights of the Child issued its response to the UK's first report on the implementation of the Convention on the Rights of the Child. Although it praised the government's policies complying with the standards set by the Convention, it raised a number of areas of concern, namely plans to establish secure training centres, the high number of children living in poverty, and the endorsement of parent's right to smack their children².

Exclusion of children from primary school is increasing. Research shows that the majority of excluded children come from families facing a range of problems and that they lost three-quarters of a year's schooling, on average. It was found that the cost of other services was greater than if resources had been directed to keeping the child in school³.

A report on rural child care⁴ found that Britain had the worst provision in Europe, with places only available for 35 per cent of children between three and school.

¹ Department of Health (1995) *Children and young people on Child Protection Registers*, year ending 31 March 1994.

² Committee on the Rights of the Child-Eighth session (1995) *Consideration of reports submitted by state parties under article 44 of the Convention - concluding observations: UK*

³ Parsons, C. et al (1994) *Excluding primary school children*. London: Family Policy Studies Centre

⁴ Cohen, B. (1995) *Child care services for rural families*. Glasgow: EC Child Care Network

Concerns were expressed that unless there were more services for under-fives women wanting to go back to work would leave the countryside.

Children and the law

Under Section 16 of the Criminal Justice and Public Order Act 1994 that came into force in January 1995, children as young as 10 can be detained for more than 14 years for crimes such as rape, grievous bodily harm and indecent assault. Previously, children aged 10 to 13 could only be sentenced to long-term detention for murder and manslaughter. The courts will also be able to sentence criminals (aged over 10) to a curfew in their own homes with the use of electronic surveillance tags. Under the same Act, courts were given powers in February 1995 to make parents ensure that their children who have offended comply with community sentences. This extends the courts' power which could previously bind over the parents of re-offenders to parents whose children have not re-offended but have failed to comply with community sentences. If parents refuse to be bound over they can be fined £1,000.

A recent survey of 15 and 16 year old boys held in prison awaiting trial found an 86 per cent increase in the year running up to September 1994 over the previous year¹. Details were announced of the introduction of the UK's first 'high intensity training' regime at a young offenders institution, beginning in summer 1996. This will involve a 'rigorous 16 hour day starting with drill before breakfast' with hard physical exercise, education and training to develop work skills, programmes to address offending behaviour, and intensive supervision and assistance on release.

Care of the frail elderly

The Prime Minister's Policy Unit has been looking into ways of protecting the money tied up in homes of elderly people who go into residential care. Some of the suggestions put forward include allowing elderly people to invest the proceeds of their house in a trust, special tax concessions to encourage people to save for long term care and the development of care insurance. The Chancellor of the Exchequer announced moves to allow people paying for long-term care to keep more of their savings, and to enable people to insure against future care costs, in his November Budget. The lower savings limit (below which the state pays for residential and nursing home care) is to be raised from £3,000 to £10,000 and the upper savings limit (above which people pay for all of their own care) will increase from £8,000 to £16,000 from April 1986, or sooner if this is practicable.

Disability

Incapacity Benefit was replaced by Incapacity Benefit in April 1995. A new medical test (the 'all work' test) involves the claimant, their doctor and a Departmental doctor in an assessment of the effects of the medical condition on a person's ability to carry out a range of work-related activities. The threshold for entitlement reflects the point at which the ability to perform work-related activities is substantially reduced, not the point at which work becomes impossible. It is estimated that around 240,000 people formerly receiving Invalidity Benefit will lose entitlement to benefit.

¹ National Association for the Care and Resettlement of Offenders (1995) *A crisis in custody: findings from a survey of juveniles in prison awaiting trial*. London: NACRO

Families under stress

A report by NCH Action for Children on the effects and consequences of domestic violence on children found that the short-term effects of violence on children were that they became fearful, withdrawn, anxious, aggressive and suffered from disturbed sleep, difficulties at school and problems making friends¹. The report put forward a range of detailed recommendations, including one that mothers and children leaving violent men must have priority for permanent, affordable housing, and that they should only spend a very short time in temporary accommodation. This would mean the government dropping its plans to amend the homeless legislation which may deprive these mothers and children of the automatic right to permanent rehousing, making it harder to leave the violent home (see forthcoming legislation).

Homeless families have a greater risk of unplanned admission to hospitals and increased consultations with GP's, according to a report by the Standing Conference on Public Health². A study in the *British Medical Journal* says that children of single mothers have twice the injury rate of children in two-parent families, and the highest death rates of all social groups. However, when the mother gets a job the risk of injury reduces to that of two-parent families³. The authors of the report blame the higher injury rates on the poverty, poor housing and social isolation of many single mothers, and call for more affordable day care to allow single mothers to go to work. The Home Office and Welsh Office published an interagency circular on domestic violence in August 1995, following as similar policy framework document, *Tackling domestic violence*, published by the DHSS in Northern Ireland in June 1995. The NI Regional Forum against domestic violence was also established to oversee implementation of the framework across statutory and voluntary sectors.

The policy process: actors and agencies

The new Secretary of State for Health and Minister responsible for the family is Stephen Dorrell. He took over from Virginia Bottomley during 1995. In its leader column, sub-titled 'Anyone heard from the Minister of the Family?', the *Guardian* newspaper (27.12.95) criticised the new Minister for his inactivity, pointing out that there was no record of him giving a speech on the family since his appointment or of instituting Ministerial meetings to review the impact of government policies on the family, as promised by his predecessor.

Developments from the International Year of the Family

In December 1994 the then Secretary of State for Health, Mrs Bottomley, announced the setting up of a parenting initiative by the Department of Health. This included support for parenting programmes and initiatives around the country, a longer term research programme and a small scale national study. The parenting initiative projects plan to build upon some of the best ideas arising out of the International Year of the Family 1994. The focus is on parenting in its widest sense, with 38 projects selected in three main areas: projects concerned with providing training

¹ NCH Action for Children (1994) *The hidden victims: children and domestic violence*. London: NCH

² Nuffield Provincial Hospitals Trust (1995) *Housing, homelessness and health*. London: NPHT

³ Roberts, I. and Pless, B. (1995) 'Social Policy as cause of childhood accident: children of lone mothers, *British Medical Journal*, Oct 95, Vol 311, Pg 925.

materials and information; projects from religious groups and organisations concerned with marriage and the family; and help lines and local community based projects.

Concluding comments

In recent months family-related debate has focused in particular on the issue of divorce reform and the history of this illustrates the political difficulties that dog reform in this area. The proposals which are currently (April 1995) being debated in the House of Commons date back to recommendations put forward by the Law Commission in 1988. These were subject to widespread consultation before the drafting of the proposed new legislation and the measures appeared to command general support. Nevertheless, once in the political arena, there was immediate and intense opposition from sections of the media and from Conservative Party members in both the Lords and the Commons (including government Ministers). Indeed it is only because of support from members of opposition political parties that the Bill has survived. Those in opposition believe that any reforms along the lines proposed will lead to a further weakening of marriage, and even higher divorce rates.

The 'break down' of the family, and of family responsibilities, is also at the centre of the continuing debate over the Child Support Act. Problems with administration continue to make headlines but the government has stuck steadfastly to the position that the Agency can be made to work, but requires a settling-down period. Although some opposition MPs have been highly critical, there is no commitment to abolish the Act if there were a change of government (1997 will be an election year unless the government are forced, or decide, to seek re-election earlier: their majority in Parliament is very low).

Lister (1996:29)¹ has argued that 'it is family politics rather than family policies that have thrived during the first half of the 1990s'. She suggests that rhetoric over family breakdown has been strong but policies have failed to tackle the key issues, in particular family poverty and changing patterns of family life. Family issues - especially about the relationship between family life and paid employment, about ways to recognise family diversity but support family life, and about how to alleviate and prevent family poverty - all remain central to policy debate in the UK.

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CHAPTER SEVENTEEN

Conclusion

Since the last series of reports, the European Union has expanded to fifteen members, with the accession of Austria, Sweden and Finland, and the dust has settled on the International Year of the Family, which raised the profile of family policy and has given rise to new developments in a number of countries. During 1995, Portugal created the post of High Commissioner for the Promotion of Equality and the Family, Ireland established a Commission on the Family (which is expected to present its interim report in October 1996), and in Italy a standing committee on family affairs was created. In Spain the establishment of a Commission on the Family has initiated a fresh debate. In Sweden, by contrast, the Year of the Family was seen as an opportunity to take stock of what was being done, and was geared more to research and analysis than to the proposal of new measures. 1995 was also, however, a year in which innovation was severely hampered by financial considerations. If money is essential for the well-being of individual families, it is also a prerequisite for the development of family policies. Financial constraints dominated the political agenda across Europe in 1995, and continue to do so as we write, as eleven of the member states of the Union are formally warned about their ability to comply with the criteria imposed by the Maastricht agreement on monetary union.

Family policies have been important in election debates in Spain, Portugal, and Italy. The introduction of a minimum income guarantee had been an electoral promise of the incoming government in Portugal, and it is expected to be implemented during 1996. In Spain, where a long-standing antipathy to explicit family policies had been a legacy of the Franco years, there is currently a renewed interest in family policy, particularly on the political Left. The harsh realities of the economic situation faced by families enduring high rates of poverty and unemployment, and the rapidly declining birthrate may both have been significant spurs in this direction. There have also been changes of emphasis in other countries. In Sweden, there has been a conscious decision to target assistance on those groups which are experiencing particular problems, such as isolated lone mothers, absent fathers, immigrants, refugees and adolescents living in unstable relationships with their parents. Similarly in Denmark, there is what is described as a 'two-track' system, with one set of measures geared to all families and another to those with special needs. A particular concern at present is to identify families which are not so distressed as to have reached the notice of existing services, but which could benefit from early preventative intervention. Greece observed the emergence of a

homeless population for the first time in 1995, as the traditional family showed signs of role-overload. In Italy the family is also described as being 'at the limits of its capacity'. Measures to improve protection for family members suffering violence have been strengthened in some countries. In Ireland, the Domestic Violence Bill 1995 now provides remedies for cohabiting partners and other family and household members, as well as broadening the provisions which apply to spouses, and creates for the first time a power for the Health Board to apply on behalf of an abused person. Portugal increased the legal penalties for abuse of children, partners and other people in kin or employment relationships, and it is proposed that a number of refuges will be opened during 1996.

Families are reported as bearing the brunt of economic problems in Germany. Austria has experienced cuts in family benefits, and major reductions of tax allowances are expected next year. Increasing inequality between families, particularly between those where no-one works and those with two employed parents, is also noted in several countries, including Sweden and the UK. A policy decision to reduce expenditure on individual cash transfers rather than public services in Sweden has meant that the impact of cuts has been experienced at the level of household income; this has particularly affected low-income households. Rates of social assistance receipt by families have increased considerably in Sweden and Finland. In Sweden, levels of social assistance, which vary from one municipality to another, have become very divergent: around 40% of municipalities pay less than the national norm. Whilst cuts in social protection have been almost universal in response to the demands imposed by the Maastricht criteria, there have been attempts to 'ring-fence' provision for families in most countries, and some countries witnessed the introduction of improved financial measures in favour of families. In Sweden, levels of benefit have been reduced, but coverage has generally been maintained, although some benefits for larger families were abolished or reduced. In Ireland, child benefits were substantially increased as part of the introduction of a basic income policy for children, whilst tax allowances were reduced. In Belgium it is proposed to abolish existing occupational distinctions in child benefits in favour of a universal system. Reforms to fiscal measures in respect of children have also been proposed, as these are least effective for low-income groups. Tax allowances in respect of dependant children were increased in Spain and Italy. In Germany, increases in child benefit and tax allowances were made, and the two systems were aligned, to the advantage of low-income groups. In the Netherlands, measures to provide additional assistance to poor households have also been introduced.

A vigorous debate on the merits of universality and selectivity has been a feature of debate concerning social protection in several countries, including Belgium, Luxembourg and Portugal. In France, the notorious Juppé plan proposed cuts to family benefits which were at odds with that country's traditional attachment to horizontal redistribution and a conception of family policy which sees it as being distinct from social policy. These traditions, however, obviously remain influential and played a major part in limiting the scope of the proposed reforms. If the measures adopted during the last year apparently move France somewhat in the direction of other European policies, it remains to be seen to what extent this represents a new stage in the development of French family policy rather than simply a temporary compromise demanded by the current adverse economic

conditions. Germany has also demonstrated a greater concern with vertical redistribution than previously.

Overall there have been few developments concerning changing work patterns during 1995. In Belgium (Flemish community) rules governing eligibility for compensation for reducing work hours were relaxed and new legislation was introduced providing a legal framework for home-based employees. In the UK, a campaign was launched against the so-called 'long hours culture' which seeks to highlight the negative effects of excessive working hours on both individuals and organisations. In the Netherlands a campaign aimed to secure a 36-hour standard working week in exchange for flexibility (such as Saturday working) on the part of employees. Germany reported changes in maternity protection measures in compliance with the EU Directive and Belgium removed barriers to night-working for women which were in breach of the Equal Treatment Directive. Non-transferable paternal leave has been introduced in Sweden (30 days) and extended to all occupational groups in Portugal (two days).

Public expenditure cuts have impacted on child care provision in several countries. Countries with child care guarantees are finding them difficult to implement. In Denmark, compensation in respect of child care leave was reduced during 1995, creating an increased demand on child care places as parents returned to work earlier. The child care guarantee in Germany, due to take effect in January 1996, will be implemented late by a number of Länder, and in Finland, the decision to extend the child care guarantee to all children under seven was taken despite the protests of the municipalities. In Sweden, staff ratios have been reduced and there have been attempts to restrict use of child care facilities by unemployed parents; fees are also rising. In Luxembourg increased eligibility for child-rearing allowances has created incentives for parents to remain at home, or work part-time, while children are young, especially as fees for child care remain very high. Grandparents continue to play an important role in the provision of child care, especially in Spain, Portugal, Italy and Greece. There are moves to increase the number of child care places available for children aged from three to six years old in Portugal, and in the UK, a child care voucher scheme to begin in February 1997 will provide a subsidy of £1,100 for each four-year-old child.

Care of the elderly has not emerged as a key issue in this year's reports, although there have been some developments in this area. Austria has introduced a care allowance for those in need of personal assistance, and Ireland has relaxed eligibility conditions for carer's allowance. The German care insurance scheme came into operation during 1995. Luxembourg is continuing to progress towards implementation of dependency insurance, and a Bill is to be introduced during 1996. In the UK, a Health Select Committee into current and future funding arrangements in respect of residential care is due to report in 1996. Belgium has gone some way towards recognising the needs of carers with the introduction of a scheme of paid leave, although this is currently available only to those caring for someone who is terminally ill rather than those with chronic and long-standing conditions. In Greece, there are signs that families are finding it increasingly difficult to continue caring for their elderly relatives; however, access to services for elderly people has improved considerably, and there have been innovations in service development for disabled children and adults. The incoming government

in Portugal has also pledged to continue a programme of improvements to services for elderly people; progress had previously been very slow.

In line with the UN Convention on the Rights of the Child, countries are increasingly recognising the right of children to be represented in matters which concern them, although the approach adopted varies. In Luxembourg, family law proceedings are increasingly taking account of the individual interests of children: legal aid amendments in 1995 allowed for the independent legal representation of minors. In Sweden there have also been moves to improve the representation of children, but a more 'protective' approach has been adopted, with children making their views known by means of interviews with social workers. In Austria a mediation service for divorcing couples and their children was established in 1995.

Children's rights have also been at the forefront of debates about adoption, and particularly inter-country adoption, which have taken place in several countries, including Spain, Belgium and Greece. In Spain new legislation has been introduced concerning the rights of children, and adoption arrangements have been modified to ensure compliance with the Hague Convention and the UN Convention on the Rights of the Child. Legislative responses to child sexual abuse have been strengthened in Ireland and Portugal, and legislation aimed at curbing child pornography was introduced in Belgium. In Luxembourg, a new organization 'Protecting Children's Rights' was established at the end of 1995, and an information centre for young women was also opened during the year. In Denmark a comprehensive statistical description of children's living conditions was published at the end of 1995, and in Finland a report on Child Policy presented to Parliament in 1995 is still under consideration. Whilst the rights of children and young people are gaining recognition, it is becoming increasingly difficult for young people to achieve economic independence from their families, as youth unemployment continues to rise. The 'long family' previously observed in the countries of Southern Europe is beginning to extend across the Union. In Belgium this been recognised by the extension of Child Benefit to young people engaged in part-time vocational training or education with a limited curriculum. In Ireland Child Benefit is now payable to young people under 18 who are not in employment.

Despite (or perhaps because of) the increasing prevalence of divorce, reforms to divorce law have been resisted in several countries. In the UK the Family Law Bill has generated a considerable amount of controversy, with critics of the Bill arguing that it undermines marriage by making divorce easier. Attempts to create equal access to remedies in respect of domestic violence for married and cohabiting partners were thwarted, and measures aimed at the division of occupational pensions will now take effect only after the year 2000. Minor procedural changes to divorce law in Portugal were also criticised for 'facilitating divorce'. In Ireland, the Family Law Reform Act 1995 is intended to allay the fears of those who argued that women would be left in financial difficulties following divorce, prior to a further referendum. It includes provision for strengthening the enforcement of maintenance payments and for compensation (or 'ear-marking') in respect of occupational pension rights. In Luxembourg, a bill proposing pension reforms to deal with divorce, presented in 1994, was still under debate in 1995. The issue of fathers' rights on the breakdown of a relationship has been at the forefront of policy debate; dissatisfaction with proposed reforms to custody rights and maintenance

obligations has been expressed in Spain. In Portugal legal amendments permitting joint custody arrangements were introduced. Several countries have taken steps to improve the legislative position of unmarried fathers; Denmark introduced new legislation which facilitates joint custody arrangements when married and unmarried couples separate, and allows unmarried fathers to seek custody of their children and in Germany, where the absence of rights for unmarried fathers has been controversial for many years, legislation is expected to be introduced next year. In Belgium, new legislation creates shared parental responsibility and custody rights for parents when married or cohabiting couples separate, and also provides a legal basis for specifying the access rights of grandparents and others with close ties with the child. Debates about the possibility of shared custody are also continuing in Austria.

Attempts to create measures offering legal and social protection to emerging family forms are often controversial. In Spain, the introduction in summer 1995 of a draft law regulating (heterosexual and homosexual) cohabiting relationships, has generated considerable debate, and proposals which would have allowed homosexual couples to adopt children were abandoned; the main barrier to its implementation is now thought to be posed by the financial implications of providing equal rights to social security benefits. In Luxembourg, there has been a debate about the status of cohabiting partners, and a bill which would provide some rights to property and housing was introduced during 1995. In the Netherlands, proposals which would permit same-sex marriage have met with considerable opposition, and in Finland there is a continuing debate about the registration of same-sex relationships.

The politics of abortion and reproductive technology also continue to be very contentious in some countries, notably in Spain, where an attempt to introduce legislation permitting abortion in cases of economic and social hardship ultimately resulted in the fall of the Government, and in Ireland, where legislative changes in 1995 now permit agencies to provide information on the availability of abortion services outside the State. In Germany, an attempt to legalise abortion was defeated, although abortions carried out after (compulsory) counselling are not punishable. In Ireland it was noted that because such controversial issues were overemphasised by the media, other significant areas of family policy, including the Commission on the Family, went largely unreported.

1995 was a year in which similarities in the development of family policies were more visible than their differences, as the poorer countries of the South initiated new policies and consolidated measures in favour of families, whilst the countries of Northern Europe entered a period of retrenchment. A need to incorporate items of EU legislation, together with the overriding objective of meeting the Maastricht criteria on monetary union, may create a misleading impression of convergence in policy goals. In the face of the need to make cuts in benefits, there have been moves to improve vertical redistribution in most countries. At the time of writing, however, the prospects for the coming year are far from certain. Continuing economic difficulties create a harsh climate both for family policy and for individual families. Both the characteristic model of support provided by the family, especially in the Southern European countries, and the classic model of family policy, of which France is perhaps the archetype, appear to be facing fundamental challenges.

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The Observatory produces two Annual Reports. The companion to this volume is a synthesis of trends which compares the structure and value of support for different families in EU countries and comments on the prospects for family policy in the context of rapid social and demographic change. The Annual Reports are also available in French and German.

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