



INTERNATIONAL COMMISSION ON COUPLE AND
FAMILY RELATIONS
COMMISSION INTERNATIONALE DES RELATIONS DU
COUPLE ET DE LA FAMILLE

CONFERENCE REPORT

**52nd Annual ICCFR/CIRCF
International Conference
Vienna, Austria, 3 – 6 June 2005**

**Differing Needs:
Societies' responses to Children, Parents,
Families, Couples and the Older Generation.**

Editor's Note

In editing the texts in this publication, I have tried to keep to the original papers, as presented in Vienna, as far as possible. Some of the minor changes that have been made are related to the change in context for these presentations, that is, from being verbal presentations to a captive audience, to the written word for a potentially wider group of people. The value in having the written word is that it gives the reader much more opportunity to reflect on the ideas presented and make connections at an easier pace than that demanded in the Conference setting.

I had to miss the Vienna Conference, for family reasons, and so I have gained much by poring over these different perspectives on the theme of the event. I trust that those who pick up this publication and who are new to the materials will gain in much the same way that I did. I further hope that those who pick up this publication, and see it as a record of an event they attended, will be transported back to Austria in June 2005 and gain further or different understandings, be reminded of old and new friends in the Commission, and be enthused about the work of those who struggle to support couples and families throughout the world.

At this point I feel it is important to record thanks to, and acknowledge the generosity of, the *Austrian Federal Ministry of Social Security, Generations and Consumer Protection* in producing the publication. The conference in Vienna was a great success and this is doubtless due, in many ways, to the organisation and support from colleagues in Austria.

So that there is no confusion here for those of you who turn the page and find a Chair's Report, signed under a different name, Derek Hill retired as Chair after Vienna and I was invited to be Chair of the Commission soon after that event. I feel very privileged to be in this position and hope that I can continue a tradition set in motion by an illustrious group of former Chairs.

Terry Prendergast
Chair, ICCFR, CIRCF
May 2006

TABLE OF CONTENTS

Foreword	<i>Austrian Federal Ministry of Social Security, Generations and Consumer Protection</i>	Page 2
Editors Note and Contents	<i>Terry Prendergast</i>	Page 3
Chair's Report	<i>Derek Hill</i>	Page 4
ICCFR/CIRCF Professional Seminar Report	<i>Judy Cunningham</i>	Page 13
Families: Society's Human Resource	<i>Wolfgang Lutz</i>	Page 15
The various needs of the generations within the family: whose concern is it and whom does it concern?	<i>Lidia Noemí Makianich de Basset</i>	Page 25
Supporting couples in society: where are we now and where might we go?	<i>Christopher Clulow</i>	Page 38
<i>Quebec's family policy : responding to the diversified needs of children, parents, seniors and families of Quebec</i>	<i>Micheline Gamache</i>	Page 45

CHAIR'S REPORT

ICCFR/CIRCF (the Commission) is no stranger in Austria. It has held conferences in this country in 1968, 1978 and 1993. Perhaps it was for that reason that initial, informal discussions led to the Federal Ministry of Social Security, Generations and Consumer Protection offering its sponsorship and financial support for the Commission's 52nd Annual International Conference. At an early stage in the two-year planning process the Ministry undertook to finance many of the conference facilities that are characteristic of a well-resourced international event: amongst others, publication of conference documentation in English, French and German, simultaneous translation of the content of plenary and other key conference sessions, and a social programme which added a uniquely Austrian character to the event. The Ministry commissioned the staff of the Vienna Institute of Marriage and Families (IEF) to undertake much of the planning and preparation of local arrangements for the conference. That input was an invaluable complement to the work of the Commission's core team of volunteer workers and its other Board members, who undertook the tasks of overall planning, preparation of key conference documents and of international liaison.

That background information leads me to express the Commission's sincere thanks to the Austrian Government and Minister Ursula Haubner of the Federal Ministry of Social Security, Generations and Consumer Protection together with Irene Slama, Dr Angelika Schiebel and Manuela Marschnig; to Günter Danhel (Director), Elisabeth Wieser-Hörmann and Barbara Hofstädter-Henning, of the Institute for Marriage and Families, Vienna; and to Gerlind Richards MBE (General Secretary) and Simone Bavery (Treasurer) of the Commission. Gerlind Richards has played a key role in the organisation of every conference for more than twenty years. Without her tireless efforts, the Commission would have ceased to function long ago.

As someone intimately involved in the planning of the Vienna event and therefore aware of all the hard work undertaken to realize the original ideas about its format and content, it gives me great pleasure to report to those thanked above, to conference contributors and participants, and to other Commission members who were unable to participate, that the conference was judged to be a great success. That verdict derives from those who have attended many earlier conferences, who said "As good as ever!", and from those attending a conference for the first time that echoed Raju Shrestha's (Nepal) words "I can never forget the wonderful thinking of involved people from every part of the world. I am really sure that this type of conference. ...bridges the vast gap between the developing and the developed countries."

So, once again, the Commission fulfils its Mission Statement, thanks to the efforts of our Austrian colleagues.

The shape of the event

Past events had taught ICCFR that participants' abilities to spend time at the conference venue, and their interests, varied widely. For those who were only able to be present for the main conference programme, the ICCFR Board's concern was to provide a full, rich and diverse assembly of formal conference sessions that would be relevant to the many professions represented by those attending the event. Others, able to spend longer in Vienna, were offered two additional short programmes. First, two days of Pre-Conference Excursions designed to focus on the Austrian approach to the issues raised by the conference theme. Second, and recognising that many conference participants had involvements and interests in front-line therapeutic services addressing the needs of couples and families, a two-day Professional Seminar was planned to take place immediately after the main conference programme. That seminar was planned to provide an insight into innovative activities in Austria as well as providing a forum for international dialogue.

A social programme that would provide an authentic experience of the amenities of, and life within, Vienna complemented the three technical components of the event.

Pre-Conference Excursions

The first session focused on a model of a functional, multi-disciplinary family competence Centre allowing interdisciplinary networking and which provides forms of service not available in the traditional sources of consultation. **Michael Janda**, of the Federal Ministry of Social Security, Generations and

Consumer Protection (BMSG), was the presenter and was supported by the staff of the Institute of Marriage and Family (IEF).

After a guided tour of the City Centre, the Head of the Department of Men's Policies (BMSG), **Johannes Berchtold**, presented information about the work being done to facilitate 'Supervised Visits' and about the work to develop psycho-social programmes to support the children and their parents involved in disrupted families. The following day **Judge Franz Mauthner**, of the Family Court, described work being done to enable out-of-court settlements to be achieved by ex-partners with continuing parental responsibilities, and the ways in which collaboration with the family counselling services offered by the courts facilitated those outcomes.

The 52nd Annual International ICCFR Conference

The conference's list of participants identifies persons coming from 26 countries and all five continents.

During the conference's opening session a message of welcome and support from the Austrian Government was delivered by **MA René Schmidpeter**, Senior Adviser within the Federal Ministry of Social Security, Generations and Consumer Protection, who deputized for Minister **Ursula Haubner**. **Günter Danhel**, Director of the Institute for Marriage and Family, welcomed all participants to the conference. **Derek Hill**, as the Chair of ICCFR/CIRCF, also welcomed all who were present, drew attention to the fact that they were participating in the Commission's 52nd annual conference, and went on to introduce the conference's first keynote speaker, **Professor Wolfgang Lutz**, Director of the Vienna Institute of Demography.

The conference's four keynote presentations, each providing an authoritative discussion of the conference's topic from the perspective of a different discipline, were interspersed between sessions devoted to Workshops which allowed participants to acquire information about special topics and, by others, in which Discussion Groups offered the opportunity for participants from different countries and with a variety of professional backgrounds to explore in more detail issues raised by Keynote and Workshop sessions. This programme structure had the dual benefits of responding to the particular interests of participants and of engaging participants actively in multi-disciplinary discussions relating to aspects of the conference topic. As a consequence, all participants shared the stimuli provided by keynote presentations but were able to shape their own use of other sessions. No two individuals will have had the same experience of their conference participation and each will have had the chance to broaden their horizons and address issues relevant to their working lives.

It will be evident that this report cannot offer a discussion of the conference programme that reflects everyone's experience. I therefore offer my own particular response to it.

Keynote Presentations

The keynote presentations by a demographer (**Professor Wolfgang Lutz**), a professor of Family Law (**Professor Lidia Makianich de Basset**), a couple psychotherapist, researcher and teacher (**Dr Chris Clulow**) and an Assistant Deputy Minister, Ministry of Families, Seniors and the Status of Women, Quebec, (**Micheline Gamache**), used different paradigms to explore the implications of a recognition that children, parents, couples and the older generation (seniors) need different things from the societies/communities within which they live. Those differing perspectives raised the questions – 'Are these perspectives mutually compatible?' 'Do they describe the same 'realities'?' If those questions can be answered positively, further questions arise – 'How can the thinking and findings of those different disciplines be combined so that societies know how to respond more effectively to the differentiated needs of their citizens?' 'What are the practical implications of that new-found understanding?'

Professor Wolfgang Lutz drew attention to the fact that the serving of people's needs suggests that there must be contributors as well as recipients within communities and, by implication, that the capacities of the contributors should match the demand of recipients. The demographic statistics, which he presented graphically, illustrated the changing profiles of communities in the last forty years and the ways in which that change will result in societies with fewer productive workers supporting an ever growing population of seniors. The 'human capital' (capacity to contribute) needed to respond to demand within a community is not only a function of numbers of people but also of their access to natural resources,

technology, education and health services. Not least, it is a function of the nurture provided by each citizen's family of origin. Statistics show that families and family life are undergoing radical change that has an impact on their capacity to nurture children.

The ever-growing body of demographic information providing evidence of rapid change in the make up and structuring of societies invites demographers and others to build and test hypotheses about the causes of that change, and about its implications for the well-being of citizens. 'No man is an island' – intuitively, the idea that all individuals make demands on their communities and also contribute to those communities' human capital appears to offer a way to evaluate what is happening and to find ways to mitigate unwanted consequences. But those two words – 'evaluate' and 'unwanted' – raise questions. What are the characteristics of a preferred model of a society? What is the nature of a well-supported and fulfilling life (stage)? What *demands* do citizens make on their society (access to infertility treatment; use of a broad-band internet connection, etc)? What are recognised as a person's legitimate *needs* (clean water; housing; freedom from oppression, etc)? In what ways does an individual contribute to a society's human capital (simply by being a living member of a network of human relationships; by being a farm worker, engineer, teacher, academic, voluntary worker)? How is human capital assessed and how is it best utilised in terms of inter-personal transactions, the activities of the civil society, and the provisions made by government?

When framing answers to those questions, there is the risk that they are shaped by dominant cultures. Do responses framed in France or Germany reflect the realities of Lithuania and Malta, also members of the EU?

Wolfgang Lutz entitled his presentation 'Families: Society's Human Resource' and he suggested that the nurture provided by families was a prime factor in the raising of new generations of physically healthy, mentally balanced, well educated, highly motivated and socially oriented individuals. Families also have the capacity to play many other roles within their societies. Thus, family units, in all their many forms, can be seen as critically important contributors to societies' human capital. Those units of different kinds will have differing needs if they are to realise their potential as society's human resource. But those needs can only be prioritised if there is an understanding about the kind of society that is preferred and thus the kinds of contributions that family units should be enabled to make.

Professor Lidia Makianich de Basset offered us a quotation of which part was "*The law will gain true respect if it is shown such as it is, flesh and not metal, taking part in our weaknesses, human, all too human even when it seems, in time of crisis, not to be.*" (Jean Carbonnier, *Flexible Droit*, Paris, 6th ed. 1988). In so doing she brought us into contact with an Argentinean society embodying a legal structure strongly influenced by the European system with its Roman roots. She also presented us with a view of the living law struggling continuously to reflect the realities of contemporary Argentinean society and thereby contributing to its regulation. In so doing, in terms of Family Law, she raised very directly questions about today's norms and attitudes. Family life is increasingly a private matter – *'the domain of prescriptive norms is in retreat'* – however – *'...state intervention has intensified in the Law dealing with Minors'*. Efforts were described to reduce conflict between members of disrupted families by making use of mediation, and the introduction of psychologists, social assistants and psychotherapists as adjuncts to legal process.

The description offered was at one and the same time specifically Argentinean and a reflection of the fact that, globally, certain issues are determined by the adoption of international norms – two obvious examples being the Universal Declaration of Human Rights and the Convention on the Rights of Children. The influences of globalisation and efforts to reflect local realities combine. This duality of influences appears to generate both synergies and conflicts. But, in terms of Argentina, a clearer understanding of the working assumptions underlying Family Law and the justifiable expectations of the individual, the family and the society, emerged.

Viewed from the perspective of the presenter, a theorist-practitioner, three perspectives were offered: Family Law and its educative function, its role in asserting norms, and its 'dikological' function (its capacity to serve justice). Each of these perspectives helped to provide a picture of the Argentinean social context and prompted reflection on the situations in other societies. Those perspectives also suggested the

means by which the working assumptions used when building hypotheses based on demographic analyses and forecasts could be determined. To return to the presenter's opening quotation the legal system she described is '*... disturbed in its origins, wavering in its force, dubious in its application, always tormented...*' (Carbonnier) yet it is an important source of insights into the values, attitudes and norms of the society that it serves. It seems likely that similar insights might be available in other societies.

Dr Christopher Clulow changed his audience's perspective. He focussed on the complex microcosm of the couple, the family and the individual. He suggested that well being was all to do with the meanings which those involved ascribed to their experiences. Therapy engages with the notion that "*We had the experience but had missed the meaning, and approach to meaning restores the experiences in different form*" (The Dry Salvages, T S Eliot). Relationship therapy has been criticised for focusing on internal factors – the partners' personalities, expectations, assumptions and communication skills – whilst overlooking the impact of external factors. In the UK, it is now confronted with the increasingly held belief that intimate relationships should be privately ordered and that the social institution of marriage is diminishing in importance. That is, that the private aspects of such relationships predominate over those which are of public concern. One consequence of that shift has been a reduced commitment to provide publicly funded services that support couples. Providing that support is increasingly left to voluntary organisations and, for those who can afford it, services offered by private practitioners.

Referring to key UK Government-sponsored documents about marriage and relationship support, Dr Clulow drew attention to the proposition that when the social and personal values of secure marriages create a positive cycle of influence, they generate a 'social capital'. That idea appears to link with the demographer's notion of society's human capital and probably offers the means to assess the capacities of marriages and families to contribute to the societies in which they exist.

Other UK Government reports established that the costs of marital breakdown were one thousand times greater than the public funds spent on supporting relationships (Hart 1999) and that it was possible to envisage a strategy to strengthen and improve that support (Moving Forward Together 2002). However, in 2003 the Government's proposals shifted the focus. *Every Child Matters*, a Green Paper published in that year, made the welfare of children the primary justification for the state's involvement with families and, significantly, addressed support for parenting without any reference to the needs of the relationship between the couples concerned. Since that time Government pronouncements and provisions have been devoted to the support of parents and appear to have consigned the needs of couple relationships to the private side of the private-public divide, to the extent that in official documents and statements reference to the needs of marriages and couple relationships have disappeared. While clinical experience and research demonstrates the interconnection between what happens in partnerships and between parents and children, it appears that today's Government policies consign those two kinds of family relationships to separate, watertight compartments. Dr Clulow highlighted a potential for public policy to forge a link between partnering and parenting which currently appears to be ignored at the cost of making it increasingly difficult to sustain accessible and integrated services for families.

Turning to the forms in which support for families has been provided, Dr Clulow identified three models – the policing, educational and medical models. Policing, associated with patriarchal values and the sanction of the established Church, sought to ensure the real commitment of those marrying and treated divorce, permissible only upon proof of a matrimonial offence, as a form of social deviance.

The educational model, rooted in a belief that marriage, divorce and intimate relationships arise out of the rational decisions of the partners, has been associated with documents, advice and preparation programmes offering information about all aspects of those relationships in the hope of ensuring that those concerned would thus be enabled to make informed choices. Critiques of this model highlight its failure to address the powerful 'irrational', unconscious influences at work within relationships, and thus the fact that individuals may ascribe idiosyncratic meanings to their experiences and 'inexplicable' priorities to options for future actions. If those factors are considered, the partners in a relationship become the 'experts' and the support for them must provide the opportunity to explore and seek the origins of the meanings that influence them.

The medical model, and the associated preventative and remedial 'treatments', is illness-oriented and can pathologize normal responses to the stresses of daily life as well as deep-laid internal conflicts. In its most helpful form, the model needs to be used to find the connections between different and apparently unrelated aspects of life, the various and at times conflicting perceived demands of those different aspects, and the potential for creativity as well as destructiveness when those differences are held in tension. Thus, a holistic approach to the support of individuals, couples and families was suggested.

Dr Clulow went on to offer and advocate a further model for support. Consultation has become an accepted means of facilitating change. The model can be applied to collaboration between the members of a social system and also to the process of bringing in outside help. It is seen as a capacity of a healthy, learning system by which resources are mobilized to achieve a shared goal. It offers a means by which issues faced are addressed as opportunities to develop or strengthen capacities rather than as problems. It stimulates the development of cyclical processes and of the co-construction of ways forward. Significantly, it can free families from the shaming labels of being 'problems' or dysfunctional and provides scope for engagement with the whole gamut of thoughts, feelings and preoccupations which influence families and their members.

Dr Clulow's presentation offered his audience frameworks based on experience in England within which to evaluate the strengths and weaknesses of various kinds of Government policy, and forms of family support, as well as a challenge to consider what sort of support model might best suit the needs of the families in the communities which they knew best.

Madame Micheline Gamache, speaking from the perspective of Assistant Deputy Minister of the Quebec Ministry of Families, Seniors and the Status of Women, offered a wealth of demographic information and descriptions of the realities of family circumstances which illustrated the demands placed on an administration committed to creating services supporting children, parents, spouses and seniors that reflected the principles of democracy, social participation and solidarity. The immediate impressions were of the complexity of Quebec's society, of unending change in its characteristics and, consequently, of the need to bring into being diversified and ever-changing family policy and services. The needs served span financial aid, childcare, reconciling work and family, accommodation, legal regulation, education, health, and the support of families in special circumstances (immigrant families, families with a handicapped child, etc.).

Describing the process of shaping Quebec's family policy, Madame Gamache identified its democratic and collective nature as its key value and the fact that initiatives for the development of forms of family support very often come from the community. The Quebec Government encourages that 'bottom-up' process through the adoption of a wide variety of mechanisms designed to involve as many categories of stakeholder as possible.

Madame Gamache described a number of initiatives that illustrated how the Government's service development philosophy worked. The complaints of community women's and family organisations and their umbrella organisations, resulted in the setting up of a Department of Child Care Services, subsequently subsumed within the Ministry of Families, Seniors and the Status of Women in 1997. The development and regulation of existing child care centres became the basis for a network of reduced-contribution educational child care services which responds to diversified child care needs such as those of children with special needs, children of low-income families, and children of parents working extended or irregular hours. This network relies on the concerted efforts of community organisations and the involvement of parents in a variety of roles including that of a director of an early childhood centre.

Quebec's Parental Insurance Plan has responded to today's realities by becoming more inclusive (self-employed and low-income parents) and by encouraging fathers to spend time with their children. The plan is more generous in its provisions than that provided by the Federal Government and is based on a strong consensus within Quebec.

The Child Assistance and Work Premium provisions have replaced a variety of grants, credits and subsidies. The provisions are intended to promote more equity between people with children and those

without, and to show more respect for the choice of families in which one parent stays at home to care for the children.

Other initiatives have been: 'A time for work: a time for family'; and, an action plan for seniors designed to build inter-generational bridges and encourage the social, civic and professional involvement of seniors in their communities. That action plan is a direct response to the growing concern in the community about the Province's ageing population.

Madame Gamache's account of the development of social policy and services in Quebec drew attention to the critically important function of demographic studies and the predictions about the nature and scale of the future needs of family members and seniors. It illustrated the way in which an evolving legal system can underpin social policy and provide for the regulation of services to the needy and vulnerable. It also offered insights into the workings of development stemming from consultative processes and the ways in which those processes gave meaning to the phrase "the collectivity of Quebec", and the use of the word "solidarity".

Workshops and Discussion Group Sessions

Taken together, the keynote presentations delivered the emphatic message that societies' values and aspirations as regards the support of children, families, couples and the older generation can only be realised through political activity informed and implemented by the involvement of many different professional disciplines, and by the continuous and active engagement of the individuals and organisations within civil society, the latter serving both as the 'experts' on the forms of support needed and as the source of the human capital needed to resource services. What also became apparent as a result of the keynote presentations was that it is imperative that all the many kinds of professionals, and society at large, need to work together in a harmonious and co-ordinated fashion. That collaboration depends on more than the various contributors having access to each other's findings, judgements and opinions. Each needs an understanding of the working assumptions, the methodologies and the scope and limitations of each other's fields of expertise.

Sitting in the conference's plenary sessions, amongst an international group of individuals with a very wide variety of professional or organisational backgrounds, it was apparent to me that every person present could gain from contact with people with different national and/or professional perspectives. The Workshops, listed later in this report, provided opportunities for conference participants to hear in some detail about the work of those in other professions and about the innovations that were being prompted by the realities of family life in other countries. The small workshop sessions and their interactive nature provided unique opportunities to gain a thorough understanding of the work and experiences of experts who were making active contributions to the support of family life in their own settings.

The Discussion Group sessions built into the conference programme provided scope for yet another form of interchange and learning. The groups were carefully constituted so as to provide a mix of nationalities and professional/organisational perspectives and the remit given to the groups was that they should use their members' knowledge and expertise to address the issues raised in members' minds by the content of the keynote and workshop sessions. For many participants it was their first opportunity to share in and contribute to such sessions, their experiences of contact with people with other areas of expertise in their places of work normally being confined to joint efforts to tackle operational issues.

As might be expected, each of the six discussion groups developed their own, unique work agenda and process. The following notes give some indication of the issues considered within the group sessions.

- Services and the Public/Private divide: how is that divide defined, and on the basis of what values? Where do those values come from?
- Using all the community's resources to instil values in children. But which values in a multi-cultural society?
- How to inform people about the services available?
- Why do people seek support services and on what grounds do people qualify to receive them?
- Preventative services – who seeks and uses them?
- The role of empathy in providing support services. The importance of assuming one does not know all the answers.

- Divorce rates remain high. How to create a culture that supports commitment to relationships?
- Instability of relationships is exacerbated by migration, geographical separation of family members, cross-cultural marriages. Children suffer from transitions between the different cultures of separated/divorced parents and by being adopted into a different culture.
- An awareness that some cultures maintain strong family traditions but at the cost of severe sanctions if codes of behaviour are breached. Are there alternative approaches?
- What change leads to a change in the law? Today, traditional family life seems upset by the different models of family life embodied in legislation.
- If permanence/stability of family life is good for the adults and children involved, how can that stability be ensured? How can the desire for change in life-styles be accommodated alongside the need for stability?
- Change in society is often linked with the assertion of new “rights”. How do/should politicians discriminate between the sometimes conflicting “rights” of family members?
- Should public policies act to prevent separation/divorce in order to preserve the benefits of family life rooted in marriage?
- If stability in marriage is valued should not services like counselling, mediation and therapy be supported and the social status of the related professionals be augmented?
- There is a need for factual information and frank discussion about the tensions faced when considering the needs of children, the partners in a couple relationship, families and the older generation. The need is for compromises rather than solutions targeted on only one of those social categories.
- Women and work: the responsibilities of male and female parents – what policies would permit parents to withdraw without penalty from work in order to respond to the needs of family?
 - How can society give recognition to the benefits for society of effective parenting?
- Policy makers should not fear supporting marriage since it offers the hope of secure and long-lasting family relationships.
- The social contract and the idea of human capital:
 - The individual’s responsibilities
 - ❖ a burden or a privilege
 - ❖ engagement and concrete actions – not just words
 - ❖ give a sense of identity, meaning and value to the individual
 - ❖ promote coherence, a sense of community and shared culture
- The influence of education on the development of the family
- The timing of educational inputs supporting family development
- Changes in the family requiring change in the culture?
- The privatisation of services for couples and families and the consequent reduced accessibility
- The need to reassert the critical importance of support for couple relationships as one means to benefit children
- How are values passed on from generation to generation?
- The ideologies informing family policy:
 - ❖ National family policy should provide support in such a way that I can make the decisions myself
 - ❖ The need to define minimum service standards
 - ❖ Strengthening civil society
 - ❖ Solidarity v ‘turbo-capitalism’
 - ❖ Restoring balance
 - ❖ Reduced nationalisation and more support for civil organisations and individual/private initiatives
- A future with an ageing population:
 - ❖ Planning the future for younger generations
 - ❖ The role and needs of single people
 - ❖ Several generations living together - is this a solution?
 - ❖ Discrimination
 - ❖ The isolation of the elderly
 - ❖ Using the skills and experience of the elderly – the role of grandparents, especially with children of divorce

- ❖ Fear of poverty in old age, legal provisions (incapacity, access to hospices)

The remarkable spread of issues raised within discussion group sessions is itself evidence of the complexities of the development of social policy and the provision of support services.

Conversations with discussion group members made very clear how much the group sessions were valued. They also made it evident that each individual group member took away from those sessions particular new perspectives and understandings that complemented and enriched their own knowledge and area of expertise. More than one participant commented that they wished they had the opportunity in their own work setting for the kind of dialogues they had experienced within their group.

Open Forum

A variety of matters were raised during this session. In general, comment was very complimentary about the work of the Commission and about the way the conference programme had been structured. However, the point was made that a more formal evaluation of participants' experiences of conferences would offer those responsible for conference planning with much clearer indicators about the ways in which the benefits of participation could be further increased. An undertaking was given that an evaluation instrument would be designed and made available to participants at future conferences.

Outcomes

The anecdotal evidence is that this was a successful conference. That is, that it served the purposes of its participants by offering both an insight into policy and practice in the host country, Austria, as well as providing a forum within which the issues faced, and the solutions being developed regarding support of children, parents, families, couples and the older generation were addressed in a truly multi-cultural and interdisciplinary manner. This achievement resulted from the engagement and efforts of all those mentioned in the final section of this report – Acknowledgements.

Professional Seminar, 7 – 8 June 2005

A successful seminar took place in the premises of the Institut für Ehe und Familie (IEF) immediately after the close of the conference. A report on that event is to be found as an appendix to this report.

Acknowledgements

The Conference and the associated events were planned in response to an invitation extended by the Austrian Federal Ministry of Social Security, Generations and Consumer Protection (BMSG) and its Minister, Ursula Haubner, to use Vienna as the venue for ICCFR/CIRCF's 52nd annual international event. Having accepted that invitation, the Commission benefited from both the generous financial support and the local planning and administrative resources made available by the Ministry. It would not have been possible to arrange the conference without the enthusiastic support of the Ministry, and the Commissions' thanks are extended to the Government of Austria and, specifically, to Minister Ursula Haubner, MA René Schimdpeter who deputised for the Minister, her colleagues Irene Slama, Dr Angelika Schiebel, and Manuela Marschnig.

The Ministry (BMSG) invited the Institut für Ehe und Familie (IEF) to provide the local planning and administrative resource for the conference which is mentioned above. The Commission's previous contacts with IEF made this a particularly effective arrangement. The tireless efforts of IEF staff members: Günter Danhel (Director), Elisabeth Wieser- Hörmann and Barbara Hofstädter-Henning, during both the planning phase and the conference itself contributed very significantly to the smooth running and the success of the event. The Commission is deeply indebted to IEF and the named colleagues for the efforts made on the Commission's behalf.

BMSG funding and the efforts of IEF staff resulted in an informative pre-conference programme and arrangements for an enjoyable social programme for the conference itself. IEF, working in conjunction with Judy Cunningham (ICCFR) and Martin Koschorke (ICCFR) planned and staffed a very successful Professional Seminar. Those activities did much to give conference participants an understanding of professional activities in Austria as well as providing experience of the country's culture and life. The Commission is most grateful for the work done to plan and conduct those activities.

ICCFR/CIRCF wishes to thank the following presenters who made the Pre-conference excursions so valuable an experience

Michael Janda (BMSG), Günter Danhel (IEF), Hanna Petko (IEF), Elisabeth Wieser- Hörmann (IEF), Johannes Berchtold (BMSG) and Franz Mauthner (Family Court Judge).

The conference's keynote speakers provided contexts within which the conference theme '*Societies' responses to children, parents, families, couples and the older generation*' could be explored. The Commission extends its thanks to those experts:

- Professor Wolfgang Lutz, Director of the Vienna Institute of Demography
- Professor Lidia Makianich de Bassett, Faculty of Law, University of Buenos Aires
- Dr Christopher Clulow, Director, Tavistock Centre for Couple Relationships
- Madame Micheline Gamache, Assistant Deputy Minister (Families, Seniors and the Status of Women), Government of Quebec

Thanks also to the Professional Seminar presenters:

- DSA Monika Gumhalter-Scherf, Psychotherapist and Director Propädeutikum
- Mag. Sylvia Hojnik, Lecturer, Development Project for Equal Partnership

Conference workshops were led by:

Professor Dave Parul, University of Baroda *Differing needs of Older Generations in India: a Gender Perspective*; Joseph Mann, Contact Centre for World Religions, Austria *How Beliefs mould Family Relationships*; Anne Berger, Attorney, Massachusetts and Dennis Henshaw, Law office manager, California *Formalized Same-sex Unions: New legislation and Developments in North America*; Joseph Zeman, Director Czech National Family Centre, Brno *Families in Transitional or Post-social Societies*; Philippe Steck, Director of CNAF's Commission for International Relations, France '*Solidarité*': *The French response in terms of Children, Couples and Families*; Josette Baverez Blanco, Psychotherapist and author, Italy *The role of Grandparents in Today's Society*; Eric Berx, K U Leuven, Belgium *The Family Group Conference as a Technique of Restorative Justice*; Robin Purvis, Social Worker, Australia *The family Court and the Social Sciences- a Beneficial Partnership?*; Dr Angelika Schiebel, BMSG Austria *Family-friendly Communities: An Audit System*; Professor André Habisch, Eichstaett-Ingolstadt University *The Institution of Marriage and Social Policy in the 21st century*.

ICCFR/CIRCF is most grateful for the excellent workshops provided.

As has already been described, the Discussion Group sessions were once again a central feature of the conference programme. The success of those sessions owes much to their skilful facilitation. The Commission owes a great debt to the facilitators:

Steve Bagnall (UK), Claire Missen (Ireland), Chantal Lebatard (France), Claire Barnes (USA), Martin Wiklander (Sweden) and Eva Suske (Austria).

The Commission owes a vote of thanks to the conference participants. No matter what efforts are made to shape a rich and varied conference programme, the success of the event depends on the willingness of participants to engage and to share their own expertise, information and experiences with one another. When that happens, individuals are taking risks that may range between attempting to express themselves in a second or third language and, on the other hand, exposing their practices - the strengths and the limitations of work being done in their home countries. When that risk-taking becomes possible a conference suddenly becomes incomparably richer and more dynamic - it has 'taken off'! The conference that is the subject of this report 'took off' in a way that humbled its planners. On behalf of all of us who planned, thanks are expressed to all those who made their own special and personal contribution to the event.

It is appropriate at this point to identify those who were the voluntary members of the ICCFR/CIRCF Board in the lead-up to the conference. They are: Simone Baverey (South Africa), Louis Camilleri (Malta), Anna Castellani-Tarabini (Italy), John Chambers (UK), Dianne Gibson (Australia), Martin Koschorke (Germany/France), Chantal Lebatard (France), Marc Morris (Belgium), Ingrid Regno (Sweden), Gerlind Richards (UK), Suzie Thorn (USA). These colleagues contributed individually and

collectively to the core planning of the 2005 conference in a most generous way. More than that, as my colleagues in recent years they have offered creative and supportive inputs to me and to the Commission throughout my period of service as its Chair. I, the Commission and all those around the world who have benefitted from the work of ICCFR/CIRCF, owe them all our gratitude.

Finally, and at a person level, I want to say thank you to the Commission's and to my 'fairy godmother' - Gerlind Richards. Over many years the reports written by Chairs have recorded Gerlind's sterling work on the Commission's behalf. That work has continued unabated, but I want to register my special thanks to her for keeping a rather disorganised and forgetful Chair on the 'straight and narrow'. You would have been shocked and disappointed if I had been left to my own devices!

Derek R Hill
September 2005

Appendix

ICCFR/CIRCF PROFESSIONAL SEMINAR, 7 – 8 JUNE 2005

In collaboration with the Austrian Federal Ministry for Social Security,
Generations and Consumer Protection (BMSG)
and
The Institute for Marriage and Family (IEF), Vienna

There were twenty-one active participants from nine countries attending the seminar. There were two presentations and a session for issues raised by participants. Günter Danhel, Director of IEF and Martin Koschorke, ICCFR/CIRCF Board opened the seminar.

Session One

Chair: Elisabeth Wieser-Hormann

DSA Monika Gumhalter-Scherf presented a paper on the 'Criteria of qualified Training in Counselling and Psychotherapy with a special focus on Counselling vs Treatment'. She drew attention to the professional protection of various professions involved in providing counselling in Austria. Couple counselling is not restricted; it is known as an activity and recognised by a diploma. The requirements for training depend on the different categories of counselling, whether it is life and social counselling, marital and family counselling, psychotherapeutic courses, psychotherapy or mediation. The presentation was followed by a lively discussion.

Session Two

Chairs: Judy Cunningham, Martin Koschorke

The session was devoted to training issues raised by the participants. Four main issues were addressed:

1

- How can we provide a way for new counsellors to learn through practice and theory?
- Techniques and methods in training counsellors.
- Sharing different methods of teaching basic counselling or listening skills.

Participants shared their different methods of teaching. There was a demonstration of the use of role-play in training including freeze role-play, coach/counsellor, client/buddy. Aspects of training courses were shared.

2

- How can peace-building programmes be developed for different ethnic groups?
- How can we create new models of counselling/supervising parents in contact with their children?
- How to teach short-term counselling?
- How to teach crisis counselling?

Rajic Bosiljko described the post-war situation in Bosnia and Herzegovina where there is no trust between the Serbs, Croats and Muslims. There is no political solution and very little reconciliation. The mixed marriages did not survive. Rajic is starting programmes from nothing and was seeking our help with this. It was valuable for participants to consider the issues that Rajic and his colleagues are facing.

The group spent time discussing the dynamic process of arranging contact between parent and child. There are a number of problems that have to be faced such as sexual abuse, distant families, a parent absent for work, and language. It was agreed that counsellors need further training to deal with these issues. It led to a discussion about Internet counselling and drew attention to the difference between counselling and imparting information. When considering short-term counselling the group was agreed that the counsellor needs to be experienced. The number of sessions considered to offer a short-term intervention varies in different organisations depending on the political and economic pressures.

3

- What means can be used to prepare people for marriage and other preventative measures?

The merits of seeing the couple alone or working in groups were discussed. Should the work be begun in schools? The longer structured courses are usually run by Catholic organisations, but other organisations are setting up courses.

4

- What is the basic task of family counselling?

This question was raised before the second seminar presentation that, together with the discussion that followed, answered most of it. It is clear that unless the institution and its members are functioning appropriately it is difficult to keep the focus on delivery of the service.

Session Three

Chair: Elisabeth Wieser-Hormann

Mag Sylvia Hojnik presented 'A Contribution to Quality Control: Quality Compass and Tools for Self-Evaluation'. She presented an on-line presentation of the tools to evaluate the quality of the service delivery and organisation. To use this tool, the whole organisation needs to be involved, something which itself generates engagement. It is quite long and complicated but appears to be worthwhile. This interesting presentation prompted a lively discussion.

Final Plenary

Chairs: Judy Cunnington Martin Koschorke

It was agreed that this had been a very successful seminar. The format of two presentations relevant to participants' interests, and time to discuss other training issues, suited the participants.

It was hoped that a further seminar would be held in two years' time and IEF generously offered to circulate a summary of this seminar and to help co-ordinate the next seminar.

Judy Cunnington

July 2005

FAMILIES: SOCIETY'S HUMAN RESOURCE

WOLFGANG LUTZ

The overall topic of this conference is “Differing Needs.” And as the subtitle says, the focus is on the differentiated ways in which society should respond to the different needs of children, parents, families, couples and the older generation. There is no doubt that all of these groups of people – that mostly correspond to different phases of the family life cycle through which most of us go – do indeed require special attention by society. I assume we will hear much on these differing needs throughout this conference. In this introductory speech I would like to turn the perspective around and ask: Who are the people who should meet those needs? Who will provide these responses? When we speak of a “society’s response,” whom do we mean by society? Society consists of individual people, who have strengths they can contribute and who at the same time have differentiated needs themselves.

In this introductory note we will look at the human resources that make up society as well as what any society requires in order to meet the needs of its individual members. Although often taken for granted, the existence of these human resources is not self-evident. It cannot be taken for granted that in the future we will have a large enough number of people who will be capable and willing to contribute productively to society and in turn allow society to respond to the needs of its members. In other words, mostly due to recent demographic developments and the likely massive population aging in an increasing number of countries around the world, there is reason to be concerned about the balance of contributors and receivers. Of course, most people are both contributors and receivers. But even here we have to study how the balance of contributions and receipts evolves over time.

What is the supply of the human resource in societies – economists also call it the human capital? Where will the people come from? Whom do we expect to meet the needs referred to in this conference? Physically healthy, mentally balanced, well-educated, highly motivated, socially oriented people do not fall from heaven! In fact, they seem to be increasingly scarce goods. There is no doubt that the prime producers of these goods are families. These are where new members of society are produced, nurtured and receive their primary socialization before they are assisted by the educational system that expands this socialization beyond the families of origin. But families, the primary engines for the production of human capital/human resources for society, seem to be changing and this change is often in a way that reduces the production of human capital. At least in purely quantitative terms, it is evident that the number of children produced has seen steep declines in almost all countries of the world over the past decades. More than half of the world’s population today has birth rates that are already below the so-called replacement level (i.e., two surviving children per woman), and in many countries, mostly in Southern and Eastern Europe, the level of reproduction is more than one-third below this replacement level, that is, one generation is being replaced by another less than two-thirds its size. It is more difficult to find hard facts and figures when it comes to the more qualitative dimensions of human resources, but health and education are two central measurements of human capital that are well studied and for which global level data is available.

Hence, in the following I will briefly discuss the key dimensions of current and likely future human resources. I will first look at trends in the absolute number of people of working age and then study trends in education over time and with respect to their differentials by age and gender. All these key dimensions of human capital are intimately related to families, and to changes in family functions and family patterns. I will discuss to what extent currently observed changes in family patterns may impact on the future course of human resource formation.

GLOBAL DEMOGRAPHIC SHIFTS

Whilst the 20th century was the century of population growth – with the world’s population increasing from 1.6 billion to 6.1 billion, the 21st century is likely to become the century of population aging with massive increases in the proportions of the population above age 60, and possibly some population shrinking. At present about 10% of the world’s population is above age 60. By the end of this century,

this proportion will increase to between 25% and 45%. Today, we are at the crossroads of these demographic regimes. While some parts of the world are still growing rapidly (mostly Africa, the Arab world and South Asia), other countries have already started to shrink (mostly in Eastern Europe). And in a majority of countries – including developing countries such as China and Thailand – we are currently seeing rapid increases in the proportion of the elderly.

This demographically divided world sometimes confuses people. Should we still be concerned about the population explosion, or should we turn our attention to a pending population implosion? That depends on where we are. This somewhat confusing pattern is due to the fact that the universal process of demographic transition has a different timing in different parts of the world. It is illustrated in Figure 1, with the example of the island of Mauritius, which has long time series data and experienced this process in a typical way: first death rates fall due to better sanitation and medical advance – birth rates remain high because they are culturally determined. The difference between birth and death rates results in high population growth. Finally, birth rates start to fall, leading to low or even negative population growth.

What about good old Europe? Europe is frequently called the old continent and it really deserves this name in a demographic sense. Europe’s population currently has the highest median age of any world region, 37.7 years, according to UN figures (2003). By the middle of this century, the median age is likely to be as high as 48 years in Europe, while the “new world,” i.e., North America, will be around 40 years, and the rest of the world still younger.

Europe has been spearheading global demographic trends in the 19th and 20th centuries and it is likely to spearhead population aging in the 21st century. The population above the age of 60 has been increasing rapidly, whilst that below the age of 20 has been diminishing. Because of the very low levels of reproduction that prevailed in large parts of Europe over the past decades, the age structure of the

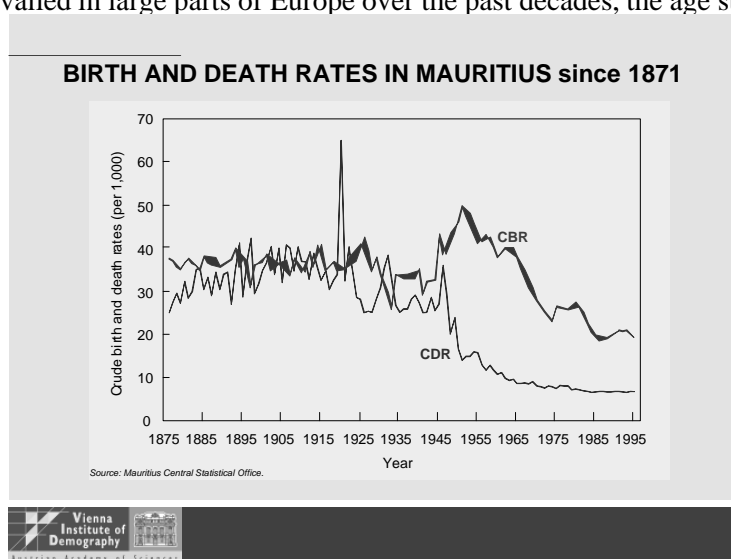


Figure 1. Crude birth and death rates in Mauritius since 1871.
Source: Mauritius Central Statistical Office.

population has already been altered to such a degree that there will be fewer and fewer women of reproductive age in the years to come. This means that continued population aging, and even shrinking, is quasi pre-programmed (Lutz et al. 2003). The total population size of Europe is expected to decline in the long run, even when assuming sizeable immigration and continued increases in life expectancy. Without migration gains, Europe’s population would age even more rapidly and population size would start to decline in the near future.

As an example Figure 2 shows the age pyramid of Austria. From this pyramid you can read much of the history of the 20th century. In the older age groups, you still see the consequences of World War I and the depression. Then, you see the bigger birth cohorts in 1940 due to the Nazi baby boom, followed by the birth deficit of 1945/46. The dominating feature of this pyramid is the baby boom of the 1960s, followed by the fertility decline of the 1970s.

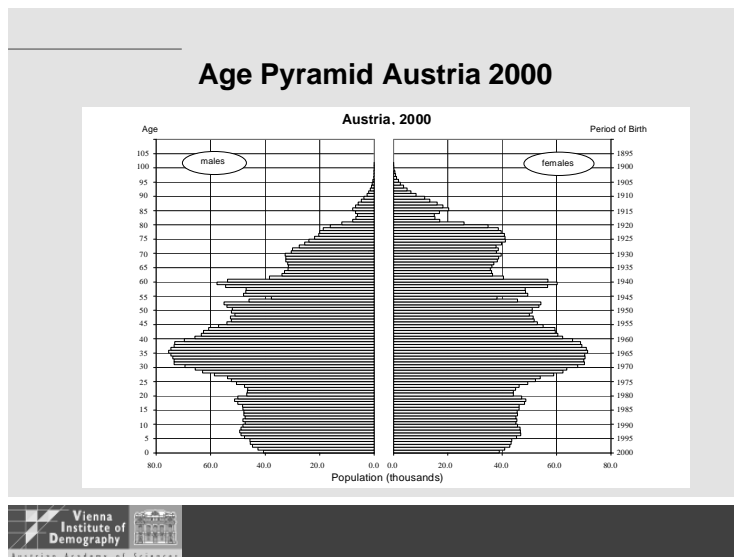


Figure 2. Age pyramid for Austria (2000).

When it comes to the future, much of the population change over the coming decades is already embedded in the age structure of today. There are only three uncertainties that influence the future shape of the age pyramid, namely, the future trends of fertility (birth rates), mortality (death rates), and migration. All three trends are uncertain, but the likely range of their future levels is not unlimited. This is why we produced probable population projections that translate the uncertainty distributions of future fertility, mortality, and migration into a probable age pyramid. Figure 3 shows this pyramid for 2030 for Austria. The picture presents a summary of the different kinds of uncertainty by age. The orange area gives the 95% uncertainty ranges. The green area shows the inner 60%, and the blue area shows the inner 20% of the uncertainty distribution. The black line indicates the median. The graph clearly illustrates that the numbers of people aged 50 to 60 in 2030 (i.e., those born between 1980 and 2000) are the least uncertain. There is no fertility uncertainty because we already know how big these cohorts are. There is not much mortality uncertainty yet because they have not yet reached the main mortality ages. Hence, the range given is mostly due to migration uncertainty. For the older population, the uncertainty significantly increases, because we do not yet know whether life expectancy increases are likely to level off soon (in which case we will have fewer elderly) or whether we will see significant further reductions in old age mortality (in which case we will have significantly more elderly people). There is a major scientific battle going on at the moment between scientists who believe that we are already close to the maximum life expectancy and others who think that if there is a limit at all, it is well above 115 years. This scientific uncertainty is reflected in these projections.

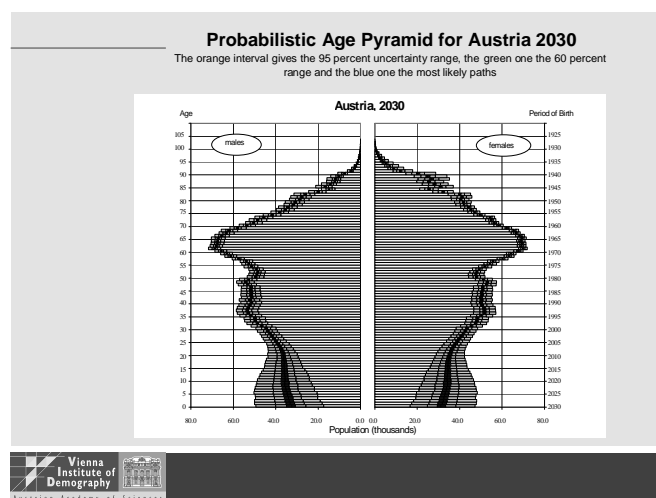


Figure 3. Probable age-pyramid for Austria (2030).

When it comes to the age groups that have not yet been born, the uncertainty about the level of fertility becomes a major factor. This uncertainty increases the further we go into the future. This differential

uncertainty is very relevant for various policy issues. For example, it is much more uncertain how many places in elementary schools will be needed in 2030 than how many people will reach a given retirement age, whatever this age will be in 2030. The figure also shows that in all likelihood in 2030, the baby boom cohort born around 1965 will still be the most numerous cohort alive. In other words, there will be more women aged 60 than in any other age group of the population. And 20 years later, in all likelihood, there will be more women at the age of 80 than in any other age group.

Figure 4 shows the uncertainty range of an important population variable called the “support ratio,” this time for the EU-15. It is defined as the number of people, aged 15-64 per person, aged 65 or above. It shows that currently there are about four people of working age per person of retirement age. Since not everyone between the ages of 15 and 64 is currently paying into the pension system, the actual support ratio is lower than this demographic ratio, which is indicative of the pension burden. But the trend is very clear: it is almost a certainty that the support ratio will significantly decline to about half of its current value over the coming decades. This is because most of the future change is already embedded in today’s age structure.

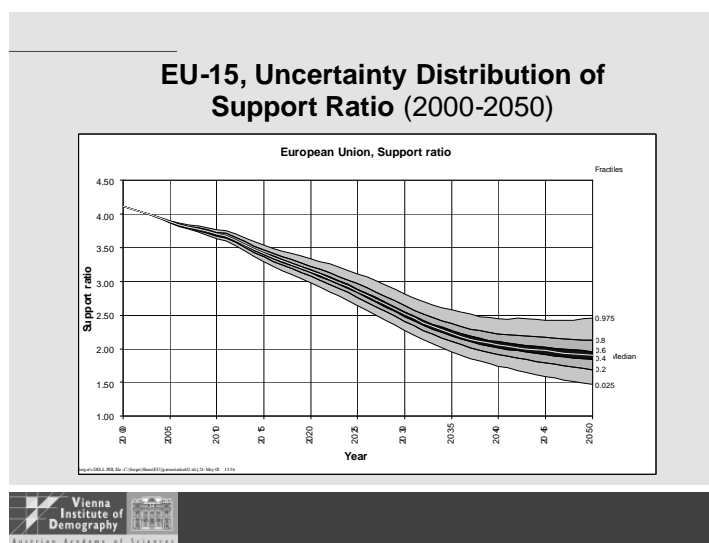


Figure 4. Uncertainty distribution of the “support ratio” for the EU-15 (2000-2050).

If we look further at the possible future population, the changes for Europe are even more dramatic. Figure 5 gives the results for Western Europe from IASA’s recent probable population forecasts to 2100. It shows the proportion of the population above age 80. Currently, only about 3% of the population is in this very old age group and, as the figure shows, we expect only a slow increase over the coming years. But when the big baby-boom cohort born around 1965 enters this high age group around 2045, we will see quite dramatic increases of 10% to 15% of the total population in the median of the distribution. But the even more significant aspect of this graph is the very wide uncertainty range, particularly during the second half of this century. This reflects the great scientific uncertainty about future trends in old-age mortality that I mentioned earlier. If the pessimists are correct, that we will not see much future improvement in life expectancy, then the proportion above the age of 80 may well stay under 10%. If the optimists are correct, and we experience significant future mortality reductions, then an incredible 40% of the total population may be above the age of 80. When trying to imagine what such a society would look like, it seems questionable which of the paths should be called optimistic and pessimistic.

Let us now have a closer look at fertility. This is not only the most important long-term driver of demographic trends, but it links birth rates and family changes in many respects. Figure 6 gives the so-called total fertility rate in a number of countries in Western Europe. This rate can be interpreted as the average number of children per woman, calculated on the basis of data from one calendar year. One observes the fertility rates of women of different age-groups in one calendar year and then sums them up to calculate the mean number of children a hypothetical, average woman

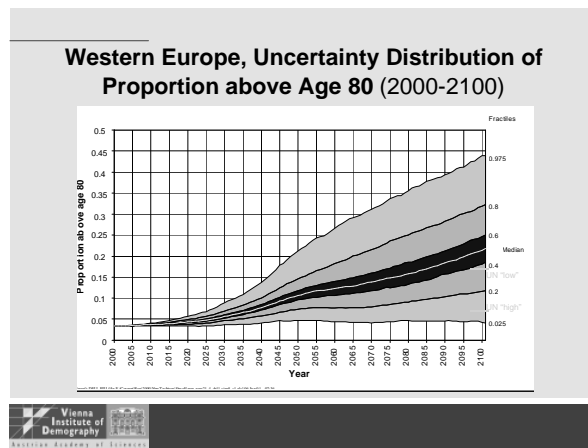


Figure 5. Uncertainty distribution of the proportion above age 80 for Western Europe (2000-2100).

would have, if subjected to this set of age-specific fertility rates. We see that during the baby boom of the 1960s, these rates were mostly above 2.5 children per woman. During the 1970s, these countries began a steep decline that was spearheaded by Germany, Luxembourg, and Austria, but soon the others followed. There are some remarkable differences today. Whilst Austria has a fertility level of around 1.3, France has one of the highest levels in Europe with 1.9. The Southern European countries began their descent later and fell to even lower levels (Figure 7). The new member countries in Central and Eastern Europe (Figure 8) had remarkably high and stable fertility levels until the transition in 1990, when they began a precipitous decline. Today they have the lowest fertility levels in Europe. Northern Europe (Figure 9) – except for Ireland, which is a very special case – had a very early decline, starting in the mid-1960s, but never fell to such low levels as Southern or Central Europe.



Figure 6. Total fertility rate in a number of countries in Western Europe (1960-2001).

There has been a lot of research about the reasons for this decline, but there is not one single, common factor that can be identified. It has been the result of a complex change in social and economic conditions as well as in values. The notion of the Second Demographic Transition has gained prominence as describing some of these changes that range from changing attitudes towards sex to the changing role of marriage and the position of women in society. Unfortunately, this paradigm does not tell us where the transition will end or what sorts of further changes we can expect for the coming decades. While it is difficult to pin down the reasons for these trends, it is easier to demonstrate which of the popular explanations should not be blamed for the very low fertility levels. Let's have a quick look at the proportion of births outside marriage and the female labour force participation rate.

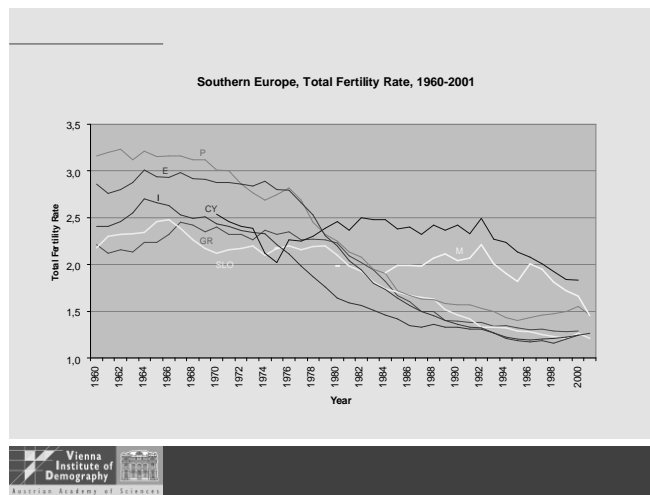


Figure 7. Total fertility rate in Southern Europe (1960-2001).

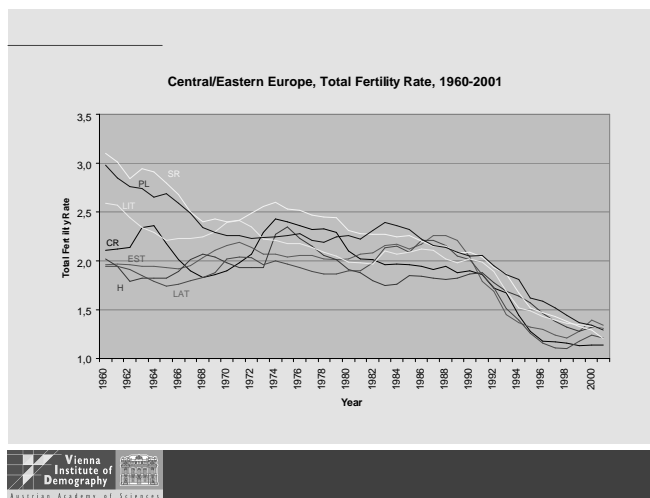


Figure 8. Total fertility rate in Central and Eastern Europe (1960-2001).

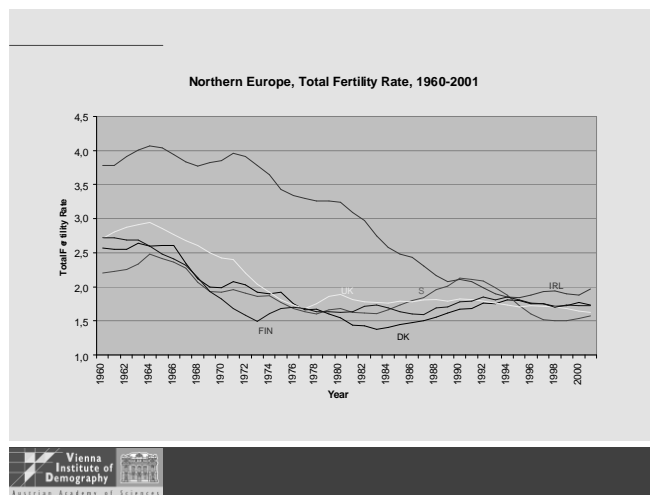


Figure 9. Total fertility rate in Northern Europe (1960-2001).

Figure 10 plots the current level of fertility against the proportion of live births born out of wedlock for all 25 EU member countries. If one expects that the more traditional societies, where most children are born to married couples, have higher overall fertility rates, this is clearly contradictory to the empirical evidence. If a relationship can be identified, then it is in the opposite direction for the old members, where the countries with the highest fertility rates (the Nordic countries, France, the UK, and even Ireland these days) have the highest proportion of births out of wedlock. On the other end are the Mediterranean countries (Greece, Italy, Spain, Malta) that have very low proportions of children born

outside of marriage, combined with very low fertility. This picture is somewhat distorted by the new member countries, with their combination of very low fertility and a generally high proportion of children born out of wedlock. What could be the explanation for this unexpected pattern? One plausible hypothesis is that in countries with more traditional norms concerning family and fertility, young women find it hard to combine children and career, and have to make a choice. Not surprisingly, an increasing number of women choose career first. It is, therefore, because of these traditional norms that women postpone or even forego having children.

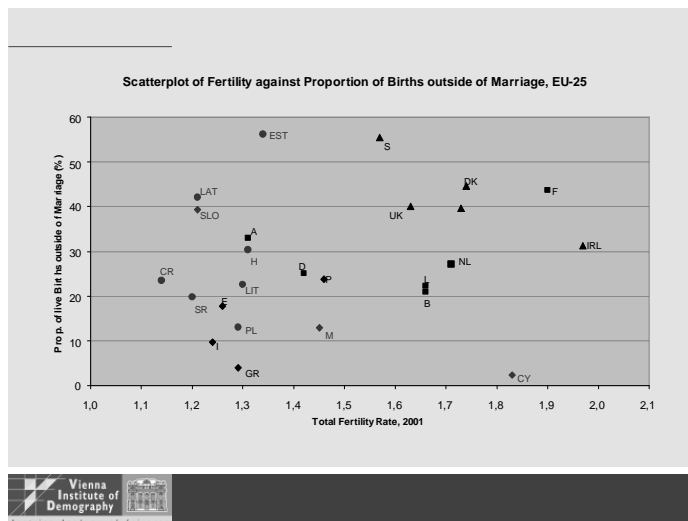


Figure 10. Scatter plot of fertility against the proportion of births outside of marriage for the 25 EU member countries.

Figure 11 takes a closer look at the relationship between fertility and female labor force participation rates. It shows how the cross-country correlations of these two variables change over time. Indeed, strong negative correlations up to 1980 indicate that in countries where a higher proportion of women worked, the fertility rate was lower. But around 1985 – when the Mediterranean countries entered the very low fertility group – the nature of the correlation completely changed to a strong, positive one. As a result, those countries where a higher proportion of women work have higher fertility rates. In these countries, it is clearly easier for women to combine work and family due to better childcare facilities, maternal and paternal benefits, and more general social support for working mothers. This helps to explain the seemingly contradictory situation of the more conservative societies, where fertility is lower.

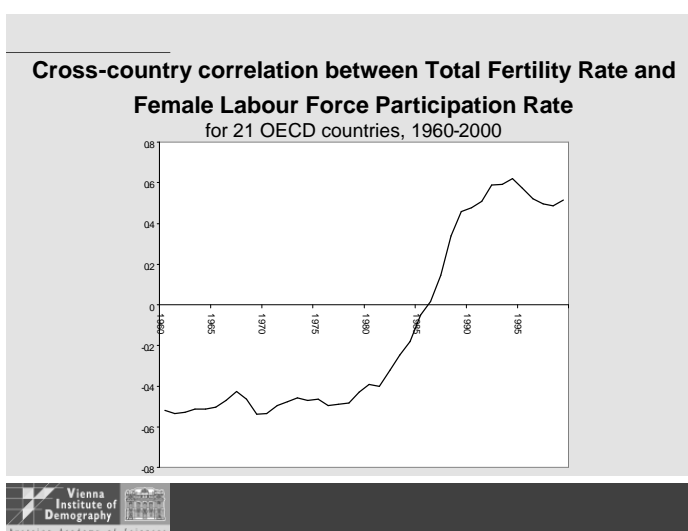


Figure 11. Cross-country correlation between total fertility rate and female labor force participation rate for 21 OECD countries (1960-2000).

Source: Engelhardt and Prskawetz (2004).

GLOBAL CHANGES IN THE EDUCATIONAL STRUCTURE

As discussed earlier, the human resources that we care about are much more than just the number of people by age and sex. One additional element that matters greatly is the distribution of the population by level of education. In virtually all countries of the world, the educational attainment of the population has been improving over the past decades. Because education typically takes place at young ages, it takes several decades until an increase in school enrolment rates is translated into an increase in the human capital of the adult education. In other words, human capital formation has a great momentum.

The first global projections of human capital have been recently produced by IIASA (Goujon and Lutz 2004). Table 1 lists the persons of working age that have at least some secondary or tertiary education in 2000, as well as for two alternative scenarios to 2030. The scenario “constant” assumes that current school enrolment rates stay unchanged over time, which will result in significant improvements of human capital in many countries because of past improvements in education, and the process by which the less educated older cohorts will be replaced by better educated younger cohorts. The other scenario, called “ICPD,” assumes that the ambitious education goals defined at the International Conference on Population and Development (ICPD) 1994, in Cairo, will be achieved. These include a closing of the gender gap in education and universal primary education.

Table 1 shows that in terms of human capital, Europe (including Russia) is still a world power, with well over 350 million working-age people with higher education – many more than in Africa, and even more than the huge South Asian subcontinent. This helps to put pure population numbers into perspective. But the table also shows that significant changes in the global distribution of human capital are to be expected, even under the constant enrolment scenario. Under this scenario, every world region will see some improvement of its overall human capital. On a relative scale, gains in today’s least developed regions will be strongest partly because the recent improvements in educating the younger generation have already seen a significant gain in comparison to the virtual absence of education for the older

Regions	Secondary and Tertiary					
	Base year		Constant		ICPD	
	2000 Male	2000 Female	2030 Male	2030 Female	2030 Male	2030 Female
North Africa	19	11	47	38	49	41
Sub-Saharan Africa	32	17	79	61	106	90
North America	88	89	100	99	100	99
Latin America	66	65	140	143	143	147
Central Asia	13	13	25	25	25	25
Middle East	17	12	50	40	53	46
South Asia	134	57	250	116	288	195
China region	238	153	416	354	406	346
Pacific Asia	53	41	99	90	106	99
Pacific OECD ^a	40	40	40	39	39	40
Western Europe	106	95	124	122	125	122
Eastern Europe	26	23	31	30	31	31
FSU Europe ^b	54	57	58	61	59	62
World	887	673	1,459	1,219	1,531	1,343

Table 1. Population (in millions) aged 20-65 by education and sex in 2000 and in 2030 according to the “constant” and the “ICPD” scenarios. Source: Goujon and Lutz (2004: 149).^a Organisation for Economic Co-operation and Development members in the Pacific region. ^b European part of the former Soviet Union.

cohorts. In absolute terms, even under this constant enrolment scenario, huge gains in the number of working-age people with secondary or tertiary education are to be expected in Latin America, South Asia, and the China region. In today’s industrialized countries, only moderate gains are to be expected. Comparing these results to the most optimistic scenario, assuming the education goals of the ICPD, there is surprisingly little difference to the constant enrolment scenario. This is due to the great momentum of educational improvement. Increases in school enrolment today, and over the coming decade, will only

very slowly affect the average educational attainment of the whole working age population. The difference is worth noting in Sub-Saharan Africa because the current school enrolment rates there are still far below the Cairo targets. Because the ICPD also implies lower fertility in some regions, the absolute numbers are even smaller under the ICPD than under the constant rate scenario.

Figure 12 summarizes the information of Table 1 in graphical form. It compares four economic “mega regions.” It shows that currently Europe and North America together still dominate the world in terms of human capital, although South Asia and the China region are already bigger in terms of working age population. The figure also shows the different pathways of China and South Asia (India), which reflects the fact that unlike South Asia, China has invested heavily over the past decades in primary and secondary education, and will see a peaking of its population size over the coming decades. South Asia will soon surpass the China region in terms of population size, but will fall back in terms of human

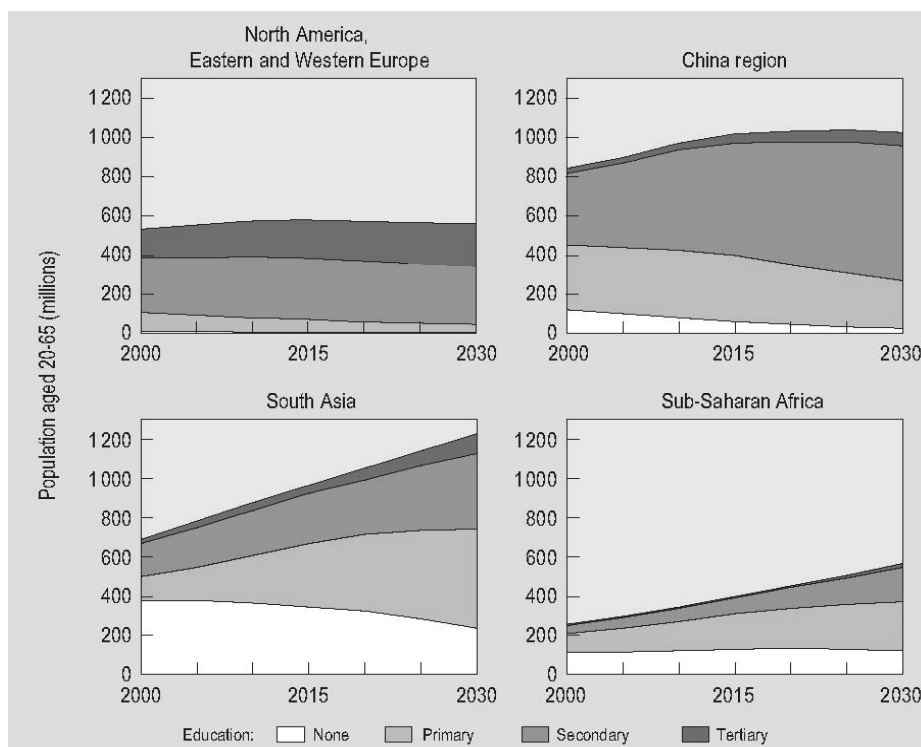


Figure 12. Population (in millions) aged 20–65 by level of education, according to the “ICPD” scenario in four mega-regions, 2000–2030. Source: Goujon and Lutz (2004: 138).

capital. Even under the most optimistic scenario, Africa will see only very moderate increases in human capital. An interesting point worth noting is that China’s human capital is increasing so rapidly, that by around 2015 China will have more people of working age with secondary or tertiary education than Europe and North America together. These global shifts in human capital are likely to result in changing geo-political and economic pressures, but they will also give us an indication of the likely future availability of human resources.

What do these global patterns of human capital have to do with the families and the topic of our conference? As we discussed at the beginning, it is not only the number of children being produced by families, but how families play an equally important role in the early education of the children. It has been shown over and over again for virtually all countries in the world that the educational chances that a child has, as well as the intellectual and emotional pre-conditions for being successful in school, have a lot to do with the early childhood environment that is typically provided for by the family. The same is true for health, where the family conditions in childhood are a key determinant of infant survival and even health-status as an adult. And there is a strong positive feedback: more educated parents tend to have more educated and also healthier children, a pattern that seems to hold for almost every society on earth, regardless of the state of development.

CONCLUSIONS

Some people have asked whether there is an optimum population. This is a difficult question to which there is no clear answer. Particularly with respect to population size, and the resulting population density, what might be considered an optimum depends crucially on the natural resource base, on the state of technology and other more subjective criteria. The economist Julian Simon called people the “ultimate resource” and thought there never could be enough. Ecologists such as Paul Ehrlich think there are already far too many people on this planet. Which one is right depends on the criteria we use.

In terms of the focus of this conference, “more people” may mean more people who will have needs to be met and more people who can help to provide these services. In order to get a more differentiated picture, we added two levels of sophistication to the simplistic Ehrlich-Simon controversy over size. First, we added the population age-structure, and thus the level of reproduction. For the balance of providers and receives of service, both rapid population growth (very many children, fewer working-age adults) as well as rapid population aging (many elderly, few young adults) pose challenges. Thus, for maintaining a stable and balanced population age structure, a fertility rate of two surviving children would be ideal.

But I introduced a second important level of differentiation. Not every member of society of the same age has the same capacity to contribute his/her services. As a proxy for this human capital, I chose to study educational attainment. This adds an important dimension to the discussion of population aging. Better education of the younger generation may in part compensate for the shrinking number of young people in aging societies. In this case, the sum of human capital available to society may not shrink despite low birth rates. This gives us reason for hope, if indeed the younger generation will not only be better educated but also have the mental and physical health conditions, and the willingness to contribute to society. Whilst societal institutions mostly provide formal education, these other personal pre-conditions are predominantly provided by the families of origin. Hence, the provision of new human resources for society does indeed depend crucially on functioning families as the generators of the next generation.

REFERENCES

- Engelhardt, H. and A. Prskawetz. 2004. On the changing correlation between fertility and female employment over space and time. *European Journal of Population* 20:35-62.
- Goujon, A. and W. Lutz. 2004. Future human capital: Population projections by level of education. Pages 121-157 in Wolfgang Lutz, Warren C. Sanderson, and Sergei Scherbov (eds.), *The End of World Population Growth in the 21st Century: New Challenges for Human Capital Formation and Sustainable Development*. London: Earthscan.
- Lutz, W., B.C. O'Neill, and S. Scherbov. 2003. Europe's population at a turning point. *Science* 299:1991-1992.
- UN. 2003. *World Population Prospects: The 2002 Revision*. New York: United Nations, Population Division.

THE VARIOUS NEEDS OF THE GENERATIONS WITHIN THE FAMILY: WHOSE CONCERN IS IT AND WHOM DOES IT CONCERN?

LIDIA NOEMÍ MAKIANICH DE BASSET

Functions of the Family in Argentina

The text of the Preamble to the Convention on the Rights of the Child, promulgated by Argentina on the 10th October 1990, envisages the family as the natural means for the development and well-being of its members and children in particular. I shall firstly set out, albeit in a general and generic manner, the varied functions of the Argentinian family. This means mentioning the tasks carried out by its participants that enable the aforementioned functions to be assured and the needs of its members fulfilled. However, the fulfilment of obligations is usually much more satisfying when carried out in an informal manner since it permits the satisfaction of obligations in a more spontaneous manner, even if it is also sometimes a source of conflict. Family functions can be fulfilled without cohabitation, but these are more reduced and even forced when joint living is absent.

The family (that is, the nuclear or core family, single parent, or even “reconstituted”, with generally not more than two generations or even just one still living) is characteristic of industrialised regions and heavily populated towns. Apart from the economic and sociological causes, a culture promoting individualism and, therefore, the slow destruction of spontaneous family solidarity, is translated into a tightening of the family circle.

There is clear evidence of a change from the large family (which can still be found in rural regions) to the small family. The functions fulfilled by each of these vary.

The functions of the extended family, whose relationships are more hierarchical (albeit in a much less marked way than in the past), gave rise to controversial positions. On the one hand, the functions of this family are not very expansive and most of the functions are, or were economic. However, it would seem that the small family now fulfils more functions and does them better¹. On the other hand, the current traditional belief claims that many of the functions of the family have been diminished or are disappearing, replaced by the State or other intermediary organisations. However, usually neither the State nor these other organisations are reliable, suitable or sufficient to fulfill these family obligations. It must be pointed out, as a sign of the times, that there has been a democratisation of family relationships. However, exploring this question more deeply is outside the scope of this paper.

In Argentina, population distribution is very irregular, with around a third living in the city of Buenos Aires and its outskirts. A significant percentage live in the other large towns. Consequently, the make-up of most families conforms to the urban model of the industrialised regions. This does mean that the percentage of smaller families is growing.

Although questions must be recognised in families, socio-economic, cultural, religious, philosophical and political concepts have a particularly strong influence. In the last century, socio-economic changes accelerated the reforming whirlwind of western Family Law, including Argentina's.

However, the following functions can be highlighted in a general manner even if the approach is hypothetical and varies by degrees and qualities. Furthermore, the level of complexity involved in the fulfilment of the different functions must also be considered. The mention of functions alone is enough to lead us down an uncertain path, but it is useful from an educational point of view:

1. The family functions as a matrix of individuals².

¹ Lahikainen Anja Riita, quoted by Aulis Aarnio in “Changing concepts of the family and the reform of Family Law in Finland”, Canada 1980. Aarnio Aulis has been quoted several times regarding the functions of the family.

2. It also fulfills the function of protection and assists the weakest members (minors, the sick and the elderly) who are not able to provide for themselves.
3. Compulsory schooling has led to an erosion of the function of the family as educator. However, public schooling is not perfect and this is why, when the family can afford it, it pays for private education. In such cases, the responsibility is carried on the shoulders of the family and not on those of the State, even where the State supports schooling with the taxes paid by the citizens.
4. The transmission of cultural heritage, particularly important for children, remains a central responsibility of the family. The transmission of biological heritage is still mainly assured by the family but it is nevertheless gradually receding.
5. The economic function still remains because the family is a unit of production and consumption. The Report of the Conference of Leuven, Belgium, 6th May, 2003, highlighted the importance of families as key sources of social capital³.
6. The emotional function, especially the creation of a stable emotional environment, is one of the most essential and special functions; no institution can replace it. This function was also promoted in the Report of the Conference of Leuven, Belgium, 3-6 May, 2003⁴.
7. Traditionally the family controlled the behaviour of its members or, in other words, was responsible for the establishment of behavioural norms and the judgement and application of punishment where the established rules were broken. Today, this function has scandalously diminished as a result of State interventionism, with reduction and control of punitive functions. As regards minors, parents used to be able to physically punish them.

We have today legislated against family violence and through that acknowledge that there is a problem⁵.

Subjective family duties -rights or functions.

In order to ensure that the family fulfills its proper functions for as long as possible, Family Law dictates duty-rights, also called duty-functions, which must be fulfilled by its members.

These subjective family rights/duties, most typically the right to maintenance and title to inheritance, flow from a place within the family structure, such as that of father, mother, spouse, son/daughter, grandfather or grandmother, etc. The fulfilment of these subjective family duties enables the essential needs of the different generations of family members to be satisfied.

However, the statement of these rights/duties alone is not sufficient if the right of legal action is not at the same time conferred on the recipients where there is voluntary non-fulfillment of family duties. Faced with spontaneous non-performance, a family affairs judge can be approached to request compulsory enforcement (if this is possible considering the nature of the obligation), or else, the judge can decide on a more or less effective substitute duty, and also, but not always, obtain damages as redress for tangible and emotional loss caused by the non-performance. It is because of its importance to the fulfilment of family members' needs that the law, particularly the rules governing family duties and protective legal proceedings, will make up a significant part of this paper.

Firstly, when talking about Family Law, we must focus on two elements:

1. Without ignoring the fact that no society can do without law, or denying its inimitable purpose, one must also recognise the necessity of shielding oneself from the temptation, typical of lawyers, of believing in its omnipotence. That is to say, this semi-illusion, or hope of thinking that if the law changes, the structure of family relations will automatically change too⁶.

The law is hardly an effective means of producing sociological changes, unless modifications take place in the social conscience, or in the cultural changes that allow for the habitualisation of accepted normative reforms. In general, social changes have their own genetic factors, which are usually meta-

² Pérez Aurora, Familia y Pediatría quoted by Cecilia Grosman in LL a983-B-1158, nota 4.

³ Report of the Conference of Leuven, ICCFR, Belgium 3-6 May, 2003, p6.

⁴ Report of the Conference of Leuven, ICCFR, Belgium 3-6 May, 2003, p6.

⁵ Basset Ursula C., Tres supuestos de Violencia Familiar que merecen recepción jurisprudencial, ED

⁶ Díez-Picazo, Familia y Derecho, Civitas, Madrid, 1984, Cap1, p33 et ss.

judicial, and it is the law that absorbs them *a posteriori*. It is the ever-increasing acceleration of social change over the past few decades that has produced the aforementioned climate of reform in the different legal systems and not the other way around.

2. Along with some of the principles of post-modernism, we will need to abandon the temptation to believe that our subject matter contains absolute ideas and formulations⁷. In the singular dialectic, taking place between the conscience and the social structure, on the one hand, and the law on the other, the distance between them creates the tensions and social demands arising from a sense of justice and morals that is no longer the same as that which justified previous rules. This leads to legal phenomena, which provide the face of the living law, whose effectiveness and efficiency is examined by Legal Sociology, measuring the gap between law and reality that can lead to legal phenomena such as *contralegem* decisions and *desuetudo*.

The current principles of Family Law in Argentina.

It is necessary to first of all highlight a tendency to transform the subject of the family into a private matter. Previously, most family norms and those belonging to the proprietary marriage regime were considered public matters, meaning that they could not be ignored by a private contract. However, it is clear that the interest in the family was as a support for the State. In such a situation, a very slight tension is created between, on the one hand, removing familial norms from the public interest and, on the other hand, consideration that at least some of the norms governing it are not available to individuals. But it must be repeated: *the domain of prescriptive norms is in retreat*. In any case, in spite of the said privatisation, the rules on family violence open the door to interventionism and at the appropriate time.

But as a counter-current to the privatisation of Family Law, as far as adults are concerned it must be pointed out *that state intervention has intensified in the Law dealing with Minors*; this is neither paradoxical or unreasonable. It must also be said that the effectiveness of this kind of interventionism is limited. As far back as 1869, under the influence of article 59 of the Argentinian Civil Code, minors and the incapacitated had a *promiscue* representative, a public official called the Defender of the Underaged and Incapacitated.

A preliminary step, called "*mediation*" was established before the beginning of the court case proper. However, this mediation was not extended to all legal jurisdictions of the Republic. There is a *special jurisdiction*, that of the Family Affairs Judge, sitting alone on cases and with three judges in others. Today, there is a clear tendency to reduce the level of conflict as much as possible and *obtain agreed solutions*. There is also evidence of a *new sensitivity in approaching the subject of the family*. The legal conflict is considered much wider than that which we see during trials and is usually devoid of ideal solutions. In order to undo the Gordian knot of conflict, lay professionals must be invited in even if it remains completely clear that the judge must have the final say. Psychologists and social assistants usually act as legal assistants. In certain cases psychotherapy, has been ordered by judicial order, which is, nevertheless, also controversial.

Development of the family legal order

From what has just been said, it can be concluded that this work is to clarify the family legal system that provides the family ideal supported by the Argentinian Legislator. Clearly, all of this is done by means of a simplification with the risk of ambiguity and abstraction that always follows such an overview. It also constitutes an analysis of the responsibilities that the law places on family members through the fulfilment of familial duties encouraged by the Law, and also the precautions taken by the family to stimulate its own effective performance or suitable substitutes.

As I have just said, Family Law gives an ideal of the family and this paper will present a judicial outline of the Argentinian family, and how family problems are resolved. And, through this, the European origin of Argentinian culture, its roots, and its membership of a European legal system

⁷ *The Law has absolute values, but when it becomes concrete, that is to say, legislation, the values become relativized.*

based on Roman Law can be recognised. However, it is likely that Argentinian experience will not seem foreign to many, especially European, since subsequent waves of migration suffocated, indeed drowned, the cultural and social heritage of the Argentinian people who were left as ethnic minorities.

The work method

In my opinion, a purely legislative outline from the point of view of Objective Law, will be insufficient, even poor and somewhat artificial and mutilated, since this would not show the care or boldness with which the Courts interpret the rules. This offers a vision of the true Law, of living law and much more. The methodology of the *Trialist Theory of Law*⁸ is invoked here because the legal world is tri-dimensional: it exists in social reality (Sociological dimension); is translated into norms (Normological dimension); and is inspired by Justice (Dikelogical dimension). Thus, apart from the laws and legal actions, a superficial view of the social conflicts that have been brought before the Courts is offered; the few statements made will give a clear idea of normative effectiveness and efficiency.

Functions of Family Law

It would be advisable at this point to specify what the functions of Family Law are in regard to the family itself, and, consequently in regard to its members, as well as to society as a whole. There are a number of functions fulfilled by Family Law and these will be referred to below.

Educational Function. The law must say what is best or what is the least bad, by encouraging community behaviours that it considers good, or discouraging those that it considers reproachful. Sanctions in case of transgression, in so far as they are properly applied, also have power. Social reprimands or condemnations of rejected behaviours also influence people (a phenomenon known as *judicial effectiveness and social effectiveness*).

This educational function also constitutes a vehicle for social change through socialisation, although a social conscience is required in order for this to have⁹. It involves a subtle function¹⁰ which Carbonnier called an “invisible guardian of the peace”, and consists of the psychological pressure of different measures that make themselves felt on individuals, a phenomenon called “invisible effectiveness” by Carbonnier (this author adds that acting in accordance with legal prescriptions allows us to breathe more easily).

But Family Law has two other essential functions. On the one hand, it *organises and structures family relations in a generic form, by considering the family model aspired to by the legislator* (for example, the monogamous family, with strengthening of matrimonial relationships, or else the liberalisation of real relationships, including relationships outside marriage, heterosexual or homosexual). However we should remember that merely stating the existence of subjective rights would be ineffective if the same right did not drive legal actions allowing their exercise, or compulsory enforcement.

Finally it is necessary to point out that Family Law also has a role in *peacefully resolving family disputes*. Nevertheless,¹¹ its measures are barely adequate, even powerless, to undo the Gordian knot of a problem whose genesis is extra-legal. We could apply conminatory or other types of sanctions, but the Law has limited instruments, legal proceedings, and some measures of compulsion, whose social effectiveness is very limited. However, contesting family members, who may undermine procedural matters, highlight the limited nature of any Court’s legal rationale¹². Awareness of the causes of the dispute, as well as their harmful consequences, is required and such a task usually requires therapeutic input from a professional, to allow, though only sometimes, the resolution of these incidents that transform family disputes into true Kafkaesque experiences. Faced with this, the

⁸ Goldschmidt Werner, *Derecho Internacional Privado*, Ed. Lexis Nexis, 9^o ed., Buenos Aires, 2002.

⁹ Diez-Picazo, *Familia y Derecho*, Civitas, Madrid, 1984, Cap1, p33 et ss

¹⁰ Carbonnier, Jean, *Flexible Droit*, 6^o éd., p 170 et ss.

¹¹ Diez-Picazo, *Familia y Derecho*, Civitas, Madrid 1984, Cap.1 p 33 et ss

¹² Reina, *Culpabilidad conyugal, separación, divorcio o nulidad de matrimonio*, p143.

judicial sentence¹³, even relieved of all its sacrosanct values, is an instrument of limited effectiveness. The judgement can act as a fragile control of the problem, but it is not always capable of affecting extreme behaviour and attitudes of someone who does not want to have a reasonable discussion, but instead wants a fight. Nevertheless, this powerlessness cannot always be attributed to the precariousness or ineptitude of the system's legal response. Often the lawyers have not properly used the resources provided by the Law, or the judges are negligent in not acting with the appropriate rigour. However, it is quite clear that the Law cannot be called upon to resolve questions whose roots are so atavistic, nor can it assume therapeutic functions. It can declare some claims to be legitimate, establish pecuniary penalties, but it is prohibited from taking metajudicial functions upon itself.

Normological dimension

In general, it can be said that the development of the individualism that has been blowing for some time on Family Law in Argentina, is leading to an erasing of the notion of *family interest* –indeed, even the collective *group interest*– from the legal script, and is subordinating it more and more to the *individual interest* of each of its members. However, a view will be presented, albeit superficially, of Private Law, a domain to which Family Law belongs. This is my specialisation as well as my professional experience over almost three decades, excluding social politics and social welfare data.

Childhood, minors, and adolescents.

The law governing minors, unlike the privatisation to which Family Law has been subjected is, in general, more and more interwoven with public policy. This, I believe, is also the trend in the Western legal universe. In order to be subject to the law, one must have an existence in law. It must firstly be pointed out that, under Argentinian Law, the existence of a person begins at conception (art.70 Civil Code). It is interesting to note that this has implications for abortion. Children need to have parents, so that their needs can be provided for. This is all the more urgent when the children are in some way disabled (albeit to different degrees depending on their age), even if they have legal personality. This leads us to paternity. Law no. 23.264 / 1985 currently legislates for the subjects of filiation and parental authority. From the perspective of filiation, its in-depth philosophy has secured equality between filiation within marriage (it used to be called legitimate) and extramarital, or filiation outside marriage, (that used to be called, with a hint of contempt, illegitimate). The law believed that using the words “illegitimate” to describe these children was too hard, and “bastard” used in the past in popular speech was an insult.

The current state of the biological sciences (D.N.A. studies in particular) influences filiation law. Today, it is no longer possible to fill this law, as used to be done, with legal fictions (legal untruths) to maintain the peace in families, whilst showing contempt for the rights of the child. This criterion does not correspond with the current sensitivity in this area. The law has now installed a system of transparency between biological and legal links. In most cases, biological links are reflected at a legal level with the creation of a report. The fog created by these fictions (and the shortness of the time-limits for the expiry of claims and dispute proceedings) is being rolled back and allows children to have a defined father. Having a defined father under our Law makes the creation of subjective family rights possible, in particular the right to maintenance (which in childhood is referred to as the right to child support and supervision of education), which is absolutely essential when the child is a minor.

Establishing maternity: as was said in Rome: *Mater certa semper est*, that is, whether married or not, giving birth establishes the mother's maternity, and adds the proof of the child's identity by virtue of birth. All the disruptions arising from medically assisted reproduction, surrogate mothers (a subject that has not attracted legal attention up to now, considering the repudiation stirred up by the subject in certain scientific circles), could be resolved by applying the Roman principle underpinning the legislation.

¹³ Diez-Picazo, Familia y Derecho, Civitas, Madrid, 1984, Cap. 1, p33 et ss

With regard to establishing paternity, it is necessary to highlight a distinction between filiation within marriage and that outside marriage. In the first case, the old Roman principle applies: *Pater is est, quem nuptiae demonstrant*. The child of a marriage is always born with a known father. This becomes a consequence of the legal presumption (but it is not conclusive), according to which the child of a married woman has for a father the husband of the mother. This is a *presumption of the composition of the family*, considering that in the area of filiation there are other strong presumptions, which do not constitute any establishment of paternity where a court decision is needed. The cohabitation of the child's parents during the period of conception for example. Another convincing proof is *possession of status*. There are of course many others. 16.- Just recently post-modern Peruvian legislation has renewed efforts to make most biological fathers legal fathers at the same time (that is to say a progenitor who must fulfil all the legal duties concerning the child). Law 28457 established a special process, which determines paternity upon the request of the child's representative. The only dissent possible for the said "father" is to submit to a D.N.A. test within 10 (ten) days. However, in Peru there are many single mothers and more than one million children whose filiation has not been established. In any case, the most general method of establishing paternity outside marriage remains *recognition*. This signifies from the outset, as Malaurie¹⁴ has said, a taking of responsibility. In a country where more than 40% live below the poverty line, and given that most children whose fathers remain anonymous belong to the less well off classes, the phenomenon becomes a social drama. With regard to children who do not possess any or limited status, a partially restorative jurisprudence sentenced the parent, who wrongly denied paternity and contested it unsuccessfully, to paying compensation (See, Sociological Dimension, no.7). Other legal consequences have come to the parent who did not recognise a child, or who refused to pay child support (art. 3296 *repeated* of the Civil Code). Under civil law that constitutes, at least, a private wrong. The promotion of biological truth and knowing one's identity is also a consequence of *the greater interest of the child*, a principle which subordinates all other rights, but which is nevertheless only ever interpreted by adults, and includes everything, or nothing, or anything at all!. This principle, rendering any opposing law ineffective, is imposed on Argentinian law by international treaties, such as the International Convention on the Rights of the Child. Conflicts of interest between an adult and a child must be resolved by the sovereign application of the said principle even though this does not go so far. It is known that divorce is not good for the child but, nevertheless, the law does not prevent parents with children divorcing, even if the relationship between them (the parents) is not completely unbearable. However, the question could become weak or nebulous if the interpretative rule was to be applied to conflicts of interest between two or more children. If it involves two or more minor children of different ages, is it the youngest whose interests remain paramount? The regime of minors extends to 21 years (*age of majority*) if they are not emancipated. *Parental authority* according to law 23264 / 85 is not defined, except in the case of certain acts.

Minors do not only need parents on paper, in documents or as statements of status, but particularly to develop feelings and establish contacts as frequently as possible. This natural right of communication must be recognised everywhere and the interests of the child demands this, as Carbonnier¹⁵ has said. They need to have healthy relationships with both parents. The aforementioned Convention also states this.

The civil law is not alone in punishing parents who prevent the other from seeing their child. A criminal law also exists that typifies an offence, law No. 24470. The legal consequence is significant enough as it can lead to the transfer of custody of minors from one parent to the other. Minors who do not have parents are subject to guardianship. The aim of this is to give such children legal representation. Minors have a *legal defender* (court employee) to themselves, who must intervene along with their legal representatives, in any questions concerning their rights (art. 59 of the Civil Code, original 1869 text still in force). Legal decisions must be dealt with before family courts, that is, a special jurisprudence exists depending on the subject.

¹⁴ Malaurie Philippe, *La Famille* Ed. 1995/ 1996, Cujas, p249

¹⁵ Carbonnier Jean, *Droit Civil, Tome 2, Paris, 21^o ed., 2002* .

Custody and visiting rights of minors has almost nothing to do with marital wrongs. Both (custody and visits) are rights of the child and of the parents. However, things are changing in this area. As regards the right of custody, when cohabitation ends or never existed, the law favours the mother up to when the child is 5 years of age, except where there is serious cause for difference. After this age, it will favour the parent who is most suitable for the minor. Shared custody can even be granted or decided under certain conditions. Fathers today also request custody of children a lot more often than before, but the percentage of fathers granted custody remains tiny or has hardly increased (not more than 5 %).

Visitation rights that also cover housing of minors¹⁶ is from time to time more expansive, including not only grandparents but more distant family members (and even friendships, and all people with whom there may have been emotional relationships). The family, from this particular point of view, is much more extended.

There are different needs for different generations within the family; that is, the need to become parents, the need to have parents, *adoption*. The child in such a case is not the biological product of the parents. The whole question should be approached with caution from the law's perspective, but the institution of the family must also be cherished, because it incorporates mutual conveniences for the various participants. Adoption is a completely legal form of filiation; the link created is purely legal and legitimate, although there are not now any differences between the two regimes, of marriage and outside marriage, in terms of filiation in Argentinian Law (law 23264 / 85). The adoptive links are superimposed on the original family links. Law 24779 (and 25854, decree 383 / 05) controls adoption by establishing two types: *simple adoption* and *full adoption*. However, in my experience, even if the law attempts to avoid complication, it does not succeed since bureaucratic implementation, and sometimes even the courts, constitute a "machine of prevention".

The intermediate generations.

These are obliged to support and assist children and to give support and assistance to elderly parents (when they are in need). At the same time, they have to support themselves and solve their own problems or they will be unable to fulfil the burden placed on their shoulders. Even if marriage is in decline, marriage can be presented as the core of the traditional family. In Argentina up to now (and this will change), only marriage creates effects or consequences of a familial nature between its members. No subjective family right is recognised between cohabitantes, even if such a condition confers a right to request alimony, medical care, compensation from third parties, continue the leasehold, or all rights that they can ask of third parties but not of their partner. They cannot demand things that are typically conjugal even familial, for example, such as maintenance or assistance, fidelity, or cohabitation. These rights do not exist for common-law spouses, since in law, they are total strangers and remain so in family law regardless of the length of the cohabitation. The family outside marriage is only recognised for the judicial determination of filiation and nothing else.

As Carbonnier has said, and this is also the case in Argentina, the traditional family is the legitimate family, with children coming from marriage, and this is dissolved by death. Nevertheless, considering the ever increasing figures for divorce or separation, generally of families in crisis, single parent families, coconstituted families (or reconstituted), it is currently still felt that the traditional family is still in the majority and this allows to be considered "normal".

What are the needs of the family's adult members (or minors who are married) which this institution aims to satisfy? We must look at the functions of marriage. Canon 1055, para. 1, of Canon Law, can be called upon even though it deals with quite general but nevertheless comprehensive assessments: *marriage is arranged by its nature for the natural benefit of spouses and for the creation and education of children*. The reciprocal duties of husband and wife are arranged to fulfill these ends. This married status has almost a hint of morality (it would be good to see it written in a bronze cast)! This last freedom is one example of the democratisation of married relations. It involves a structure more of equality than hierarchy, as it used to be in the past. However, beside the explicit duties, there are implicit ones. These are far more numerous and come from the Court. It is through Court

¹⁶ *Makianich de Basset Lidia N, Derecho de Visitas, Hammurabi, 2nd ed. 1997*

jurisprudence that we know of these implicit duties, by examining those that the court considers wrongfully broken and consequently wrong for the purpose of the divorce or fault-based separation, within the meaning of article 202 Civil Code.

It can be said that marriage also incorporates duties of sincerity, solidarity, cleanliness, mutual respect, etc. However, it is cohabitation in particular that becomes a basic duty by rendering the fulfillment of other duties, even unsolicited ones, possible.

37.- From a proprietary point of view, a regime exists from the moment of the celebration of the marriage. The regime is legal, prescriptive (even if the post-modern hermeneutics do not think so), unique and non-modifiable.

It is the family of marriage that must offer conditions in which spouses can fulfil their personal development, complete their life projects together, support each other for better or for worse. In particular, married life must be tolerable. However, to appreciate what level of tolerance is demanded, we must firstly move away from the conception of married life being restricted to martyrs or heroes. It is a tolerance termed “normal” or for “the common man”.

This term “tolerable” should be remembered because it is the key word around which all causes of separation and divorce revolve. It can even be said that it is the dividing line between marriage and divorce. All marriage crises ought to include the intolerable nature or impossibility of living together (arts. 202, 203, 204, 205 and 214, 215 through remission of the Civil Code). Everyone knows the torments that surround divorce.

When a marriage crisis occurs, it is high drama! This crisis moves along different paths according to the will of at least one of the cohabitants: de facto separation, legal separation, divorce. De facto separation is where the matrimonial dispute is not brought before a court, but still produces different effects depending on whether it is desired by both partners or only by one. In any case, the marriage bond remains intact, as well as the marriage, and the possibility of resuming cohabitation by issuing an invitation to the other party. If the other partner does not accept, misconduct is committed, a cause for legal separation and divorce. A de facto separation voluntarily accepted by both suppresses their respective rights of inheritance. The duty of fidelity in this case remains uncertain: some say that it remains intact while others assert that it disappears. When the separation is unilaterally imposed, harmful effects for the abandoning or guilty party are added: the partner who has not caused the separation can institute legal proceedings to dissolve the *communal estate* without any obligation to ask for a divorce or a legal separation. There is the right to a share in all the guilty party's property of the marriage, from the time of the separation, notwithstanding that the latter does not have the same right and also loses any title to inheritance towards the innocent party. Even completely new laws recognise the innocent party's right to receive compensation for wrongs suffered (see Sociological Dimension no. 4).

There are three distinct different effects between legal separation and divorce, governed by law 23515/87: in all cases, divorce dissolves the bond of marriage, the ex partners not being able to resume conjugal life (they must get married again), destroys title to inheritance, and does not activate the law governing division of the communal estate, or any other law. Legal separation activates the law governing the division of property between the separated spouses. All other effects are the same.

And what can any spouse do if it is not possible to put up with living peacefully together? As Bénavent¹⁷ says, “à la carte” legal separation or divorce is available. In other words, it can be said that there is fault-based separation and divorce (art. 203 / 214, 1st line) for de facto separation or prolonged interruption of conjugal life (art. 204 / 214, 2nd line), for serious mental deterioration, of a permanent nature, and also for alcoholism or drug addiction (art. 203, which remains only a cause for legal separation, but divorce can be obtained with a little patience by waiting, in most cases three years, to ask for the conversion of the separation to divorce), and mutual agreement (art.205/215).

¹⁷ Lindon et Bénavent, *Le Droit de Divorce*, Paris 1984

The differences already highlighted between the effects of legal separation and divorce are the only differences; the other effects are the same. The only duty that survives is that of the maintenance of the spouse who is innocent of any wrongdoing, or where a maintenance contract has been honoured, when the separation or divorce occurs by mutual agreement. The receiver of maintenance has the right to receive sustenance and maintain the same standard of living existing before the break. However, a culture is becoming more widespread that encourages the wife, even when innocent, to work after the divorce, misinterpreting the spirit of the law which does not order it. It must also be said that, in case of mental illness, alcoholism and drug addiction, the duty of maintenance, where the party paying maintenance has died, must be fulfilled by the inheritors from the inherited property. In this case the law breaks a multi-secular principle: passive non-assignability *mortis causa* of the right to maintenance.

In any case there are also maintenance exceptions afforded in case of extreme poverty, and these can assist even the spouse who has committed the fault. However, they are totally exceptional and quite paltry. The doctrine and the legal culture recognise that the law also permits compensation for wrongs caused by the interruption of married life and its causes.

The family home is also, preferably, awarded to the innocent spouse (except if the other spouse together with the children constitutes the larger family group), with the possibility of having any prenuptial donations returned. The custody of minors is not connected to the culpability of the spouses with regard to the break up of the marriage. And, after all that, the divorced spouse is in a position to be able to “*put it all down to experience*” and remarry!

As we have already said, there is specialised jurisdiction in these matters, that is, the Family Judge and, in certain territorial jurisdictions, the Family Courts. It is extremely difficult today to reject an application for divorce. But it has only been like this for a short time. There used to be an indecisive, upsetting even, jurisprudence which said to spouses whose conjugal life had become intolerable: “I reject the application for divorce, I sentence you to live in intolerability”! Court actions, except for disputed ones, are becoming more and more simplified, even *contra legem*.

The elderly

For the elderly, status depends on the situation. If they have become incapacitated, they will have a protected status almost like that of minors. If they are still able, their status will be like that of those over 21. This paper approaches the subject from a Private Law perspective. There are two articles in the Civil Code that may be considered that concern the elderly. The first is article 266 that says that children owe respect and obedience to their parents. Even if they are emancipated, they are obliged to look after them in old age, as well as in a state of dementia or when sick. They must attempt to fulfil their needs in all the circumstances in which this assistance is indispensable. Article 3295 considers children unworthy, from an inheritance perspective, if they abandon sick or senile parents. Other causes of debarring of inheritance are valid for all successors *mortis causae*. Physical aggression by the child towards the parent is sufficient to disinherit offspring (art. 3747 of the Civil Code), as well as the offence of attempted murder or a criminal charge carrying a sentence of more than five years in prison.

Sociological Dimension

Even if I add here some statistical data, the sociological dimension of this work comes more from legal decisions than anything else that demonstrate the social disputes of a legal nature, which when brought before the judge are resolved according to a respectful, daring or unrecognisable interpretation of the statute in force.

Statistical data

Basset¹⁸ carried out research on the pressure placed on women who have custody of children and who must, at the same time, work to provide for the household. It shows that since 1947 the number of single parent families with the mother as the head has increased four fold. Today, one out of every

¹⁸ Basset Ursula C, “Recherche sur l’intersection entre le travail de la femme et le divorce, an 2005”.

five households is a single parent one. According to the national census of 1991, 84% of women heading up households work outside the home.

Mediation

The instance of preliminary mediation has reduced the procedural waiting time, usually very long in Argentina, for the resolution of family disputes brought before the courts, according to the statistics of the Pouvoir Judiciaire de la Nation [National Judicial Power], 2003. Between a quarter and a third of court cases have been resolved through amicable agreement of the opposing parties. Agreement is far more effective than a legal decision.

Compensation for wrongs caused to minors in the case of filiation

The sufferings, and emotional and psychological wrongs, caused by the absence of voluntary recognition of the minor child give rise to damages in accordance with common law. This involves the case where the father cohabited during the likely period of conception and moreover the minor possessed paternal status. (E.N. c/ G., F. C.N. Cam. de Apel., San Isidro 1/X/1988 E.D., 132-511.) This was the first legal decision up to now to be followed by many others.

Compensation for emotional wrongs in the case of fault-based divorce.

As compensation for the emotional wrongs caused by adultery, damages in accordance with common law can be awarded to the spouse who was the victim; this effect cannot be replaced by other effects that the law attaches to the spouse at fault. (Cám. Nac. Civil en pleno [National Court of Appeals, plenary doctrine] G.,G.G. c/ B. de G., S.M. 20/IX/94, LL, 1994-E-538). A recent decision, a spouse, not yet legally separated or divorced was ordered to pay compensation for the emotional wrongs caused to his spouse by frequenting the same social gatherings as when married (C.R.A.M. c/ D.N.S.L.C. s/ divorcio, C'am. Nac. Civ. De Appel. "E" 2/III/ 05).

The duty of fidelity after the de facto separation

After the divorce law came into force (there had been a short experiment in 1954/1956, art.31 of law 14394, which was definitively allowed in 1987 by law 23515), the continuation of the duty of fidelity after the de facto separation, when it has been agreed by both parties (and sometimes prolonged for three decades), is incomprehensible. Sometimes, the basis given for this becomes a caricature of judicial reasoning. The two conflicting decisions that I have mentioned are typical of the controversial positions that continue today. (In favour, I.,E.E.c/N., Cám. Nac. de Apel. Civ Sala F 12/X/94, J.A. 1995- III-351; against, A.,J.J.c/ B. de A., A.M., Cám. Nac. Apel. Civ. Sala M 12/VI/92, La Ley 1993- E -16).

Dikelogical Dimension

The intention of this paper is also to offer some dikelogical reflections. Like all data in this genre, it sets the polemic alight and becomes a difficult ground on which to agree. Many things and values damaged in the name of justice have created a lack of belief, but if there is no future for justice on the horizon, there is no hope in society. I risk saying this in the country of Kelsen, who I think is a genius nevertheless.

The greater interest of the minor

The greater interest of the child is an inescapable legal principle for all countries party to the International Convention on the Rights of the Child, including Argentina which passed it into law on the 16th October 1990. It involves an interest subordinating all other interests which could be put forward when a minor is in question. However, as already remarked, it does not go so far as preventing the divorce of parents even if this will cause suffering. The principle is beneficial when the minor is in need of protection. However, Carbonnier wondered why the interest of the child should be greater than the interest of, for example, adults. It is about protecting the weaker and more vulnerable party whose state of dependence is more acute, and also because the abuse of defenceless persons is so widespread. Since there are no rules to interpret the said interest, discretion is the rule, even if it is still true that the interpretation is being driven by the tones set by today's culture, and an interest in the child's future.

Listening to Minors

Provided that what minors say is not inalienable, listening to children may bring useful information to the ears of the experts that can be considered when trying to resolve cases concerning them.

The age of majority at 21 years

Arguments still persist over the suitability of retaining this rule. Lowering the age to 18 years has often been discussed, but with a continuation of the duty of maintenance until 25 years if the child is in full-time education. If there is no modification to the duty of maintenance to minors within the meaning already highlighted, the lowering of the age of majority would be detrimental especially in a country with a high level of unemployment.

Biological and adoptive filiation

If psychologists today assert that the truth is a cornerstone of mental health, law 23264, which brings the possibility of establishing biological truth onto the legal plane, seems fair. If the law, in addition to establishing the true genetic father and facilitating his location, permits that where there is failure to fulfil family duties arising from the family condition, the court can be asked to order their fulfilment and minors can then acquire their vital needs. A new law and its decree (law 24854, decree 383 / 05) on adoption have just been introduced in Argentinian legislation, with the aim of encouraging it. However, while it seems that the law resolves the conflict of rights between all participants, (that is to say: a) the adoptable minor, b) birth parents, c) adoptive parents), it is nevertheless not just that the actual implementation of the procedure, including its administration, hinders the intended effectiveness. And that is exactly what is happening. We are aware of the risk involved in some adoptions and we must take adequate measures, but we must also make it conducive to giving children (whose fathers do not want to or cannot raise them) a family and loving surroundings. There are psychologists who say that the rehabilitation of minors who have committed offences can only succeed if such children have received, at least, a little affection during childhood. Feelings are priceless.

Custody and visiting rights

Both the civil and criminal law (art 264, inc. 2 of the Civil Code and law 24270) agree with the principles of the International Convention on the Rights of the Child, on the protection of the right of the child to have a relationship with its father and mother, because this usually leads to a well balanced development. On this subject, the Courts are very strict with parents who prevent minors having a relationship with the other parent; custody of minors can be removed from these parents.

Right to maintenance

It seems fair that both parents contribute to maintenance according to each one's condition and wealth, and that Judges reduce the pressure on the parent who retains custody because he or she provides maintenance in kind, that is to say, with his or her personal work, and by dedicating time to the children. As regards the duties of maintenance and child support, the law has established a very short special procedure that is, however, not very effective. Even if the creation of a list of those owing maintenance is drawn up, it must be admitted that the resources allocated do not encourage success. However, it is not only the law that collaborates in the failure to comply with normative principles and the expression of spontaneous solidarity. There are also many other factors contributing to the result that is that maintenance is seen as an unfortunate and deficient form of assistance. The number of these types of cases in the day-to-day work of the Courts is staggering. (There are also criminal laws 13944 and 24029 on this subject).

Parental authority

Parental authority has diminished, which is only right except where this lessening has led to domestic anarchy. When both parents live together, this authority is shared. However, when war between the parents is unleashed, the same war is played out on the battlefield for the children! Although I do not want to make an excessive generalisation, I should say that when parents are not in agreement, the question of children usually becomes a tortured issue and legal reasoning cannot always be applied.

Damages

Fair jurisprudence is, little by little, beginning to make headway within Argentinian Law. The courts have awarded damages to children who have been deprived of confirmation of paternity, when the father could have removed any doubts over filiation. Such behaviour by fathers has deprived minors of benefitting from the right to an identity, family and maintenance rights, amongst others things, and the right to have a definite, visible father. There is no reason why civil liability should not extend to Family Law, especially when it is such an effective tool for serving justice.

A question of adults

Many things relevant to the subject matter of this work could be said about adults. However, the scope of this paper prevents it.

Alimony after the marital crisis has been brought before a judge

In the cases of separation and divorce where maintenance is retained, usually in favour of the woman, it is most usually and gradually increased to the level of the living standard of the spouses when they lived together. However, even without any legal text ordering it, Judges attempt to convince the recipient of alimony that she must work and provide for herself even if she did not do so during the marriage and, furthermore, does not have any training relevant to the employment market, in most cases because she had to devote herself to the children and the home. It should be noted that the level of unemployment is very high at present and it is particularly difficult to obtain sufficient income. There is further injustice when one of the partners, during the marriage, has devoted her time to the household while the other spouse was advancing his career because of the partner who remained at home creating the family infrastructure. There is no compensatory benefit or alimony during the time needed to learn a profession. The injustice is even more injurious where the non-working spouse does not have a pension.

Damages

The law has awarded damages to the spouse who is the victim of adultery, provided that the wrong formed the basis of a sentence of fault-based divorce. Less numerous decisions have also awarded damages, such as compensation, where the marriage has broken up. A new decision has very recently been incorporated in law: damages have been awarded as compensation for the wrongs of an emotional nature suffered by the spouse not yet legally separated or divorced, when her husband frequented the same social circles with another woman, showing the adulterous relationship without any sense of decency or consideration for the spouse.

Duty of fidelity, until when?

The question of whether or not this duty survives has been raised many times. Today, the liberalisation of the reasons for separation and divorce introduced in 1987 has also liberalised morals which have, little by little, influenced the law. However, most of the time it distinguishes between a de facto separation, requested by both spouses, and a de facto separation unilaterally imposed. In the first situation, the non-survival of the duty of fidelity is more easily accepted. In the second case, the law still hesitates. Whether or not the situation can be tolerated is for the spouses to decide, but any agreements freeing them from the duty of fidelity do not have any legal force.

Allocation of married home

The home is usually awarded to the parent who retains custody of the children. However, when this is not proposed, it may be awarded to the innocent partner in the case of fault-based divorce. When fault-based divorce is involved, the innocent spouse cannot be treated in the same manner as the wrongdoer.

The elderly

The elderly should have the same principle of interpretative privilege as that for minors even when they are not incapacitated: a legally protected greater interest. Some authors see the minor's subordinating interest as securing the minor's future. The same principle should hold for the elderly precisely because they do not have a long future. Without it, there is a black hole in the Law, or even an unjust "non-right". It should be demanded as a tribute to all that the elderly have given to children: affection, sacrifice, dedication. The focus here is from the point of view of Private Law,

even if it is the State in other fields of law that must look after and improve benefit payments. In most cases there are no adequate pensions or assistance, and the elderly are expected to be able to survive on assistance from relatives. When this is not voluntarily given, the elderly suffer continual humiliation. And *Lady Injustice* joins the list of possessions the elderly carry to their graves. They do not have a lot of time to recover or build up their defences.

There is also a remarkable phenomenon: the less well off people show a much more pronounced level of solidarity towards elderly parents than people belonging to the better off social and economic classes. Perhaps solidarity becomes essential very early in their lives because without it they risk not surviving.

Everyone is aware of the normally high degree of dependence of the elderly even when not incapacitated. They have, at the very least, an emotional, even psychological, dependence on younger people. They are very exposed to the whims of others particularly when they do not have any children around them. From the start of any legal career we are taught that love and affection have no place in the law; that love cannot be imposed by rules, although certain norms can be followed or complied with by presupposing certain emotional relationships between people. The Civil Code cannot require love. As Cyrulnik¹⁹ said, love would be the foundation on which we rebuild ourselves. However, it is difficult for the elderly to reorganise themselves emotionally as they do not have all the time in the world. In most cases, without any love around them, they give in to death. Culture, in Argentina, and the legal system, is weak on old age.

¹⁹ Cyrulnik Boris, *El amor que nos cura*, Ed. Gedisa, 2005, p 174.

**SUPPORTING COUPLES IN SOCIETY: WHERE WE ARE NOW AND WHERE WE
MIGHT GO?
CHRISTOPHER CLULOW, PHD, DIRECTOR
THE TAVISTOCK CENTRE FOR COUPLE RELATIONSHIPS.**

Many years ago I heard a story about a young mother talking to a friend about her marriage. ‘Since we had Laura’, she said, referring to her baby daughter, ‘I find I’ve gone off sex, and it drives my partner mad’. She continued in this vein for some time, talking about how cross she could feel when he made demands on her, as if she had two babies rather than one. ‘But I shouldn’t feel this way’, she said, ‘do you think there’s something wrong with me?’ ‘Why don’t you go and see your doctor about it?’ the friend enquired helpfully. ‘Oh no’, said the mother, ‘he’ll only want to make me do something about it.’

I tell this story for a number of reasons. The first is to do with nostalgia. The first meeting of the ICCFR that I ever attended was here in Vienna in the early summer of 1978 – unbelievably (to me), 27 years ago. At that meeting I presented a workshop on the transition to parenthood, since I had been doing some work in this area at the time. I think I may have told the story then, since when I sat down to write this paper it popped into my mind for the first time in many years, and I wondered where it had come from.

There are more important reasons for telling the story! First, it captures the ambivalence in every help-seeking relationship – there is the wish to be heard but the fear that telling other people involves risk. Second, it invites the possibility that people are attached to their difficulties and may not want to give them up (this is also a reference to Vienna, and to one of its notable citizens, Sigmund Freud, who reintroduced the world to the contradictions inherent in the psychopathologies of everyday life in his own very particular way). Third, it suggests what every systemic therapist knows, that context is vital to understanding human behaviour. My main reason for telling the story in the context of this paper (very different from the one in which I gave a paper twenty-seven years ago) is that it suggests there is no such thing as a couple (to adapt a phrase of the child psychiatrist, Donald Winnicott), only a couple in relation to a third party. So when we talk about ‘supporting couples’, there is always a notion of a third party who will be providing that support. When we talk about ‘supporting couples in society’, we are providing a context that contributes to defining what ‘support’ means.

So I need to tell you where I’m coming from. First of all, quite literally, I’m coming from England – London to be precise. So I want to talk about couple support in the context of what is happening in England. It will be for you to judge whether this has any relevance to what is happening in the rest of the world, and I will be very interested to hear from you about that. Second, I’m speaking professionally as a psychotherapist, so my perspective on supporting couples won’t be in terms of tax breaks for those who marry, or child benefits to support young families, approaches that Wolfgang Lutz might have views on when he refers to families in economic terms as producers of ‘human capital’. Nor will I be speaking, as Lidia Makianich de Basset might, about the legal context that sustains, or fails to sustain marriage and couple relationships (two distinct, albeit related, entities). However, I will extend my brief beyond that of a couple psychotherapist to try and take a meta-perspective on what we might mean by ‘couple support’ in the context of historical and policy developments affecting recent thinking in England and Wales.

But let me begin with an observation from my role as a couple psychotherapist. With 30 years experience of seeing couples the thing that has kept me interested in the work has been the struggle to make sense of why people who mean such a lot to each other have difficulty getting on. I’ve been haunted by a line from T.S Eliot’s ‘The Dry Salvages’, one of the 4 Quartets, a line that, interestingly enough, I first heard from a colleague in Marriage Care when we were attending a meeting of the IUFO in Paris, longer ago than I care to remember:

“We had the experience but missed the meaning, and approach to the meaning restores the experience in a different form.”

It is quite the best description of the psychotherapeutic process that I have come across. Given the complexities and pressures of contemporary life people are exposed to a myriad of experiences, but have little time to make sense of them. This applies equally to family life. Partners have many different

experiences in the course of their relationship. How those experiences are understood defines their relationship as a couple: a shift in meaning can have a transformative effect upon them, 'restoring their experience in a different form'. As every good fictional drama reminds us, significance lies not in what happens to people, but what they think is happening to them. So some relationships will founder on what appears to the outsider to be a 'storm in a teacup' (to use an English expression), whereas other relationships will flourish in the face of seemingly horrendous adversity. How we represent our relationships defines us as individuals; testing our representations against those of others can change the way we think, and so change us as individuals and how we are with others. So, in thinking about supporting couples, I am less interested in the destination than in the journey: it is relationship processes that interest me, and what they mean; the outcome of those processes are to be created and discovered.

We are most likely to become aware of relationship processes when they are not working. If partners can't talk together about their difficulties, or acknowledge there is something wrong, they will usually bring their plight, directly or indirectly, to the attention of others – their children, friends they can confide in, family members or colleagues at work. They may visit their doctor with a range of symptoms that are rooted in emotional difficulties. They may come to the attention of their HR Director as a result of days lost at work. Children may convey problems at home through health problems, behaviour difficulties or educational performance (a recent review of the impact of couple conflict on families suggests that up to 40% of emotional and behavioural problems in children needing help are linked with a problem in the relationship between their parents – Harold, 2001). Yet while the great majority of people know about the existence of couple counselling and psychotherapy services, a relatively small minority actually use them (8% of a National Opinion Poll sample in which 75% had experienced severe marital problems, and 20% of a Government survey of divorced couples – Simons, 1999). Perhaps I should add that enough use them to keep a formidable body of counsellors and psychotherapists busy, whether working in voluntary organisations, health settings or privately, and that the majority say they find the services helpful (McCarthy, Walker et al, 1998).

In defining what couple support means, counselling and psychotherapy services tend to assume that relationship problems are generated by factors that are internal to the relationship – partners expectations, assumptions, communication skills, personalities and so forth. This has exposed these approaches to a criticism from sociologists that therapy 'medicalises' (i.e. converts into 'illnesses' requiring treatment) the ordinary, everyday problems of family life that may be created by factors external to the relationship.

The Private and the Public

The defining feature of couple relationship problems nowadays is that they are regarded as private matters. This privacy is partly a product of radical changes affecting the structuring of family life in the past 30 years, and partly to do with the yardsticks couples themselves use to evaluate whether their marriage or partnership is good or not. The social institution of marriage has given ground to privately ordered partnerships (although when there is a wedding, phenomenal amounts of money are likely to be spent by the bride and groom and their respective families). Being a reliable breadwinner and homemaker is said to be of less value than being companionable and compatible, and marriage seems to be most important to those who are socially and legally excluded from it (witness the debate about gay marriages here in Europe and in the United States). Whether social and economic factors have really disappeared from the equation of whether and when to marry I very much doubt, but the predominant representation of committed partnerships is as something that is private. The partial eclipse of the social institution of marriage leaves some to argue that private ills require private remedies, and the public interest case for supporting couples is negligible. Is that a fair assessment?

Marriage Support and the Secure Society

Back in 1997 I helped assemble a report for the Lord Chancellor's Department of the UK Government (which then had responsibility for what was referred to as 'marriage and relationship support') about the public interest case for supporting couples. Entitled *Marriage Support and the Secure Society* the report was rooted in the vision of society as dynamic and connected – especially in terms of the relationship between stability and change (our view being that at public and private levels stability without change leads to atrophy, while change without stability creates disconnection).

Among the items we listed regarding the social value of secure marriages were:

- a secure environment for bringing up children;
- support for the health and well-being of both partners;
- material resources for both partners and any children they may have;
- resources for providing care in the wider family and community;
- support for productive activities in the workplace;
- legal protection and status.

Among those we listed regarding the personal value of secure marriage were:

- A symbolic gesture of love and commitment;
- A framework for planning for the future and coming to terms with the past;
- A vehicle for the emotional and social development of each partner;
- A basis for companionship and mutual care;
- An arrangement for sexual intimacy and involvement.

When a positive cycle of influence operates between social and personal domains, all the above can be counted as the social capital created by secure marriage. When security breaks down there are costs in terms of:

- the health, well-being and material circumstances of the adult partners;
- their capacity to care as parents for any children they may have;
- their competence to contribute to society through economic and caring activities;
- personal unhappiness, loss of esteem and faith in the future;
- providing services to deal with the fall-out from marital distress and breakdown.

In terms of social provision we were concerned about the risk of voluntary sector support for couples being eroded (by organisations such as Relate and Marriage Care), leaving couples with the only option of turning to the private sector for help, one that could only be exercised if there were the means to pay.

The Funding of Marriage Support

A report on the funding of marriage support, commissioned by the Lord Chancellor and published in 1999 (Hart), estimated the quantifiable costs of marital breakdown to the public purse (in terms of social security, legal aid, tax allowances, social services and NHS treatment costs) at £5 billion annually (contrasted with the £5 million currently put aside for marriage and relationship support). That report concluded that the money currently channelled to marriage support in the voluntary sector was well spent, adding:

“There is undoubtedly scope for a major expansion of marriage support; all of the existing agencies are short of funds and there are many agencies who currently receive no help. More spending on marriage support, if well targeted, is likely to pay for itself several times over in reducing public expenditure costs, as well as contributing to the fundamentally important aim of tackling disadvantage in society”. (p.21).

So the public interest case appeared to have been made.

Supporting Families

Prior to Hart being published, the Home Office brought out a consultative document in 1998 called *Supporting Families*. The chapter on strengthening marriage stated the government position in these terms:

“This government believes that marriage provides a strong foundation for stable relationships. This does not mean trying to make people marry, or criticising or penalising people who choose not to. We do not believe that Government should interfere in people’s lives in that way. But we do share the belief of the majority of people that marriage provides the most reliable framework for raising children.” (4.3).

The text illustrates the tightrope politicians walk in relation to supporting couples: on the one hand they are sensitive to intruding upon the privacy of adults who, to use an old English adage, ‘have made their beds and so must lie on them’; on the other they know that parents are the key to the well-being of children, and are becoming acquainted with the research that demonstrates the link between the quality of the relationship between parents and their capacity to bring up their children well.

The report proposed strengthening the institution of marriage and improving support by:

- producing a statement of rights and responsibilities in marriage (income, tax, benefits systems, and position re parental responsibility – available from registrars, churches etc);
- improving the provision of marriage preparation;
- encouraging agreements about property (pre-nuptial agreements) to reduce conflict around divorce;
- involving registrars (increasing their role from ensuring couples are free to marry and advising on legalities and the ceremony to making information available, pointing people in the direction of marriage preparation services, requiring both partners to attend the office to give notice of marriage and enhancing civil ceremonies);
- information meetings to help save marriages (including information about marriage counselling);
- supporting adult relationships (eg through help with relationship problems at the birth of a child, introducing baby naming ceremonies as a secular alternative to christenings);
- reducing conflict on relationship breakdown (mediation).

Moving Forward Together

Following this and the Hart Report in 1999, the Lord Chancellor set up an Advisory Group on Marriage and Relationship Support, which published in April 2002 a 10 point action plan in the report *Moving Forward Together*:

- produce a clear picture of current service provision (especially local provision);
- public education to remove the stigma of seeking help (belief in power of information);
- early, pro-active help, rather than accident and emergency (primary prevention);
- help tailored to individual needs and focused on when challenges might arise (secondary prevention);
- accessible, timely and affordable support (reducing waiting times, variety of services and overcoming financial obstacle);
- services which are responsive to childrens' needs (relationship education, teaching conflict resolution);
- cater for diversity (gender, age, faith, ethnicity, culture, disability);
- promote innovative ways of providing help, especially informally (through helplines, health visitors, doctors' surgeries and so on);
- effective use of resources (complementary rather than competing services, clarity of identity and purpose);
- further research and development to develop the strategy (what makes good relationships, promotes resilience, causes and consequences of relationship problems, what works for whom and when).

The Government's role was seen as developing partnerships inside and outside government, and between statutory and voluntary sectors.

Every Child Matters

Most recently, the Government's Green Paper, *Every Child Matters*, published in September 2003, takes children as the primary justification for the state's involvement with families, and in the context of trying to protect children vulnerable to abuse, such as the plight of Victoria Climbié highlighted in the Laming Report. The proposals focus on 4 main areas:

- supporting parents and carers;
- early intervention and effective protection;
- accountability and integration – locally, regionally and nationally;
- workforce reform.

For some of us working in the relationship support field it beggars belief that there is no reference to the significance of and support for the relationship between parents in the first of these headings. While the interconnections between what happens in partnerships and what happens between parents and their children is well established by clinical experience and research, these two vital family relationships appear to have been consigned to separate watertight compartments.

And this is a ubiquitous phenomenon. The disconnection of parenting from partnering can be found at personal, professional and policy levels. From the outset of the parenting cycle, informal surrogacy, medical technology and adoption make it possible to be a parent without the assistance or support of a partner. For many of those in partnerships the transition to parenthood continues to constitute the single most important life change that they will face as a couple, and so often the role of parent overshadows

and sometimes extinguishes the role of partner in the newly constellated family group. Those supporting families tend to work either with the relationship between a parent (still usually the mother) and her child, or with the relationship between the partners. At the level of public policy, it sometimes seems as if the choice is between a vociferous conservative moral argument for sustaining marriage at all costs (witness the USA) or a liberal, family-friendly policy agenda in which children are placed centre stage and the couple features, if at all, in only a very pale shade of grey (as in the UK). At all levels, there is the potential for the link between partnering and parenting to be made or ignored, for the different points in the triangle of family relationships to be connected up or isolated. And those of you with a psychoanalytic orientation may read into this conundrum an Oedipal problem, in which a certain kind of blindness follows from missing the meaning of the connectedness of family relationships, with possible adverse implications for the community as a whole.

Maintaining a sense of connection is the key to providing the best chance of reaching those many different people who, although going through similar experiences, will ascribe very different meanings to them, defining whether, when and where they will want to make use of available help. One risk I can foresee in the UK is that we shall see couple counselling and psychotherapy increasingly being offered from the private sector, telephone helplines and information/advice for parents and children coming from the voluntary sector, and accident and emergency services for families remaining in the statutory sector. If there is no awareness of couple dynamics across the range of services available to families offered from different sectors, if the links between the sectors are weak, and if certain types of help are only available for those who can afford to pay, maintaining accessible and integrated services will become increasingly difficult.

Be that as it may, I want to suggest that over time we, as a society, have been influenced by 3 models of support when it comes to couple relationships:

- the policing model;
- the educational model.
- the medical model;

And I want to suggest a possible fourth – the consultative model.

The Policing Model

The policing model is rooted in applying social pressure to discourage those who are not entirely committed to marriage from taking the step, and once taken, ensuring that the step is as irrevocable as possible. This model is associated with patriarchal values in which relationships were subordinated to ownership and property, the contract merging her identity, rights and status into his, where economic values were explicit and infidelity constituted a kind of theft. Divorce was social deviance, only allowable upon proof of the commission of a matrimonial offence, a situation that only changed in English law little more than 30 years ago, and one in which the probation service, a law enforcement agency, undertook much matrimonial work. Alongside the law was the sanction of the established church, providing a moral imperative for couples to marry if they were to have sex and children, and not recognising the end of marriage or the legitimacy of remarriage in circumstances other than annulment and death. The influence of religion lay behind the genesis of key voluntary counselling organisations, although they developed in ways that allowed a more liberal interpretation of their role than the founding fathers might have wished. We have not yet quite reconciled ourselves to the notion of no-fault divorce (not least because most divorce activates strong feelings of injustice in one or both parties), so the policing model has yet to be fully consigned to history.

The Educational Model

The debate about operationalising Part 2 of the 1996 Family Law Act in England and Wales focused attention as never before on the desirability of empowering those going through divorce to have the information to help them make crucial decisions. Information leaflets, advice and preparation programmes have a part to play in supporting couples, but I suspect they are of less value than what we would like to claim for them. At the heart of the educational model lies the assumption of rationality. In a culture where we are obsessed by information technology (a technology that is linked with omnipotent fantasies of control) it takes only a small step to assume that if couples have the right information prior to marriage we can head off those who are unlikely to make it work, or provide those in difficulties with a

self-help kit for sorting things out when it doesn't. And if the relationship is terminally afflicted, the hope is that information will at least ensure a happy ending.

Information is clearly valuable, but what it lacks is any account of how powerfully 'irrational' unconscious factors operate on behaviour, how passion upturns the best laid plans, and how single-mindedly people can pursue their ends despite 'knowing' what they are doing makes no sense to others, and even to themselves. It lacks a context of meaning that determines the information we attend to and that we disregard, and a relationship context within which information can be processed, thought about, critically assessed and assimilated. The core of marriage is not learned but discovered through experience, related as it is to the process of self-discovery. Loving involves coming to terms with disillusionment, with others and with oneself. People have different propensities for managing this kind of loss, and these propensities are crucially related to their earlier experiences of family relationships. The 'experts' in these circumstances are the couples themselves, who need not to be told but to be provided with opportunities to discover what they already know but don't know that they know. Eliot again (East Coker):

"In order to arrive at what you do not know you must go by a way which is the way of ignorance ... And what you do not know is the only thing you know ... Home is where you start from ...".

The Medical Model

The language of preventive and remedial treatment has its origins in medicine and psychiatry. Most medical interventions rely on the patient producing a symptom which is diagnosed and treated. The primary aim is to achieve a cure, although, as we know from palliative medicine, that does not have to be the case – care is justified as an end in itself. With experience it may be possible to identify pathogens and, mimicking the body's auto-immune system, develop protection against disease. Prevention, in this context, exposes patients to a modified form of a virus in order to reproduce the disease in manageable form, stimulating the production of antibodies which afford protection against future illness. How transferable is this way of thinking to human relationships?

A criticism levelled at current relationship support is that it offers too little too late. Why not, it is argued, intervene early in a relationship, when it is known that couples are likely to be under pressure, to prevent the build up of conflict and disturbance that might otherwise ensue. This way of thinking has its drawbacks. Viewing ordinary life events as potential precipitators of illness might have iatrogenic effects. An illness-oriented view of life encourages a proliferation of different treatments for ordinary conditions that are then 'colonised' or 'medicalised' by different groups into problems. A health visitor writing in *The Guardian* on May 31st 2004 raised just this kind of caution. Looking back on her long career she concludes that young women are no more depressed or unable to manage than they were twenty years ago. But by administering 10 question checklists to identify post-natal depression she thought the ordinary experiences of family life had become labelled with a psychiatric tag.

Because marriage and partnership are open systems, the traffic between outer circumstance and personal predisposition is always two-way. We understand ourselves within the context of our environment, but we also locate ourselves within and actively construct environments that fit how we understand ourselves to be. Place an obsessional person in an untidy house and see what happens. Place someone with a chaotic and destructive inner world in the most advantageous of circumstances and watch what happens. Bring his depression in contact with her cheerfulness and watch her go downhill as he feels better. Conflict in this context is less a condition to be inoculated against than a question of balance sometimes spurring development and change, sometimes ensuring things remain as they are. If the medical analogy is to be at all helpful we are talking holistic medicine – something that takes account of the relatedness between different aspects of life which, on the surface, may seem to be unrelated, and the potential for creativity as well as destructiveness that can follow from such differences being held in tension with each other.

The Consultative Model

Effective prevention through policing, medical or educational paradigms rely on control, cure or co-operation. A fourth model, that I want to advance, relies upon care and concern. Care and concern denote a capacity to be aware of our actions upon others, and theirs on us, and to have their well-being at heart as well as our own. It implies a relatedness that has the potential to link different aspects of experience,

and it is a response that we search for from others throughout life to help us manage its various vicissitudes. How does this translate into a model for preventing relationship breakdown?

The organisation of working and family life has changed dramatically in the last 30 years, partly accounting, for example, in the current debate about work-life balance. Organisations, and the individuals within them, are rethinking their relationship with each other and with those for whom they exist. 'Consultation' has become accepted as a means of effecting change, both in terms of how people operate together within organisations and in relation to bringing in outside help. The word is not tarnished by associations with failure or 'illness', nor is it labelled as problematic in the sense of indicating something of which to be ashamed. Just the reverse is true: the learning organisation is one that is open to critical review.

Consultation in this context describes a collaborative process in which different resources are pooled to achieve a common goal. It differs from medical consultancy, or 'teaching-cum-engineering' models, by being client rather than consultant centred. The objective is not to take problems away from client organisations in the search for a solution, but to help them build their own capacity to deal more effectively with change and uncertainty.

The organisation of family life has been undergoing similarly rapid changes in recent years, no doubt affected by the wider changes in society. Why don't we re-present relationship support as consultative processes, and thereby try to counter the feelings of shame and failure people have to overcome in seeking help. Consultation implies a cyclical rather than linear view of life experience. It implies working together to co-construct ways forward, rather than assuming one party has resources to be purveyed to the other. And it implies a process that, to quote from E.M. Forster, 'connects the passion and the prose' – no simple exercise for intellect or rationality, but something that engages the way people feel. It is timely to revisit this concept, and to consider whether it has potential to integrate the concepts of prevention and cure in terms of care, and so improve the accessibility of services that exist to support couple relationships.

QUEBEC'S FAMILY POLICY : RESPONDING TO THE DIVERSIFIED NEEDS OF CHILDREN, PARENTS, SENIORS AND FAMILIES OF QUEBEC

**MADAME MICHELINE GAMACHE
ASSISTANT DEPUTY MINISTER
GENERAL ADMINISTRATION OF FAMILY POLICY
MINISTRY OF FAMILIES, SENIORS AND THE STATUS OF WOMEN**

1.CONTEXT

As is the case in many other parts of the world, Quebec's families have become more diverse over the course of recent decades, in the forms they take, as well as in the realities they experience and in their needs. How does Quebec's family policy take this diversity into account and what are the principles guiding the development of this policy? What dynamic is driving the choices regarding assistance to families, children, parents, couples and seniors which are being made within the collectivity of Quebec? We will attempt to provide some answers to these questions by taking a quick tour of the realities of today's families in Quebec and of the assistance which is provided to them.

2. FAMILY CIRCUMSTANCES AND REALITIES IN QUEBEC : SOME FINDINGS

Quebec's family policy must take into account the realities of Quebec's families and of their members, as well as the general context in which these realities lie. What therefore, in broad outlines, is the portrait of Quebec's families of today and what are the principal elements defining the framework in which they live?

2.1 ON THE DEMOGRAPHIC LEVEL

Quebec is a province which belongs to the Canadian Federation and, in the 2001 census, its population constituted almost 24 % of Canada's population. According to the results of this census, the population of Quebec has grown to almost 7,400,000 inhabitants. More than 84 % of them live in family households, including childless couples, those whose children have left the family home, as well as parents whose children are still living at home, whatever their age may be. Still, according to the 2001 census, Quebec has 1,267,820 families with children. These families are distributed very unevenly throughout the 17 administrative districts of the territory of Quebec. Thus, more than half of these families with children (54 %) live in the Montreal area and the surrounding regions, such as Lanaudière, the Laurentides and the Montérégie. Other families with children are spread out in very varied ratios among the other 13 regions of Quebec.

Evolution and diversity of family types

If the traditional model of a two-parent family, consisting of a married man and woman with children, is still prevalent in Quebec, the history of Quebec families in recent years is defined by a diversification of family situations and types. Thus, the number of families, with or without children, has seen a slight increase between 1991 and 2001. However, during this same period, families with children have seen their relative importance decline; by contrast, the relative prevalence of childless families among families as a whole, has increased. Family characteristics have also changed. Thus, the proportion of married couples with children showed a significant decrease between 1991 and 2001, whilst the number of unmarried couples with children doubled.

In Quebec, in 2001, more than a quarter of families with children of all ages are single-parent families. However, close to 40 % of these families only have adult children (18 years and older). Single mothers, namely 80 %, head the great majority of these families. Single fathers with children make up 20 % of single-parent families, which nevertheless corresponds to a slight increase, as in 1991, they accounted for a little more than 18 % of this sector.

Regarding the development of reconstituted families, the census results do not allow us to draw any specific conclusion because they do not make a distinction between intact families and reconstituted families in the category of two-parent families overall. However, a compilation of the data from certain

studies shows that two-parent reconstituted families in 1995 represented 8 % of all families with children of all ages and that in 2001, they amounted to 9.5 %. This type of family and the specific realities which it implies are therefore on the rise.

2.2 A DECLINING BIRTH RATE AND AN AGEING POPULATION IN QUEBEC

Among the industrialised countries, Quebec saw one of the most significant baby booms in the years following the Second World War. Consequently, the decline in the birth rate, which started around 1960, was one of the most significant and one of the quickest. Although the men and women of Quebec generally wish to have two children, the number of children per woman stands, in fact, at 1.48 on average in 2003. Furthermore, during recent decades, the contribution of migratory movements to an increase in the population has been extremely variable and until recently not very significant in Quebec. Finally, this period has also been marked by a significant increase in life expectancy.

This combination of factors means that we are witnessing a rapid ageing of the population of Quebec, a phenomenon, which should accelerate even more in the years to come. In fact, if the current trend is maintained, it is predicted that the number of people aged 65 and older will have doubled between now and 2026, going from 12 % to almost 24 % of the population. As for the number of people aged 85 and older, it will then be three times higher than it is today. By contrast, those under 20 years old, who represented 40 % of the population in 1971, accounted for only slightly more than 24 % thirty years later and they may, if we are to rely on the current trend, constitute only about 18 % of the population in 2041.

2.3 THE ECONOMIC CIRCUMSTANCES OF QUEBEC'S FAMILIES

Generally speaking, an analysis of the shift in the economic situation of families with children in Quebec during recent years shows improvement, whatever the type of family may be. Thus, the percentage of low income families (after tax) with children aged under 18 years has gone from 14.2 % to 11.7 % between 1997 and 2000. Likewise, the average income of two-parent families before tax has shown a constant progression between 1996 and 2000, going from \$52,968 to \$65,030 (€32,620 to €40,048)²⁰, while their income after tax showed a perceptibly similar progression. During the same period, the average income of single-parent families before and after tax has also seen a constant progression. However, the economic circumstances of two-parent families and those of single-parent families remain in contrast. Actually, although the percentage of low income after tax has fallen significantly between 1997 and 2000 among single-parent families, it still remains clearly higher than that of two-parent families, which is also declining (25.4 % as opposed to 5.7 %).

2.4 A CHANGE IN THE PRESENCE OF WOMEN AND MOTHERS IN THE LABOUR MARKET

As is the case in many other industrialised countries, one of the striking phenomena of the recent history of Quebec's families and of the society of Quebec, in general, is undoubtedly the evolution of the presence of women in the labour market. Thus, since 1976, the participation rate of women has been consistently increasing, to the same extent for women who have children as for those who are childless. However, it is among mothers that an increase in the participation rate is most noticeable. For mothers of children younger than 3 years, the rate of participation has gone from 28.8 % in 1976 to more than 71 % in 2002. The participation rate of mothers of children aged from 3 to 5 years has increased to a relatively similar extent during the same time, while that of mothers of children aged from 6 to 15 years has almost doubled, to reach 83 %. However, it should be noted that the participation rate of single mothers of young children stays well below that of mothers of children of the same age who belong to two-parent families. The gap between these two kinds of families tends to narrow as the children grow older. However, it should also be pointed out that, since the introduction of educational child care services with a reduced parental contribution, we have seen an accelerated increase in the participation rate of single mothers. In short, despite the increased presence of women in the labour market, inequalities persist with regard to their employment income in comparison to that of men, even for comparable work.

2.5 A SHIFT IN THE EMPLOYMENT MARKET

The employment market has also undergone considerable changes, which are not without their repercussions on the lives of Quebec's families. Thus, one of the most striking phenomena of the recent

²⁰ Throughout this text, the equivalency between currencies is based on the exchange rate in force on 29 April, 2005 at noon, on the Bank of Canada website. One euro equals 1.6238 Canadian dollars.

shift in the labour market is undoubtedly the significant rise in non-standard work. Thus, numerous workers (both male and female) are doing jobs which force them to work during the evening, at night, during the weekend or have other forms of employment which demand that they work additional hours. There are also jobs which involve irregular schedules and others which demand guaranteed availability (so-called « on call » work), without mentioning freelance work. Additionally, non-standard work affects a substantial number of young parents, in particular, a significant number of parents of children of under 5 years of age.

Recent data confirm that part-time work has seen a significant increase in recent years. Young workers are particularly affected, as the ratio of part-time jobs to the overall number of jobs for them went from 27.5 % in 1983 to 45 % in 2003. Self-employment or independent work also went up slightly during the same period. In short, the overwhelming majority of jobs created in Quebec, as in Canada, are in the service sector and require a better educated workforce.

Indeed, taking into account the ageing population, Quebec will have to confront a predictable decrease in the population of working age. Whereas people of working age (20 to 64 years old) currently represent 63 % of the total population, they will account for only 54 % in 2036. According to estimates based on the current trend, the ratio of people of working age to people aged 65 and over will decline considerably, going from five workers per elderly person currently, to approximately two workers for each elderly person in 2036.

2.6 OTHER FAMILY CIRCUMSTANCES AND REALITIES

Other family situations deserve particular attention. For example, the number of children whose parents are separating is on the rise in Quebec. Furthermore, the breakdown is happening earlier and earlier in the child's life and the assignment of child custody is undergoing a complete shift. Although shared custody is more and more widespread, sole custody of the mother remains the most usual arrangement.

Families, where one or more members are handicapped, have to deal with specific realities. According to a survey taken in 1998, slightly more than 123,000 families in Quebec have a disabled child, aged 18 years or less, living at home. According to different studies, these families experience more financial difficulties than others, on the one hand, because of family breakdowns which are more frequent for them and which lead to additional expense, and on the other hand, because of the consequences ensuing from having a handicapped child and affecting parent participation in the labour market and specific accommodation expenses. The needs of these families, particularly with regard to balancing work and the family and child care, are also specific.

2.7 SENIORS AND FUTURE SENIORS

In Quebec, from one generation to the next, the face of the ageing population is changing. Indeed, a recent study has shown that the characteristics of seniors are changing rapidly. This population is in a process of constant renewal, not only because new people reach the age of 65 each year while others die, but also because of migration within this age group. Perspectives on the state of health of seniors are rather encouraging and appear markedly better than those of preceding generations. Seniors, for the most part, have a positive perception of their state of health, both mental and physical. Similarly, life expectancy has already been consistently on the increase for several years. Furthermore, although the participation rate of the elderly has been declining for some years, the reverse trend has recently appeared, to the same extent for women as for men.

The older generations are extremely different from each other in levels of education. Thus, people between the ages of 65-74 years have a higher level of education than those older than them but sharply lower than that of future seniors, who are now 55 to 64 years old. An analysis of the shift in the income of the elderly also shows that we can expect that future generations of the elderly will be richer than those who came before. However, this progression is not the same for all, and certain groups among the elderly are more at risk than others of not having adequate income. For diverse reasons, this risk is greater for women than for men.

On the whole, an improvement in their state of health, a rise in their level of education, a greater proportion of households who own their own homes, a growth in the number of households owning a car

and an improvement in the financial independence of elderly women are all indications which lead us to believe that tomorrow's seniors in Quebec will be more independent and will benefit from better living conditions.

2.8 SUMMARY

Family circumstances are diversified and new social and professional contexts have an influence both on the needs of families with regard to support and on the manner in which it can or should be provided. These needs manifest themselves in areas as diverse as: financial aid; child care, reconciling work and family; accommodation; legal regulation; support for families in special circumstances (immigrant families, families with a handicapped child); education ; health, etc.

3. ASSISTANCE FOR QUEBEC'S FAMILIES, PARENTS, CHILDREN AND SENIORS : A COLLECTIVE, PROGRESSIVE AND DIVERSIFIED STEP

3.1 THE DEVELOPMENT OF SUPPORT FOR FAMILIES : A SPECIFIC DYNAMIC

Quebec's family policy recognises the current diversity of families and the various needs of children, parents, the elderly and families. It also takes into account the social and economic context of Quebec. And, in order for it to be the desired collective instrument for improving the quality of life for children, parents, the elderly and families, family policy is based on collectively shared values, namely : equality and fairness; solidarity, in particular intergenerational solidarity; social justice; peace; respect for others and respect for differences; recognition of the importance of work; a willingness to fight poverty and social exclusion and the economic importance of social development. It also embodies the importance granted to the role of parents.

But the value which best defines Quebec's family policy is undoubtedly its democratic and collective nature. Indeed, at each stage, from the identification of needs to the implementation of appropriate solutions, the development of Quebec's family policy depends on the participation of the greatest number of players involved. Moreover, the shift of Quebec's family policy over the course of the years demonstrates that the initiative for the development of one form or another of family support comes very often from civil society.

The Quebec government encourages this participation by means of different mechanisms, ranging from surveys of the general population or of target groups to consultations carried out at different strategic stages of the development of a given measure, a programme or a policy. We also rely on the participation of numerous partners in the implementation of measures for the support of families.

It is through this particular dynamic, marrying a democratic and participatory approach to a sustained willingness to take into account the diversity of family realities and needs, that Quebec's family policy evolves.

3.2 SOME RECENT EXAMPLES OF QUEBEC'S DYNAMIC FOR THE DEVELOPMENT OF FAMILY SUPPORT

The recent history of Quebec's family policy provides fine examples of the particular dynamic driving its development. An analysis of the development of reduced-contribution educational child care services, work in progress to develop a new policy enabling us to balance work and family or a parental leave plan for Quebec, clearly show that Quebec's family policy is responsive to the desire to take the differentiated realities of today's families into account and to achieve this by relying on collective participation.

3.2.1 Reduced-contribution educational child care services

Services resulting from a popular initiative

Community women's and family organisations and groups played a crucial role in the emergence of Quebec's family policy. Certain groups, among others, the Confédération des organismes familiaux associés du Québec [Confederation of associated family organisations of Quebec] and the Fédération des unions des familles, [Federation of family unions] were closely involved at each stage of the development of Quebec's family policy. Their complaints contributed particularly to the establishment of the Office des services de garde à l'enfance [Department of child care services], coordinating, promoting and evaluating the organisation and the development of child care centres regulated by law and by the

Secrétariat à la politique familiale [Secretariat for family policy]. These two organisations were merged in 1997 to become the Ministère de la Famille et de l'Enfance [Ministry of the Family and of Children], now called the Ministère de la Famille, des Aînés et de la Condition féminine [Ministry of Families, Seniors and the Status of Women]. It was also the same year, following a summit which brought together players from all spheres of Quebec society, that the network of reduced-contribution educational child care services, which we know today, was born.

In its functioning and in its development, the network of child care services calls for the participation of local communities. With the support of the Ministère de la Famille, des Aînés et de la Condition féminine [Ministry of Families, Seniors and the Status of Women], the development and the functioning of a range of child care services in the different regions of Quebec rely on a concerted effort, mounted by local communities, particularly regional bodies of elected officials, municipalities, child care providers' groups and the general population. In addition, in their functioning, day care services leave considerable room for parent participation. Thus, each early childhood centre (CPE) has a board of directors, where parents are in an overwhelming majority. As for private child care centres, they are obliged to form a parent committee which must be consulted on all aspects of the lives of the children attending the centre.

Responding to diversified child care needs

The desire to take the diversified needs of families, parents and children into account with regard to child care is evident in several ways in the range of child care services available in Quebec. On the one hand, parents can choose between child care centres in facilities— that is to say, in the same facilities as an early childhood centre (CPE) – or in a family setting – coordinated by the CPE, or in a private child care centre. In total, of the 200,000 places that the network of child care services will eventually provide, almost 187,000 are already available. Of these places, approximately 45 % are provided in a family setting, 40 % in public centres, and the others in private child care centres. Including teaching personnel and support and management staff, child care services employ almost 50,000 people.

Whatever the type of service, it is subject to government standards regulating the service provided, and aimed at ensuring quality by determining, for example, the principal parameters with regard to the training of teaching staff, the number of children per teacher and the size of groups, the required sites and equipment, etc. Important steps are being undertaken so that the goal of evaluating, regulating and improving the quality of the services provided is ensured. A huge study has recently been conducted in this area using scales of evaluation designed to examine the specifics of the educational programme in place in the regulated child-care centres.

It is important to specify that the development and improvement of child care services assign a particular importance to the integration of children with special needs. Thus, children with disabilities, the children of immigrant families, or those from disadvantaged environments, are the object of particular concern for the Quebec government and its partners. An exceptional measure of financial assistance for child-care services welcoming disabled children with significant needs has therefore been introduced recently. This measure is in addition to the grant already provided to child-care centres that welcome disabled children. And different research and intervention projects have been and are being undertaken with a view to supporting the work of educators, on the one hand, and, on the other hand, to set up or to improve methods of intervention suited to the specific realities of these children and their families.

Another criterion related to accessibility is the reduced contribution from the parents using these services. This contribution is set at 7 dollars per day per child (€4.31) and only amounts to a fraction of the real cost which is on average \$35.26 per day per child (€21.71). In addition, in an effort to take into account the economic circumstances of low-income families, additional assistance in the form of a special allowance of 5 dollars (€3.08) per day per child is provided to eligible families.

Finally, the professional reality of numerous parents is also causing adjustments to be made in the way in which child care is provided. Although, in the majority of cases, parents need child care services on a regular basis, namely, from Monday to Friday, during normal working hours, more and more parents have irregular work schedules and, as a consequence, need child care on the same basis. Therefore the Government and its partners are looking for solutions to respond to these increasing, specific needs. For

this reason, certain community organisations also provide stop-over child care services to the parents of their locality.

3.2.2 Quebec's parental insurance plan

Quebec's new parental insurance plan is an important element of Quebec's family policy. This is a plan which aims at providing financial support to parents at the time of the birth or adoption of a child and of permitting them to devote time to this new child during the first months of life. The desire of the population of Quebec to benefit from a more generous and a more inclusive plan than the one provided by the federal government has been expressed in several ways during recent years and has been the subject of a strong consensus.

The new plan, which should come into effect in January 2006, is an improvement as regards the range of assistance measures available to families, from more than one point of view. It makes a greater allowance for the new realities of family and work life. On the one hand, the programme is more inclusive, covering the self-employed and salaried employees who have an insurable income of at least \$2,000 (€1,232). On the other hand, Quebec's plan does not include a waiting period of a week and the maximum insurable income is \$57,500 (€35,411). The programme's basic formula allows a leave of 55 weeks of which 30 will be paid at a rate of 70 % of earnings and the other 25 weeks at a rate of 55 %. A second formula allows for a leave of 43 weeks at a rate of 75 % of earnings.

Finally, the new parental insurance plan also encourages fathers to spend time with their children. Thus, according to whichever formula is selected, the new programme provides either three or five weeks of paternity leave and the length of parental leave, which may be shared between the mother and the father, varies from 25 to 32 weeks.

3.2.3 Financial assistance

Financial assistance is an important element of the assistance provided to Quebec's families. This assistance recently underwent a substantial reform that gave rise to two new measures intended to simplify the financial assistance provided, while improving it at the same time. The *Child Assistance Measure* and the *Work Premium* have replaced various programmes, grants, tax credits and reductions for families.

The new *Child Assistance Measure* is universal. Paid to all families, it is more generous for low and middle income families. As for the *Work Premium*, it is supplementary employment income for low and middle income workers. Without being a measure specifically intended for families, it greatly favours families, over workers without children. These measures are aimed at improving living conditions for families and children and at promoting more equity between people with children and those without. In its new form, family financial support is also intended to show more respect for the choice of families where one of the parents stays at home to take care of the children.

Other targeted fiscal and financial measures are added to the financial assistance support provided to families in Quebec, for example, tax credits for child care costs, for an adult child, for adoption expenses, for the care of a parent or even for infertility treatment.

3.2.4 A new policy : « A time for work : a time for family »

Currently under development, a policy aimed at facilitating the balance between professional and family obligations is another good example of the desire to act collectively combined with a concern to provide a diversified response, suited to the needs of today's families.

It is by means of sustained consultation with the collectivity and the different players concerned, that the new policy project, *A time for family : a time for work* was developed. Many means of consultation have been used. As well as charting the results of research, the government invited participants in regional forums and in a national forum to comment. Based on the information collected on those occasions, the Government developed a policy project proposing different measures for balancing work and family which will be submitted for wider consultation in the autumn of 2005.

Finally, there is a joining ranks in a desire to act collectively, this new policy would call in a variety of ways for the participation of *players* involved in the implementation of solutions with regard to balancing work and family. Among these *players*, let us mention: parents; businesses and unions; managers of organisations and companies, municipalities and regional census divisions; child care providers; school boards, schools and school-based day care providers; community organisations; health and social service network institutions; and finally, all of the Ministries involved in one way or another.

With the contribution of these numerous partners, the policy of *A time for work, a time for family* will recommend measures which take the diversified realities of families into account and have an effect on the three main settings which make up the family environment, namely : the family setting itself, the workplace and the everyday immediate social context. Each one of these environments will be subjected to different measures.

3.2.5 A plan of action for seniors

Quebec's family policy and social assistance in Quebec should also take into account the realities and the needs of the elderly. This mission has been entrusted recently to the new Ministère de la Famille, des Aînés et de la Condition féminine [Ministry of Families, Seniors and the Status of Women]. Initiatives taken in this regard are part of a dynamic that linked collective participation in all the stages of development and diversified action. Thus, a vast exercise in public consultation was undertaken in April 2004, and during regional forums which were held at that time, citizens highlighted the risks that the demographic situation would gradually lead to a struggle between age groups. In an effort to take the pulse of the collectivity on the issue of the elderly, the Ministère de la Famille, des Aînés et de la Condition féminine [Ministry of Families, Seniors and the status of Women] also made a tour of the regions of Quebec to meet the main organisations involved in these issues. A task force was also set up with the mandate of preparing a plan of action aimed at: changing the perception and the view of the presence of seniors in society and the way of seeing their role; encouraging and supporting their social, civic and professional participation, by building inter-generational bridges that allow young people to benefit from the experience of seniors and the latter to impart their knowledge to the young; reacting to the new demographic realities and documenting the real effects; permitting and promoting the diverse forms that the contribution of seniors and future seniors can take; and finally, ensuring the coherence and the cohesion of Governmental actions in that regard. This plan of action should be submitted at the beginning of the summer of 2005.

3.2.6 Other forms of family assistance

Obviously, family assistance in Quebec is not limited to some more recent examples which we have previously mentioned. Family assistance takes numerous other forms which always emanate from this willingness to respect the diversity of the circumstances and the realities experienced by those involved.

Therefore, family assistance is also embedded in the legal framework that covers the diverse possible conjugal situations and provides guidelines concerning filiation, adoption, separation and divorce. It should be noted that free family mediation services are provided for the negotiation of agreements in cases of separation and divorce, child custody, support payments or the review of a judgement on these matters. In addition, since 1997 new guidelines have been applied to regulate the calculation and the handling of support payments, primarily those destined for children. These new rules are aimed principally at making sure that the children's needs are met according to what the parents are able to pay.

Other measures benefit low-income families, particularly the employment assistance programme. Families receiving this type of assistance and who meet certain criteria are also eligible for other special services such as financial aid for the purchase of dairy products or financial aid for back to school expenses. Low-income families may also benefit from different kinds of housing assistance such as access to low-rent dwellings, the rent subsidy program or a housing grant. Other different measures exist to facilitate access to a home, to renovate it, or, in the case of families with one or more handicapped members, to adapt it to their needs.

Moving on to another topic, Quebec families can rely on important networks of health and education services. Thus, Quebec's health insurance plan is universal and allows families to have recourse to a wide range of insured programmes, goods and services. Generally, the plan covers medical and dental

care, particularly for young children and recipients of employment insurance, and certain optometric services. Medicine is free for children, for people suffering from a disability up to the age of 18 years, for beneficiaries of employment insurance who have severe restrictions concerning employment, and their spouses, as well as for elderly people whose financial situation is precarious. In addition, different health network initiatives are tailored more specifically to parents and children. These range from support to parent education.

When it comes to education, Quebec's adults and children have access to a system which consists of four levels of education, namely, primary (including pre-school), secondary, college and university. The primary and secondary levels provide a general preparation for higher studies. Professional education at the secondary level can lead directly to the job market. College education provides training that permits entrance to a university or even to a technical training programme leading to the job market, whereas university courses include three cycles that prepare the student for the job market. The first three levels of education are provided free of charge, but fees are required to attend university. There are loans and scholarships available for those interested in pursuing post-secondary courses or who are enrolled in a vocational training programme at secondary level but do not have adequate financial resources. Students who have children in their charge receive special assistance.

It is interesting to note that parent participation in school is very important, at primary as well as at secondary level. In addition to regularly monitoring their children's progress, parents are also invited to participate in the school council and can become involved within school boards and thus participate in decisions relating to the school network, such as those affecting the distribution of educational services among schools, enrollment criteria, the school calendar, rules for graduation from primary or secondary school, etc. With regard to family assistance, it should be mentioned that reduced-contribution child care services are provided to children in primary schools.

The range of Government assistance programmes to families contains several other measures sometimes targeting particular family groups and at other times focusing on certain more specific realities. By way of example, we can note that particular attention is paid to immigrant families and that the assistance provided to them takes the form of reception services for new arrivals, information about the resources to which they are entitled and assistance in facilitating in diverse ways their integration into the community and the job market. With regard to more specific realities, we can point to the examples of assistance offered to mothers who are criminal offenders and to victims of criminal acts, the support and assistance provided to immigrant families, services for the handicapped, etc.

In short, assistance to Quebec's families and children is also provided through the support of community organisations engaged in that endeavour.

Therefore, the Ministry provides financial assistance to support the functioning of some 260 community family organisations. These organisations, whose services vary according to the particular needs of the families of their respective areas, provide, among other things, activities and classes on supporting and validating the role of parents, assistance and support when confronting diverse family realities, parental respite, training and information, improving relationships within the family, child development, etc.

In summary, This brief tour does not present an exhaustive account of the assistance provided to families. However, it provides an overview of the diversity of programmes and services to which Quebec's families have access. From health care to educational services, fiscal and financial measures, child care services, legal or other support, Quebec's family assistance consists of services sometimes geared to all families and the population in general and at other times to certain kinds of families or even to certain more specific circumstances.

4. IN CONCLUSION

As we have seen, Quebec's families have diversified during the last few decades in their forms as well as in the realities that they experience and in their needs. Through its family policy, the state of Quebec takes into account in several ways the multiplicity of today's family circumstances, by being sure, for example, to adapt its educational child care services to the irregular schedules of certain parents or to the particular needs of children from disadvantaged backgrounds, as well as immigrant or handicapped

children. The future policy of balancing work and family which will take into account distinct regional and business realities is another example of this, as is the new, more generous parental insurance plan to which self-employed workers and fathers will have access from now on.

These initiatives and even more, are based on consensus and on the importance that the collectivity of Quebec assigns to the family. They depend on the participation of the collectivity in all the stages of its development. They aim to respond at times to the needs of certain kinds of families and at others, to respond to specific circumstances. They are designed to be able to adapt to the changing realities of today's children, parents, spouses and seniors. Thus, Quebec's family policy tends, like the families that it serves, to be diversified and ever-changing. Like the collectivity of Quebec, it is based on the principles of democracy, social participation and solidarity.

BIBLIOGRAPHICAL REFERENCES

CAMIRAND, Jocelyne, et Jacinthe AUBIN (2004). *L'incapacité dans les familles québécoises : composition et conditions de vie des familles, santé et bien-être des proches*, Québec, Institut de la statistique du Québec, 204 p.

CICERI, Coryse, Marie McANDREW et Annie BOURGUIGNON (2004). *L'accueil et l'intégration des enfants immigrants ou des familles immigrantes dans les services de garde : recension des écrits au Québec, au Canada et dans d'autres sociétés*, sous la coordination de Hélène Lavoie, Québec, ministère de l'Emploi, de la Solidarité sociale et de la Famille, 76 p.

CROISETIÈRE, Pierre (2004). *Portraits de politiques familiales : Situation dans onze pays développés*, Québec, ministère de l'Emploi, de la Solidarité sociale et de la Famille, 128 p.

DESJARDINS, Ghislaine (2002). *Faire garder ses enfants au Québec... Une histoire toujours en marche : 3^e édition*, Québec, Les Publications du Québec, ministère de la Famille et de l'Enfance, 131 p.

GAUTHIER, Hervé, Sylvie JEAN, Georges LANGIS, Yves NOBERT et Madeleine ROCHON (2004). *Conditions de vie, vie des générations et personnes âgées*, volume 1, Québec, Institut de la statistique du Québec, 303 p.

GAGNON, Lucie (2005). *Permettre la pleine participation des aînés au développement du Québec : Projet d'un plan d'action gouvernemental*, Document de travail non publié, Québec, ministère de la Famille, des Aînés et de la Condition féminine, 17 p.

LAJOIE, Christine (2003). *La municipalité : un lieu de qualité pour les familles*, Québec, ministère de l'Emploi, de la Solidarité sociale et de la Famille, 23 p.

LEGRIS, Richard (2004). *Les chiffres clés de l'emploi au Québec, Édition 2004*, ministère de l'Emploi et de la Solidarité sociale, gouvernement du Québec, 40 p., document available on the internet: http://emploiquebec.net/publications/2_tendances/ChiffresCles2004.pdf

LEMIEUX, Denise et Michelle COMEAU (2002). *Le mouvement familial au Québec : 1960-1990*, Presses de l'Université du Québec, Québec, 297 pages.

MINISTÈRE DE LA FAMILLE, DES AÎNÉS ET DE LA CONDITION FÉMININE (2005). *Un portrait statistique des familles au Québec*, gouvernement du Québec, 349 p.

MINISTÈRE DE LA FAMILLE, DES AÎNÉS ET DE LA CONDITION FÉMININE (2005). *Guide des programmes et des services gouvernementaux pour les familles et les enfants*, Québec, gouvernement du Québec, document available on the internet, <http://www.mfacf.gouv.qc.ca>

ROCHETTE, Maude (2003). *Le travail atypique des parents et la garde des enfants : description du phénomène et recension des expériences étrangères de garde à horaires non usuels*, Québec, ministère de l'Emploi, de l'Emploi, de la Solidarité sociale et de la Famille, 86 p.

ROCHETTE, Maude, et Jacques DESLAURIERS (2003). « L'horaire de travail des parents, typique ou atypique, et les modalités de garde des enfants », dans *Étude longitudinale du développement des enfants au Québec (ELDEQ 1998-2002) : De la naissance à 29 mois*. Collection La santé et le bien-être, vol. 2, n° 10, Québec, Institut de la statistique du Québec, Direction Santé Québec, 67 p.

ROY, Laurent (2004). *Natalité et intervention publique*, Québec, ministère de l'Emploi, de la Solidarité sociale et de la Famille, 52 p.

SAINT-PIERRE, Marie Hélène (2004). *L'intégration des enfants handicapés dans les services de garde : recension et synthèse des écrits*, sous la coordination de Hélène Lavoie, Québec, ministère de l'Emploi, de la Solidarité sociale et de la Famille, 107 p.