RADICALISM FOR DIFFERENT REASONS. NORDIC AND SOVIET RUSSIAN FAMILY LEGISLATION IN THE 1920's.

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"In less than two years the new Soviet power in Russia, one of the most backward countries in Europe, has done more to emancipate the women and make them equal to men, than all enlightened 'democratic' states, taken together, have done in the preceding 130 years.”¹ With this statement, made in 1919, Lenin was referring to the family and marriage law that had recently been issued by the new Soviet Russian government. In a study of Soviet family policy during the Interwar period, Wendy Goldman states that, by insisting on individual rights and gender equality and by abolishing the inferior legal status of women and creating equality under the law, "the Code constituted nothing less than the most progressive family legislation the world ever had seen".²

Judging from the statements above Russia had taken a huge step towards modernising society. This path had already been set upon, starting from the reform era of the 1860’s that was symbolised by the abolishment of serfdom in 1861, except the pace was stepped up after 1917. The new Russian family legislation issued in March 1918 meant a radical secularisation of marriage.³ It was now stated that only through registration with civil authorities was the marriage legalised; thus, marital ceremonies in church would not provide a legal basis. This meant that the Russian Orthodox Church lost an important prerogative. Considering the firmness of the church’s grip on marriage and family matters before the revolution compared to many parts of Europe, where the Protestant as well as the Catholic Church had been forced to give up its influence to give way for state interference in these matters.⁴ The law also meant a far-reaching individualisation of the relation between spouses⁵. Basically, the divorce became a private matter between the spouses, who did not have to state specific reasons for wanting to dissolve the marriage; the divorce procedure was being simplified to a large degree – for example, the fee for the administrative handling of the divorce was considerably lowered. The tendency to simplification of divorce matters reached its apogee in 1926 when it was made possible to get divorce if only one of the spouses turned to the local registration authorities with a written announcement of his or her decision – the so called "post card divorce". The revised marriage law of 1926 also meant that non-registered cohabitation was regarded as legally equal to an officially registered marriage.⁶ This meant, of course, another decisive blow to the church’s authority, whose view of the marriage as a sacrament, a holy and indissoluble union, had lost its legitimacy.

A further step in the direction of an individualisation to the relations between the spouses was the paragraph stating that "marriage does not establish community of property". This meant both that

¹ Lenin 1965, p. 40.
² Goldman 1993, p. 51.
³ For further references to the Soviet Russian family law, see The Family in the USSR 1949.
⁴ Freeze 1990, p. 709 ff.
⁵ The interference from the part of the elder generation in the children’s choice of spouse was a strong element of the Russian peasants’ customary law all until the revolution, Engel 1996, p. 18.
⁶ For an analysis of the law of 1926, see Farnsworth 1977, pp. 38 ff.
the spouses were to retain their own property during the marriage and that there was no common property fixed by law to be partitioned in the case of divorce. By these regulations the legislators expressed their negative attitude towards the family as an institution based on private property, an institution held together primarily for materialistic reasons; thus, the marriage was not recognised as a contractual relation. The same was said about children’s right to the property of the parents, that is, no such property right was recognised, or, rather, the right to inherit was substantially reduced in the Civil law of 1922. This law enacted that 10,000 roubles would be the maximum sum to be inherited and that only the closest relatives were entitled to inherit. If the deceased family member would leave a larger sum of money or if there were no heirs among the close relatives, the money would go to the state.

The law also recognised equal rights for children born in, as well as out of wedlock. The law professor Yakov Brandenburgskiy, a frequent writer in the field of family law in the 1920’s, commented in the following way: "the Soviet legislation has totally emancipated the family relations from the marriage relations. The former is not based on marriage, but on child breeding. Thus, the new Soviet Russian law meant an attack on the family as an institution based on tradition. By not prescribing the duty for one spouse to support the other and by clearly declaring that shared property would not be the result of the marriage, the new law assumed that both parties were economically independent; the spouses would contribute equally to the material support of the family. Only in the case of inability for work or sickness of one part, the other part was entitled to support the former. Thereby the law expressed a clear intention to change the relations between the sexes, which also could be seen from the paragraph about the freedom for the spouses to choose as their common surname (the matrimonial surname) – either the husband's or the wife's or their joint surnames.

One aspect of the family laws of the 1920’s contrasted more than anything else with the laws of other European countries, namely the abortion legislation. In comparison to the approach taken by other European governments to solve the problem of an increased number of illegal abortions with subsequent health risks - to prohibit abortions altogether - the Soviet government took the opposite stand by issuing a decree in 1920 that legalised abortions on the conditions that they were performed by legitimised physicians. However, in a commentary to the law, the People’s commissar for Justice and Health pointed out that this was an act of emergency caused by the existing realities with an increasing number of women being exposed to illegal abortions, which in many cases had crippled them or even caused their death. At the same time, the commissars emphasised that abortions would become redundant in the future socialist society, when state and society would be able to give enough support to enable women to liberate themselves from material burdens and other problems that a child could implicate. Children would, instead, become a sole source of joy for the parents. But for the time being, people lived in a transitional society that had not yet solved these questions.

When I started to study family legislation and the politics concerning the “woman question” in the early Soviet Russia, another research project was carried out by Nordic historians studying the reforms of the marriage laws in Northern Europe during the first decades of the 1900's. According to this project, the most important new and modernising tendencies of the Nordic marriage laws can be summarised as follows: it became much easier to file a divorce, since the question of guilt no longer had to be formally proven in order to get a divorce (however, the conception of guilt of course continued to be valid, which can be seen by the fact that alimony was not adjudged to the guilty part); also the balance of property rights had tipped over to the advantage of the women, and thus, the husband’s guardianship over his wife, for a long time questioned by the women’s movement, now ceased to be legally valid. Both parties in the marriage were regarded as contributing to the maintenance of the family, i.e., also the woman with her household chores. Furthermore, the...

7 The married woman’s right to her own property, legally confirmed since late 1700’s in Russian, was in fact often abolished by the statutory position as the head of the family that was attributed to the husband implying the right to decide about a whole range of matters concerning the life of the wife, Wagner, pp. 61 ff.
8 Gsovski 1961, p. 531.
9 One explanation of the fact that a regulation of this kind could be issued much easier in Soviet Russia than in many other European countries at the time, was the country’s approach to demographic problems. The fear for "depopulation" as it existed e.g. in France in the 1920’s was simply not there in Russia, who had a much more "favorable" demographic situation than most of Western Europe; already in 1922 the birth numbers had resumed their status from 1913’s position. For a discussion about considerations for the demographic situation in the Soviet abortion politics, see Gross Solomon 1992.
10 The Family in the USSR 1949, p. 44.
guardianship in relation to the children was more equally distributed between the parents, although the husband had the final word in economic issues concerning the children. The scholars of the Nordic project have claimed that the Nordic laws were progressive, radical and ahead of their time. As an explanation for this phenomenon, they refer to structural, as well as actor oriented factors. In the common Lutheran tradition of the Nordic countries the marriage had in an early stage been given a more secularised position than in many other European countries. At the same time, the Nordic countries were part of a common family pattern in Western Europe, which was a result of a lengthy process of change starting in late medieval times. Now the dominating pattern of extended families with strong kinship ties started to gradually give way to a two-generation family, the nuclear family, based on the married couple living separately from the patrilinial extended family. In this nuclear family pattern the age of marriage was comparatively high, as was also the percentage of people that remained unmarried. The bourgeois marriage pattern where the role of the head of the family was more clearly attributed to the man was more typical of the urbanised culture of the European continent than in the rural Nordic countries. Thus, the predominantly agrarian economy of the Nordic countries, together with the Western European nuclear family model, gave the women a comparatively strong power position within the marriage and the family. Besides these structurally oriented explanations for why the Nordic marriage pattern in the beginning of the 20th century differed from the rest of Europe, the project scholars also emphasise an explanation that take into consideration the role of pressure groups in the process of reform work, a work that partly was carried out through common Nordic actions. These actors, or pressure groups, would be the lawyers and the women's movement.

Thus, both in the Nordic and Soviet Russian family legislation we see strong tendencies towards secularisation and individualisation, as well as an effort to level out the inequality between the sexes. Still, the prerequisites for reform differed considerably between the Nordic countries and Russia. We will return to the differences, but first we should be aware of the existence of similar prerequisites. Both regions were parts of a common European culture, where the question of a modernised marriage had been on the agenda since mid-1800’s. The Enlightenment had created new visions of how relations between members of a family, especially between the spouses, ought to be. The marriage was compared to a treaty concluded on a voluntary basis by individuals; the following era of Romanticism had emphasised the importance of emotions for a successful union between man and women; the love marriage, based on the affective ideal, became a guiding star for reformist lawyers and other participants of the public discussions. In the aftermath of the French revolution women were on their way to becoming an individual and a citizen. But at the same time as conditions for a liberalisation of family legislation existed in the Nordic countries, a secularisation process was far from discernible in Tsarist Russia. Neither did the marriage model look like the Nordic/West European, where the nuclear family prevailed. Consequently, there was no role for the wife as the female head of the household, second in rank to the husband. Russia was characterised by the Eastern European family pattern meaning that marriage was almost universal and that people married earlier; in the Russian peasant household it was not uncommon for the newly married wife to be 13-14 years old. Thus, the extended family was a still a reality, meaning that the older generation had a considerable influence over the young couple.

Does this mean that the new Soviet Russian regime distanced itself completely from the existing cultural pattern by creating new and modern laws? Or did the Bolsheviks in reality support their ideas on other phenomena or processes from pre-Revolutionary Russia - in spite of their proclaimed self-image of a movement attacking old problems with totally new solutions and passing laws of a kind that the world had never seen before? The obvious tendencies to promote an individualisation and sexual equality in Soviet Russian through marriage and family legislation in the 1920's have attracted

13 Melby et al. 2001.
14 Wagner 1994, pp. 103 ff, 176.
15 This would be the case at the same time as discourses on the sexes soon came to be influenced by the medicalisation and biologisation of the view of the human being, that developed at the turn of the century, carrying the message that women and men were different.
16 In the Tula district of Russia, where the average age at marriage was the lowest in Russia (18.7 years), 20 % of the women entered marriage before having menstruated. According to demographic statistics from the census 1897 only four percentage of the women in the age cohort of 45-49 had remained unmarried, to be compared with Western Europe, e.g. France (12 %) and England (15 %), Engel 1996, p. 11.
considerable attention by scholars in the West. The fact that gender questions have occurred on the Western European and North American public agenda in the last decades has inspired a new wave of literature about family and gender aspects of the early Soviet period. The radical and experimental character of the legislation is pointed out in contrast to the rest of contemporary Europe. There is a tendency in the study of the "woman question" in the new Russia to regard the family legislation as a result of sheer will and power of the Bolshevik regime to carry out a radical change of the old society - as if there were no previous history to it.

If we instead assume that the legislation passed shortly after the October revolution had a prehistory and that Russia under the old regime was influenced by the reformist ideas about family and marriage that prevailed in 19th century Europe, we also have reason to look for other actors beside the Bolsheviks, who after all constituted a relatively small movement before 1917. It turns out that the Russian lawyers entered the reform discussions in the 1860’s and 1870’s, discussions that became truly vivid after the Tsar regime loosened their grip on the press through censorship. The need for reform after the Russian defeat in the Crimean War was openly admitted, and it was stated that not only the Russian armed forces had to be thoroughly reformed, but also the vital institutions of Russian economic life needed to be changed, such as the forms for agrarian property and land use in a country with strong feudal characteristics where peasants were still owned as serfs by their landlords. Thus a desperate need for institutional and judicial reforms was recognised as the problem of Russia's economic and social backwardness in comparison to Europe. It was not, however, an easy task to have the state interfering in people's lives. In a study of the marriage laws in Tsarist Russia and the intensified attempts to modernise them in the decades before the Russian revolution in 1917, William Wagner writes about reformist lawyers that since the 1860's had demanded an adaptation of the civil laws, among them the family laws, to the realities of the Russian society and the legislation of Western Europe.

Thus, the discussion of the family as a vital part of society was put on the agenda in the Russian public discussion. Such attitudes and values should be cultivated within the framework of the family that were of critical importance for the well-being of the society. Both reformist and conservative participants in the public debate could agree that, in order to achieve a stable society, sound moral relations were to be promoted. But the views differed considerably concerning which relations within the family should be promoted in order to achieve the desired stability. The reformists, who viewed marriage as a voluntary union between spouses tied to each other in mutual moral obligations, consequently emphasised the necessity of promoting equality between the parties, especially in their roles as parents. It the freedom of the individual would be substantially limited, she would feel discontented which in turn would have a destabilising effect on social order. The prohibition against divorce would contribute to the instability and moral degeneration of society by forcing individuals to remain in relationships that no longer gave a spiritual and personal satisfaction. The conservative debaters, on the other hand, would emphasise the importance of a patriarchal order within the marriage and obedience to patriarchal authority as a guarantee of protection for the family and society against the inherent selfishness of the individual. Thus, an authoritarian structure was needed so that family order and social stability would be maintained. Through instalment of personal self-discipline and enforcing of the mutual responsibility, the prohibition against divorce promoted marital and social stability.

On the newly created public arena of Russian society, the lawyers constituted a group on its way to becoming professionalised. The reformist lawyers looked for ways of practising their new professional status by adapting the legal system to social and economic realities in flux, e.g. by assisting disempowered social groups such as women who had been exposed to constant domestic violence in their marriages and who looked for legal possibilities to have their marriages dissolved. The reformists realised that the existing legislation did not reflect an affective ideal of a modern family life and were thus looking for solutions to the existing social problem. The difficulties of reforming legislation necessitated dual counter-strategies used by reformist lawyers: to work for legal reforms and at the same time changing the application of the existing legislation by a liberal interpretation of

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18 Wagner 1994, passim.
statutory law in court decisions. The latter strategy was facilitated by the gradual rotation of lawyers in the high courts of the country, to the advantage of reformist lawyers.\textsuperscript{20}

The reformist lawyers had their social origins within the new bildningsborgerligheten ("the third element") educated bourgeois, as well as in the liberal parts of the upper classes of Tsarist Russian urban environment. The reformists demanded a modernisation of the civil law. The judicial development of the civil law in Western Europe during the preceding fifty years was regarded as an ideal. The universalistic law norms, it was claimed, ought to work in Russia, as well any other recognised part of Europe! In their struggle to promote individualism in a modernised Russian society, the reformists attacked the institute of patriarchal male guardianship which implied the husband’s approval of his wife’s choice of education and profession as well as of her right to possess her own identity documents, the latter being an absolute necessity for a person who wanted to move from one place to another in the vast Russian empire. Even within the Orthodox Church voices were heard demanding reforms of the marital norm in order to facilitate a legal divorce. The work of the reformists was paralysed, however, by the fear of the supreme ecclesiastical power, embodied in the Holy Synod, to lose its supreme power over questions regarding family and marriage.\textsuperscript{21} Not even after 1906, when Russia had got its first parliament and the reformist social movements were granted admission to the political decision-making institutions, was a reform of the family laws possible, since the Church remained an influential actor.\textsuperscript{22}

Thus, unlike their Nordic colleagues the Russian lawyers did not succeed in bringing about a reformed family legislation. The new civil law code that was issued in the beginning of the 1900’s would not be ratified until after the October revolution, when the Soviet regime departed from the social structures of the old regime in the most radical way. Considering that radical and liberal groups had been in favour of reforms before the revolutions, we have reasons to believe that a modernised family law promoting a secularisation and an individualisation of the marriage and the family would have been carried out no matter if the new regime had been dominated by liberals or moderate socialists (socialist revolutionaries, Mensheviks or others) – or, as was the case in reality, by the leftist socialist alternative, called the Bolsheviks (at first together with the left Socialist revolutionaries). At the same time, the new Soviet regime undoubtedly produced a more far-reaching family legislation than would have been possible even to suggest earlier, especially as far as regulations of relations between the sexes are concerned. The family and marriage law of 1918 is permeated by ideas along the line of what we today would call equality feminist thinking. These ideas did not characterise the ideology behind the reform work of the Russian lawyers. The Bolsheviks, as well as other left socialists, carried with them the heritage of the Marxist ideas about the women’s question from the preceding centuries, that were not shared by the liberal and reformist groups.

Throughout the 19th century Russia had been influenced by European ideas about the role of women in society. Charles Fourier’s and other utopian socialists’ visions of a society with a collectivised childcare and a free sexuality reached the Russian intelligentsia in the 1840’s, and like in other parts of Europe the discussions abut the “woman’s question” had its breakthrough within the Russian bourgeois public discussion some decades later. Chernyshevsky’s novel “What is to be done?” was published in 1863; the book contained a radical message for the emancipating women: love relations should be based on relations between free men and women.\textsuperscript{23} At the same time, however, we must remember that Russia, a predominantly agrarian society with feudal characteristics, had a weak bourgeoisie; the social group that carried new ideas of social changes were first of all the intellectuals, a thin social stratum. Thus, a relatively small group of people received ideas about the liberated fellow-woman. Within the liberal reform movement in Russian the struggle for female suffrage got little attention, and unlike in, for example, Sweden, only the Russian socialists, not the liberals, took a clear position in the questions of female emancipation. The demand for women’s right to vote was written explicitly in the party programs of the social democrats and the socialist revolutionaries, where the principle “without distinction of sex, religion or nationality” was expressed as an addition to the four concepts of “universal, direct, equal and secret” elections that were also to be

\begin{itemize}
  \item Wagner 1994, p. 206 ff., 213 ff.
  \item For a study on the influence of the Russian Orthodox Church over family matters exercised through administrative reforms, see Freeze 1990.
  \item Wagner, 1994, p. 292 ff.
  \item Wood 1997, p. 24 f.
\end{itemize}
found in the party programs of liberals. This made educated and politically conscious women turn to the radical parties to a larger extent, where they more often than among the liberals or the moderate conservatives were attributed an active role. In the liberal movement, despite what was stated officially, the women were expected to take a supporting position.24

I we look upon how the scholars on family and women’s questions in the early Soviet Russia have explained why the new regime chose to issue ultra radical laws, we often see references to the ideological roots of the Bolshevik politics. Marxist texts by Engels, Bebel and Zetkin are singled out for emphasising the relations of productions in the society as decisive for the position of the women. Already in the capitalist industrial society the women were drawn into the productive sphere, i.e. wage labour, which was a necessary but not sufficient condition for the female emancipation. The capitalist industrialism also created prerequisites for a mechanisation of home work, which was also a necessary condition for the liberation of women.25

At the same time, the capitalist system created an unbridgeable gap between the demands on women from the part of the family and the part of the wage labour. This inherent contradiction between production and reproduction within the capitalistic system brought about an increased infant mortality, devastated homes, abandoned children and chronic health problems. Only socialism could solve the problem of women’s dual burden, by transferring house-hold tasks and childcare duties to a public sphere of reproduction. And only when private property, the basic principle of capitalism, had been abolished could the women be liberated from the oppression within the family, exercised by the husband or the father. Thus, political and civil rights for women were regarded by the Marxists as necessary conditions for the female emancipation, but they were seen as something that would automatically follow upon the socialist revolution that would sweep away private property and thereby also the unequal division of work according to sex.

The Marxist analyses of women’s oppression and strategies of female emancipation were parts of a common ideological heritage within the European workers’ movement: women’s economic dependence on men had to be removed, the women had to be wage-earners as well as men and one day the society would have to provide publicly organised childcare and household labour. However, around the turn of the century, contradictory currents of ideas could be seen within the workers’ movement: not only for biological reasons (motherhood, the specific nature of the female) but also for the reason that women had become a threat to men in the job market, e.g. by forcing the wage levels downwards, it was stated that a woman’s right place was in the home. The idea of a division of work within the family, implying that the main responsibility for household and family would rest on women, was based on thinking that regarded the sexes as separate and opposite entities. These theories were sometimes modernised by ideas of social insurance for mothers and salary for housewives. The socialist housewife replaced the wage-earning mother as an ideal for the workers’ movement was.26 But in Russia, the left socialist branch of the workers’ movement carried the classical Marxist ideas about the women’s question to the 20th century.

Radicalism for different reasons - concluding remarks

By a quick comparison the Nordic and the Soviet Russian marital legislation show similarities in terms of the level modernisation and secularisation and an effort to obtain equality between men and women. The explanation in the former case is as follows: the Nordic countries were part of a Western European culture with its specific family patterns and also part of a North European Protestant culture implying a fairly secularised view on marriage. Also, an agrarian economy prevailed in the Nordic countries, and the urban bourgeois family model had not really gained ground. An actor-oriented explanation was also presented: the lawyers and the women’s movement turned out to be successful pressure groups during the process of reforming civil legislation.

These kinds of explanations can not be applied to the Russian case. On the contrary, Russia stands out as the opposite to the Nordic countries in many ways: the marital traditions and family pattern was a typical Eastern European, a model with tight kinship relations where the young spouses

24 Edmondson 1992, pp. 77, 81; Stites 1978, passim.
25 For an analysis of the Marxist roots of the Soviet family policy, see e.g. Landes 1989, pp. 15 ff.
26 Hirdman 1992, pp. 36 ff. For a critical discussion of the question whether all kind of promoting housewives is anti-feministic, see Carlsson Wetterberg 2000, p. 69.
had a relatively subordinated position vis-à-vis the older generation. The age of marriage was low, especially for women, which reinforced the lack of influence, particularly during the early stages of marriage. Regarding the degree of secularisation in a comparative European perspective, Russia was far from being one of the more advanced countries, the Orthodox Church would tighten its grip on areas like family and marriage during the latter part of the 18th century and during the 19th century, after having made its own ecclesiastical bureaucracy considerably more efficient. Even though Russia had a predominantly agrarian structure, it was of a much more feudal type in comparison to the that of the Nordic countries; the Russian peasants lived in extended households which in turn were part of collectively cultivated village units, owned by a landed proprietor. In a structure of this kind it was difficult for the peasant wife, at least not until she had become of age, or born enough children, to get the position of having influence on the household.

Concerning the questions of which actors constituted the successful pressure groups in the reformist process of the Nordic laws, the Nordic scholars would stress that the most important actors could be found in the women’s movement and among the lawyers – not among the politicians. We also find a similarity between the Nordic countries and Soviet Russia in the sense that the Russian lawyers also played an active role in the attempts to reform the family and marriage laws. But contrary to their Nordic colleagues the Russian lawyers failed in their reform work, since the Orthodox Church did not give in. As far as women’s movements go, there was no equivalent to the Nordic countries in Russia, only after 1906 did politically active women gather in separate organisations, with some influence on the legislation process. The only movements in Tsarist Russia with women’s liberation more explicitly expressed in their programs were the politically marginalised socialist parties. Thus, the Bolsheviks carried with them this tradition when they started their reorganisation of state and society after having seized power in November 1917.

Thus, in the new Russia, unlike in the Nordic countries, the politicians were the ones to promote a radical change of the family legislation. The Soviet government took the bold (perhaps even foolhardy?) step to compress and speed up the modernisation process in the field of family politics in a way that makes one wonder: Did the social engineers of the new Russia really believe in the possibility of changing reality so thoroughly in a country that in many ways was one of the most backward in Europe? One explanation for this is that the new leaders regarded world-wide socialist revolution as a condition for carrying through this new bold policy. In this new world national borders would cease to exist and a new kind of international labour division would arise on the basis of proletarian governments. The Bolsheviks’ view that the global revolutionary situation did in fact seem to get confirmation after the German collapse in 1918, when various revolutionary taking over of power took place in various parts of Europe. These events, together with popular protests in, e.g. Great Britain against the British-American-French intervention in the Russian civil war, inspired the Bolsheviks together with left socialist parties from other countries, above all Germany, to establish the Communist International in March 1919. The outlook seemed excellent for the spread of the communist ideas all over the world. In this context, the Bolsheviks probably saw themselves as role models in the field of family matters and gender relations.

27 Rosenbeck 2000, p. 69.
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