

# THE STATUS OF WOMEN IN THE SOVIET UNION \*

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## I. THE SOCIALIST-MARXIST POSITION

In ideological principle, both the Marxist and the Soviet Bolshevik tradition have stood firmly and unequivocally committed to the social, political and economic emancipation of women. Woman was to be freed from her low place in traditional social and familial hierarchies, from the duty of unquestioning obedience to father and husband. Industrial production, which was already undermining her economic dependence on the male breadwinner, would be infinitely expanded, communalized and humanized under conditions of socialism. Women would cease to be mentally and physically stunted by lives of unremitting household drudgery; they would be freed from what Trotsky called the mind-and soul-destroying tyranny of nursery and kitchen, from a world that kept them out of politics, society and culture unless they belonged to the privileged few who were in fact, and virtually in status, superior courtesans.

This view of the matter, of course, was not uniquely Marxist or Bolshevik. It was common ground for most 19th century socialists, who counted Fourier and Flora Tristant among their heroes or at least among their forerunners. Belief in the innate or potential equality of women and the need for their continued emancipation, like opposition to capital and corporal punishment and faith in the moral and physical virtues of the worker, was part of the socialist syndrome of beliefs. Some, like Fourier and Tristant, put it very near the center of socialism; others saw it as an important by-product, but all agreed that socialism meant, among other things, the emancipation of women. The Russian Revolution of February-March 1917, more fittingly called the collapse of the Tsarist Government, had for its immediate occasion demonstrations celebrating the socialist-proclaimed International Women's Day. Whether woman's emancipation was to involve the destruction of the monogamous family and make having sexual relations as simple and socially irrelevant as drinking a glass of water was and remains a matter of dispute among socialists.

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Marx and Engels in the *Communist Manifesto* and Engels in *The Origin of the Family, Private Property, and the State* did not wholly resolve this dispute. They saw the traditional agrarian, feudal and bourgeois families as essentially economic institutions, based on private property and the division of labor, necessarily requiring the economic and consequent social dependence and servitude of the female partner and bound to collapse with the abolition of private property and capitalism. In modern conditions of economic individualism based on private property, bourgeois marriages became an institutionalized form of *de facto* prostitution in which the woman "only differs from the ordinary courtesan in that she does not let out her body on piece-work as a wage worker, but sells it once and for all."<sup>1</sup> The family life of the proletariat, while free from the corrupting influence of private property, is made miserable by material need. Food, clothing and decent shelter are short; starvation, theft and suicide are common; so are drunkenness, brutality and sexual irregularity. There is a factual breakdown of the proletarian family; it is "torn asunder by modern industry." Made helpless by economic need, women and children are pushed into industry where they are mercilessly exploited, with long hours, low wages and incredible working conditions. But the absence of property interests, for Marx and Engels, means that the proletarian family is "based on real relations" (personal preference and mutual love, marital equality, willingness and freedom to divorce on appropriate occasions) and disregards the traditional morality as merely an expression of class interests. The proletarian wife's employment "turned the family upside down," for the husband who cannot find work sits at home while the wife is employed, since she will work for less; but it also freed the proletarian wife from the dependence of her bourgeois counterpart; it gave her power to dissolve her marriage and the position and respect associated with a productive economic role. Yet for both the proletarian and the bourgeois wife, the family under capitalism remains an "economic unit of society," imposing a continuing fetter upon the female through her responsibility for housekeeping and the care of children.

According to Engels, the abolition of individualism and of economic exploitation will result in the abolition of the family as we know it, i.e. as an economic unit. If the family is to survive as a non-economic unit, as a human bond between persons who love each other, then its nature will be determined by the public opinion of a new generation freed from economic fear.<sup>2</sup> Monogamy as an insti-

<sup>1</sup> ENGELS, *THE ORIGIN OF THE FAMILY, PRIVATE PROPERTY AND THE STATE* 48 (1942).

<sup>2</sup> *Ibid.*, p. 56.

tution, emerging with private property and based on the father's desire to pass his estate on to his own children, will also change its character.

We are now approaching a social revolution in which the economic foundations of monogamy as they have existed hitherto will disappear just as certainly as will those of its complement, prostitution. . . . But by transforming by far the greater portion at any rate of permanent, heritable wealth—the means of production—into social property... [the revolution] will reduce to a minimum all this anxiety about bequeathing and inheriting. Having arisen from economic causes, will monogamy disappear when these causes disappear? One might answer, not without reason: far from disappearing, it will, on the contrary, be realized completely. For with the transformation of the means of production into social property there will disappear also wage labour, the proletariat, and therefore the necessity for a certain—statistically calculable—number of women to surrender themselves for money. Prostitution disappears; monogamy instead of collapsing at last becomes a reality—also for the men.<sup>3</sup>

The emancipation of women and the re-introduction of "the whole female sex into public industry"<sup>4</sup> will spell the end of the supremacy of men. In the early, subsequently unused, draft that Engels prepared for the *Communist Manifesto*, he did argue specifically that the communist society would bring about a transformation of

. . . the relations between the sexes into a purely private matter that concerns only the persons involved and into which society has no occasion to intervene. It can do this since it does away with private property and educates children on a communal basis, and in this way removes the two bases of traditional marriage, the dependence, rooted in private property, of the woman on the man and of the children on the parents.<sup>5</sup>

Socialists generally and Marxists in particular, however, had little time for the elevation of feminist demands in abstract, in separation from the all-consuming question of the time, the contradiction between capital and labor and the necessity for the abolition of private property and the socialization of production, distribution and exchange. They discerned in the feminist movement of the late 19th and early 20th centuries an essentially bourgeois movement that also displayed overtones of hysterical need to pretend that women were really men. Alexandra M. Kollontai, a principal Marxist revolutionary publicist writing on female affairs in the

<sup>3</sup> *Ibid.*, p. 51.

<sup>4</sup> *Ibid.*, p. 50.

<sup>5</sup> Engels, *Grundsätze des Kommunismus*, in 6-1 MARX ENGELS, HISTORISCH-KRITISCHE GESAMTAUSGABE 503-22 (ed. by Marx-Engels Institute, Moscow 1972 f.) transl. by Sweezy as "The Principles of Communism," and Marx and Engels, *The Communist Manifesto*, etc. 67 at 80 (1964).

first two decades of the 20th century, complained in her book, *Women's Labor in Economic Development*, that 19th century feminists did not look to "a new social order as offering women the widest and only firm basis of their emancipation. Socialism was alien to them." Instead, they

naively attempted to transfer the struggle for women's equal rights from the firm basis of class relationships into the realm of a struggle between the sexes. The result was a distorted caricature. Lacking a flair for politics the feminists strayed from the true path of their struggle. Where they might have assured themselves of success and gained the support of the men of their own class, they lost both by proclaiming at every juncture, heedless of appropriateness, those one-sided feminist catchwords which urged equal rights for women, instead of putting forward the demands common to their class which would by themselves have resulted in a claim for women's rights. In their zeal to establish equal rights and prove women in every respect equal to men the feminists were bound to disregard the natural characteristic of women which mark them out for a special place in the collective.<sup>6</sup>

## II. WOMEN IN TSARIST RUSSIA

Both Russian and Western writers have been extremely conscious of the brutalities and indignities heaped upon women through a long period of Russia's history and of the low level of protection afforded them either legally or in fact. The coarseness, self-indulgence and physical violence displayed by the Russian ruling classes, including the Tsars, in the 16th and 17th centuries have been a by-word in Russian historiography. Even upper-class women were flogged, forced to watch and participate in drunken orgies and shut up in convents when they were no longer wanted—at least until Peter the Great hacked a window through to Europe, completed smashing the power and arrogance of the *Boyars* and set out to reform their manners, and inaugurated the process that created a new, more "European" aristocracy. The "traditional" brutality has been seen, in Russia and the West, as an "oriental" trait, the result of 250 years of the Tatar yoke, of the absence in Russia of a Western European tradition of chivalry, and of Russia's exclusion from the humanizing influence of the Renaissance. While the coarseness of Russian domestic manners was very significantly alleviated from the 18th century onward, the legal dependence of woman was not. It continued to be reinforced legally as well as practically, by the fusion of State and religious power,

<sup>6</sup> Kollontai, *Women's Labor in Economic Development* (1932), in SCHLESINGER, *CHANGING ATTITUDES IN SOVIET RUSSIA: THE FAMILY IN THE U.S.S.R.* 45, 46-7 (1949).

by the incorporation into penal and civil law, admittedly not uncommon elsewhere, of various religious sanctions against, e.g., divorce, adultery, marriage, and conversion into non-Russian Orthodox communities.

Among the peasants, with their emphasis on the family household and community property, the girl passed from the absolute authority of her father to that of her husband. For others, too, even the latest Civil Code before the Revolution declared: "A wife is bound to obey her husband as head of the family, to dwell with him in love, respect and unlimited obedience, to show him every compliance and attachment."<sup>7</sup> She thus took his name; he, as head of the family, had the right to choose their domicile which the wife was obliged to accept (Art. 104). Since the Code required the spouses to live together (Art. 103), the wife was not entitled to obtain a separate passport, needed for internal travel under the Russian passport system, without her husband's consent. These provisions alone insured that in practice a wife could not get a job away from her husband, but Article 2207 of the Code underscored the point by specifically providing that "Wives cannot be hired for work anywhere without their husband's permission."

Curiously, the moral and legal dominance of the Russian husband over his wife did not extend to the formal merging of property rights on marriage or even to a woman's dependence on the husband's legal personality for an effective dealing with property. Article 109 of the Tsarist Civil Code said: "Marriage gives no right of common possession over the property of spouses; each of them may own and acquire property separately." Thus "spouses may sell, mortgage or otherwise dispose of their own property directly in their own name independently of each other without any power of attorney or other form of authorization" (Art. 114).<sup>8</sup> Allowing married women full enjoyment of their property rights led to the politically and socially significant phenomenon noted by the late E. L. Johnson:

[A]s legal discrimination against women weighed much less severely on women of the property-owning classes, there was no "women's rights" movement among upper and middle-class women as there was in 19th century England before the passing of the Married

<sup>7</sup> 10-1 SVOD ZAKONOV ROSSIISKOI IMPERII (Collection of Laws of Imperial Russia) (1964), Art. 107. The husband on his part, must support her according to his ability and "love her as his own flesh, ... live with her in accord, ... respect her, ... defend her, ... forgive her inadequacies and ... lighten her infirmities" (Art. 106).

<sup>8</sup> Though spouses were specifically forbidden to interfere with each other's property, they were not forbidden to convey property from one to the other by way of gift or sale (Art. 117).

Women's Property Acts, and nothing equivalent to the suffragette movement; the inequalities in the law were felt most severely by women of the professional and working classes, e.g. the trained teacher married to a man with low earning capacity, but whose masculine pride objected to the family's standard of living being raised by his wife resuming her pre-marriage occupation. Many women from the working intelligentsia thus turned to the revolutionary movement which was pledged to sex equality, and an independent women's movement, distinct from the revolutionary movement in general, never became important. The upper-class woman might indeed suffer from the law in matters such as guardianship and custody of children, as readers of Tolstoy's *Anna Karenina* will remember, but the grievance was not felt by a sufficiently large number to give rise to any movement for reform of the law in this matter.<sup>9</sup>

Married women in Russia could be large estate-holders and, as such, had the right to representation, based on the extent of their land-holding, in the regional *Zemstvo* assemblies and boards, though they could vote only by proxy given to a male, and could not sit themselves. In the first decade of the 20th century, however, women could and did become *Zemstvo* employees, e.g. regional teachers. A woman of education and spirit, especially if she owned or managed property, could play a significant role in her district. Many women, indeed, like Tolstoy's wife, were forced by the moody shiftlessness of the Russian male to take on increasing burdens of household and business management. In the peasant commune under the reforms of 1894, the female head of a peasant household was specifically defined as having the same rights as male heads. The 19th century, indeed, produced a new literary image of the Russian woman (linked with the frank masochist self-image of the Russian male), which extolled her as "strong" and "whole" (*tsel'naia*), relaxed, unneurotic, resilient, often practical and certainly enduring and accepting, loyal and generous. She was the counterpoint to the "weakness" or one-sidedness of the Russian man, seen as restless, escapist, unable to cope with the demands of living, physically or mentally ill, virtuous but without drive, purely cerebral, ascetic.<sup>10</sup> As Vladimir Weidle put it, among the intelligentsia and the educated classes at least,

woman, in the course of the last century, won her important position in Russian life, not by fighting for it, as she did in the Anglo-Saxon countries, but as a result of man's coming to see her, more

<sup>9</sup> E. L. Johnson, *Matrimonial Property in Soviet Law*, 16 INT'L & COMP. L. Q. 1106 at 1107 n. (1967). See also Berman, *Soviet Family Law in the Light of Russian History and Marxist Theory*, 56 YALE L.J. 26 (1946).

<sup>10</sup> See Dunham, *The Strong-Woman Motif*, in BLACK, THE TRANSFORMATION OF RUSSIA SOCIETY: ASPECTS OF SOCIAL CHANGE SINCE 1861 459-83 (1960).

than elsewhere, as a human person equal in value to himself, rather than as a mere instrument of pleasure or an object of utility.<sup>11</sup>

### III. THE EARLY SOVIET PERIOD: 1917-1936

The present Constitution of the USSR, enacted in 1936 and long called the Stalin Constitution, provides in Article 122:

Women in the USSR are accorded all rights on an equal footing with men in all spheres of economic, government, cultural, political and other public activity.

The possibility of exercising these rights is ensured by women being accorded an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, State aid to mothers of large families and unmarried mothers, maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

The principle of female equality, of course, had been common ground among all the opposition parties that welcomed the collapse of the Tsarist autocracy, socialist and non-socialist. The Provisional Government established after the February Revolution, in a decree of 15 March 1917, provided for universal suffrage, thus giving women the vote, and began a program of legislation designed to create a complete system of equal rights for women. The Marxists, both Mensheviks and Bolsheviks, stressed that political rights must be accompanied by economic emancipation. Women were especially prominent, as they long had been, in all the radical revolutionary parties. When Lenin and the Bolsheviks took power in October 1917, they not only wholeheartedly endorsed the socialist program for the emancipation of women, but put some special emphasis on bringing women as women into the work of the Revolution.<sup>12</sup> In November 1,200 delegates to the First All-Russian Congress of Proletarian and Peasant Women met in Moscow to discuss how women's rights could be achieved. In January 1918, the Third All-Russian Congress of Soviets adopted the Declaration of the Rights of the Working and Exploited People, treated by subsequent Soviet

<sup>11</sup> WEIDLE, RUSSIA: ABSENT AND PRESENT (A. Gordon Smith trans.) 145 (1952).

<sup>12</sup> Stressing the need for women's support of the revolutionary cause, Lenin said: "It is impossible to win the masses for politics unless we include the women. We must win the millions of working women in the city and the village for our cause, for our struggle, and in particular for the communist transformation of society. The work begun by the Soviet Government can only lead to victory if it is shared not by hundreds but by millions upon millions of women in Russia." Later, he reported: "We do not leave one trace of the old Tsarist laws which placed women in a subordinate and humiliating position. One may comb the Soviet legislation from end to end without finding any evidence of discrimination between the sexes." 30 COLLECTED WORKS 392 (Russian ed. 1926-30).

writers as the first formal act of the Soviet Regime clearly implying the political and revolutionary equality of men and women.<sup>13</sup> The First Soviet (strictly, Russian) Constitution, adopted by the Fifth All-Russian Congress of Soviets in July 1918, proclaimed the equality of all citizens of the (Russian) Soviet Republic regardless of sex, race and nationality (Art. 22) and the equal right of men and women to vote and to be elected to the *Soviets* (Art. 64).

Reform of the marriage law, rendering divorce readily available and making matrimony a purely civil matter, began with two decrees in December 1917, which were systematized and replaced a year later, on 17 October 1918, by the Code of Laws concerning the civil registration of deaths, births and marriages (Family Code).<sup>14</sup>

In substance, these early provisions removed marriage from the religious to the civil area, provided for divorce by mutual consent declared at the Registry Office or upon the application of one spouse to the People's Court, placed all children, born in or outside wedlock, on the same footing with regard to claims for maintenance and inheritance,<sup>15</sup> established that a wife was not bound to live with her husband or necessarily to take his name, maintained a complete separation of property on and during matrimony, and established the principle that husband and wife have an equal duty to contribute, financially and in other ways, to the care and maintenance of the children.

The Russian Revolution, like any revolution, had for a period attracted various groups of "free" socialist and anarchist intellectuals emphasizing the development of the free creative personality that knows no laws but those of its own nature, enthusiastic for the latest avant-garde fashions and seemingly radical reappraisals (which then included Freudianism), proclaiming sexual liberation

<sup>13</sup> See e.g. Pankratova, *Soviet women have the same political rights as men and take active part in the government of the State*, paper delivered in Moscow to an International Women's Seminar on Equality of Women in the Soviet Union, published in *EQUALITY OF WOMEN IN THE U.S.S.R.* 16 (1957). In fact, the January 1918 Declaration treated men and women as equal only and simply by making no reference to any sexual distinctions between workers.

<sup>14</sup> 1 DEKRETY SOVETSKOI VLASTI (Decrees of the Soviet Power) 247-49, No. 171.

<sup>15</sup> For a detailed exposition and discussion of the shifts and continuities in the Soviet law of inheritance going back to 1918, see Tay, *The Law of Inheritance in the New Russian Civil Code of 1964*, 17 INT'L & COMP. L. Q. 472 (1968). The inheritance provisions, contained in the Civil Codes and not in the Family Codes, have followed continental patterns in emphasizing family claims at the expense of the freedom of the testator and in drawing up formal groups of priorities among relatives and dependents. A certain emphasis on use-possession in the passing of household goods tends also to recognize and to strengthen the family unit as a household unit.



and the overcoming of all "bourgeois preconceptions" (e.g. virginity, cleanliness). Ultimately, these groups were given short shrift in the Soviet Union where the emphasis was quickly and increasingly placed on collectivism, discipline, responsibility and a work-oriented morality. For a period in the early 1920s, there was some discussion of the extent of sexual freedom (or license, as its opponents called it) that could or should be encouraged by a Soviet regime, though the debate was clearly distasteful to many of the more serious Soviet leaders, including Lenin, who, if not prudish, shared the traditional Russian reluctance to talk about sexual matters in public. Above all, however, the discussion was regarded as distracting attention from the real problems of society—economic contradiction and the class struggle, the upbuilding of the economy and the creation of a genuinely collective and communal life. Theoreticians commenting on the new Soviet legislation emphasized the economic rather than the sexual aspects of the new policies. They saw the family as ultimately withering away when its economic foundations had been destroyed. As one Soviet writer put it:

Similar to the way in which, together with the disappearance of the classes, together with the annihilation of class contradictions, the State will disappear, similarly to that, ... together with the strengthening of the socialist economy, together with the growth of socialist relationships, together with the overcoming of earlier pre-socialist forms, the family will also die out. The family is already setting out on the road to a merging with socialist society, to a dissolution with it. *An openly negative attitude toward the family under the present conditions does not have sufficient grounding, because pre-socialist relationships still exist, the State is still weak, the new social forms [public dining rooms, State rearing of children, etc.] are as yet little developed and until then the family cannot be abolished completely.*<sup>16</sup>

The negative attitude to the family, at least as a legal and economic unit, was carried furthest in the Code of Laws on marriage and divorce, the family and guardianship (Family Code) promulgated by the All-Russian Central Executive Committee on 19 November 1926. This Code retained a number of provisions from the 1918 Code, but went beyond the earlier legislation in giving the same legal protection and recognition to registered and *de facto* marriages in general and not only in connection with the rights of children. Registration became a purely administrative matter, bureaucratically convenient but having no constitutive force. The mar-

<sup>16</sup> Slepko, *Sem'ia i stroitel'stvo sotsializma* (The family and the construction of socialism), in SLEPKOV (ED.), *BYT I MOLODEZH* (Daily life and Youth) 52 at 57 (1962), as cited by GEIGER, *THE FAMILY IN SOVIET RUSSIA* 45 (1968). Italics added.

riage age for both parties was now set at 18 years (Art. 5); the parties could elect to adopt a common surname, or each could retain the prenuptial surname (Art. 7); marriage between a Russian citizen and a foreign citizen did not change the citizenship of either (Art. 8). Both husband and wife enjoyed full liberty in the choice of trades and occupations, the running of the joint household was to be on the basis of mutual agreement, and a change of residence by either husband or wife did not oblige the other spouse to follow (Art. 9); a spouse, whether male or female, if in need and unable to work had a right to alimony from the other conjugal partner if the latter was able to support the former; the right existed during the marriage and for one year after dissolution (Art. 14, 15). All these provisions also applied to *de facto* spouses. Some other articles, however, represented a partial retreat into less ideological and more practical positions. While property which belonged to either party before marriage still remained that party's separate property, property acquired during marriage became joint property. In case of a dispute it was to be divided as determined by a Court (Art. 10), thus ameliorating the position of a spouse who had acquired no property during the marriage because of inability to work, whether for domestic or physical or other reasons.

Freedom of divorce was carried to further lengths in this Code than was ever to occur again in the Soviet Union. The dissolution of a marriage during the lifetime of both parties could be either by mutual consent or upon *ex parte* application of either party (Art. 18). While divorce registration at the local registry [ZAG] was required (Art. 19), for the purpose of divorce an unregistered marriage would be recognized if its existence had been established as a fact in court proceedings under Article 12. By eliminating the requirement that both parties appear in court when one did not consent to the divorce, the Code inaugurated the new era of "postcard divorce." Concerning relations between parents and children, the Code continued to emphasize blood ties as the basis of mutual rights, irrespective of the nature of the relationship between the parents (Art. 25). Provisions on determining paternity or maternity and on the consequences of establishing parenthood remained similar to those included in the 1918 Code.

The 1926 Family Code marked the highwater point of Soviet policy of eliminating "counter-revolutionary" influences on and within the family and of furthering the emancipation of women as a Marxist and Russian revolutionary ideal. Overcoming the economic and social dependence of women, the theory ran, required two fundamental preconditions: entry of women into economic produc-

tion, giving them independence and social equality, and taking over household and child-rearing as matters of public, social and State concern. Both themes were very much at the center of Soviet writings and public pronouncements in the 1920s. Lenin repeatedly condemned the "domestic slavery" which persisted even after the Revolution and claimed as its victims not only women but men as well:

The home life of a woman is a daily sacrifice to a thousand unimportant trivialities. The old master right of the man still lives in secret. His slave takes her revenge, also secretly. The backwardness of women, their lack of understanding of the revolutionary ideals of the man, decrease his joy and determination in fighting. They are like little worms which, unseen, slowly but surely rot and corrode.<sup>17</sup>

Therefore, public restaurants or common kitchens, crèches, nurseries, and kindergartens, central laundries, etc. must be established. Child-rearing by society was extolled as more rational, scientific and organized than rearing within the individual family. Women were urged, in well-publicized mass campaigns, to take active part in the economic and political life of the Soviet State, to take jobs, enter schools and enrol in training courses, to recognize the advantages of hostels and communal houses over uneconomic private family households, to see motherhood as a social obligation but one freed from the *burdens* of motherhood now placed on the State.

The 1926 Family Code and its ramifications, like much Soviet legislation, remained a program for the future rather than a description of the present. In practice, in the 1920's, Bolshevik achievements lagged far behind their intentions. One could blame the Civil War, post-revolutionary difficulties, poverty, unrest, a ravaged economy. Whatever one did blame, on the Soviet regime's own account, only three out of every hundred children went to crèches, the laundries that existed, "tear and steal more than they wash", too few public restaurants were established,<sup>18</sup> and women's entry into social production was extremely slow. As Geiger puts it,

Probably closer to reality was the view held by some that the first decade or two of Soviet history saw a worsening rather than an im-

<sup>17</sup> 28 LENTIN, COLLECTED WORKS 161, as cited by GEIGER, *ibid*, at 46.

<sup>18</sup> Emelian M. Iaroslavski, the Party publicist on these matters, counted the number of "public dinners" served on 1 November 1925: 20,000 in Moscow, 50,000 in Leningrad, and 67,000 in the provinces, making a total of 137,000. The New Economic Policy period brought a virtual halt to development in this area, as there was no material incentive for it. After the end of NEP, renewed efforts were made further to socialize the family's functions, but progress was slow, now due to allocation of very low priorities under the Five-Year Plan: "Moral' i byt proletariat v perekhodnom periode" (Morality and daily life of the proletariat in the transition period), in RAZIN (ED.), KOMSOMOL'SKI BYT (Komsomol daily life) 34-54 (1927).

provement in the status of Soviet women. The great mass of women, illiterate and submissive, were little interested in their new freedoms and equality. Legal rights were often completely unappreciated. Peasant women, for example, rarely sought alimony in the event of divorce. In urban families the right to work, if it existed in the form of concrete opportunity, was more often seen as a financial necessity than as a new freedom. Without replacing child-rearing, food purchase and preparation and the like by the family, the Revolution simply brought an additional burden to women. They remained tied to the family and home and often, in addition, had to work in a factory or office. Studies made in these years showed that women were on a day-to-day basis generally busier than men. Since they could spend less time in public or political work, study, even sleep, they were less able to develop themselves and become the equals of their husband.<sup>19</sup>

The reality, worsened by the famines of the 1920s and the horrors of forced collectivization in 1929, indeed produced a major social crisis.

#### IV. THE RETREAT TO "CONSERVATISM"

The crisis, evident in the late 1920s and continuing into the 1930s, coincided with the rise of Stalin and the concentration on "socialist upbuilding" through the Five-Year Plans. It produced a steady retreat to "conservatism". A new image of the "strong Soviet family" was fostered to counteract the growing problem of juvenile delinquency, enforce parental responsibilities and encourage a much-felt need for an increase in the birthrate. Soviet writers began to refer to the family as "a basic unit", faced, in contemporary conditions, with the task of bringing up children for the socialist future. Domesticity was no longer denounced, household work, once described by Lenin as monotonous petty drudgery, was now proclaimed to be "socially useful labor", love of parents, formerly conditional upon their adherence to Soviet values, was elevated as an ethical absolute.

Accordingly, decrees were issued imposing new liabilities on parents and youths. In 1934, a decree denounced hooliganism and urged parents and teachers to supervise children more rigorously. Parents became criminally liable for the delinquent acts of their children; the militia was authorized to impose administrative fines upon parents guilty of neglecting to supervise their children adequately. Parents were also made liable for children's torts, parental

<sup>19</sup> GEIGER, *supra*, note 16 at 59-60. Trotsky, as Geiger goes on to note, wrote in 1937: "One of the very dramatic chapters of the great book of the Soviets will be the tale of the disintegration and breaking up of these Soviet families where the husband, as a Party member, trade unionist, military commander or administrator, grew and developed and acquired new tastes in life and the wife, crushed by the family, remained at the old level. The road of the two generations of the Soviet bureaucracy is sown thick with the tragedies of wives rejected and left behind."

neglect was to be reported to the place of work of the guilty parent, and a procedure was set up to transfer children to children's homes if parental supervision was inadequate. Criminal liability for larceny, acts of bodily harm and murder now began at 12 years; at 14 children became jointly liable with their parents for civil wrongs.

Adoption, once prohibited by Article 183 of the 1918 Family Code,<sup>20</sup> was legalized again in the 1926 Family Code to enable and encourage the settlement of homeless, orphaned children in private families.<sup>21</sup> The treatment of abortion also underwent radical changes. Originally, abortion was viewed as a non-political aspect of individual sexual relations and thus "outside the area of regulation by the Communist Party," although the danger to health involved in the operation was recognized. The Decree on the legalization of abortions of 18 November 1920,<sup>22</sup> therefore provided that such operations could be performed "freely and without any charge in Soviet hospitals" but "absolutely . . . [forbade] anyone but a doctor to carry out this operation." On 27 June 1936, in line with the new family policy, however, a Decree was issued on the prohibition of abortions, the improvement of material aid to women in childbirth, the establishment of state assistance to parents of large families, and the extension of the network of maternity homes, crèches and kindergartens, the tightening up of criminal punishment for the non-payment of support, and on certain modifications in divorce legislation. The Decree justified its prohibition of abortion by explaining that the 1920 Decree was necessitated by "the moral heritage of the past and the difficult economic conditions of the present" which then still "force[d] a section of women to submit to this operation," but now no longer applied.

Only under conditions of socialism, where exploitation of man by man does not exist and where woman is an equal member of society, while the continual improvement of the material well-being of the toilers constitutes a law of social development, is it possible seriously to organize the struggle against abortions by prohibitive laws as well as by other means.<sup>23</sup>

<sup>20</sup> Z. I. Lilian, wife of G. E. Zinoviev, said in 1918: "We must rescue these children from the nefarious influence of family life. In other words we must nationalize them. They will be taught the ABCs of Communism and later become true communists. Our task is to oblige the mother to give her children to us—to the Soviet State". quoted by GEIGER, *supra*, note 16 at 72.

<sup>21</sup> Art. 57 permitted adoption only of minors and exclusively in their interest. Art. 62 required consent of the conjugal partner of a married adopting person. Children above 10 years of age could be adopted only with their consent (Art. 63). Adopted persons and their issue were accorded the same personal and property rights and obligations with regard to the adopters and their relatives as relatives by birth (Art. 64).

<sup>22</sup> SCHLESINGER, *supra*, note 6 at 44. See also his Document No. 9 (p. 172-87) for Soviet discussion of the results of the Decree.

<sup>23</sup> SCHLESINGER, *ibid.*, at 269-79.

Article 1 of the Decree, "in view of the proven harm of abortions," forbade the performance of abortions anywhere except "in those cases where the continuation of pregnancy endangers life or threatens serious injury to the health of the pregnant woman and likewise when a serious disease of the parents may be inherited, and then only under hospital or maternity-home conditions." Persons who performed illegal abortions or who compelled a woman to undergo one were made subject to criminal punishments involving imprisonment, while the woman involved was to be subject to a social reprimand (treated as a criminal punishment) and, in cases of repetition of the act, to a fine up to 300 roubles.

To promote motherhood, the Decree increased from 32 to 45 roubles the social insurance allowance payable to all insured working women on the occasion of childbirth for the purchase of articles for infant care (Art. 5); it also increased from 5 to 10 roubles the monthly allowance to mothers. Article 9 established a criminal penalty for refusing to employ or reducing the wages of women on grounds of pregnancy. It further provided that a pregnant woman transferred to lighter work should retain wages based on her average earnings for the preceding six months work. Article 10 established a State allowance for mothers of large families. Those with six children received an annual allowance of 2,000 roubles per each subsequent child for five years from the day of its birth. Mothers of 10 children received a State allowance of 5,000 roubles on the birth of each subsequent child and an annual allowance of 3,000 roubles for a period of four years following the children's first birthday. The Decree also called for a network of maternity homes, nurseries and kindergartens to be extended throughout the country, funded, except for beds in collective farm maternity homes, entirely by the State. The number of maternity and nursery beds, and of obstetrical clinics and care centers should be increased; personnel should be expanded so as to operate in two shifts; new dairy kitchens should be built for feeding young children. The Decree assigned money from State and local budgets for these purposes.

The final part of the Decree, framed "with the aim of combating careless and light-hearted attitudes to the family and family obligations," made the personal attendance, at ZAGs, of both parties a necessary condition for divorce proceedings and required the fact of divorce to be entered on the passports of both parties (Art. 27). The Decree also increased the fees for divorce registration to 50 roubles for the first divorce, 150 for the second and 300 for the third and each subsequent divorce (Art. 28); and it imposed a prison sentence for failure to pay maintenance awarded by a court for the support of children.

In hailing the Stalin Constitution of 1936 as the greatest legal document of all time, Stalin's propagandists had explained by dialectic that before the State and law could wither away they had to be made stronger and stronger, reaching their perfection under socialism. "On the family front" theoreticians now explained that the socialist family was the strongest and most secure of all families. Thus V. Svetlov described the Decree of 27 June 1936, as being

of great international significance. It strongly bears out the strengthening of the socialist family as against the disintegrating family in capitalist countries. It gives the lie to all the counter revolutionary bourgeois gossip about the alleged collapse of the family in USSR.<sup>24</sup>

Another writer, S. Vol'fson, admitted:

It would be a camouflage unworthy of reality to conceal the fact that the Soviet family still has many negative sides . . . It would likewise be inadmissible to close one's eyes to the fact that the Soviet family is the scene of certain conflicts, that our difficulties in family relations are not few. But the decisive factor remains that, as the material well-being of the workers in the USSR increases, as socialist principles penetrate ever deeper into our life, the Soviet family is growing stronger and more developed. It is increasingly surrounded with the care of the Party, of the State and of all the workers.

Assertions that Socialism leads to the extinction of the family are profoundly mistaken and harmful.<sup>25</sup> The family does not become extinct under Socialism; it grows stronger.<sup>26</sup>

The concern with strengthening the family that becomes so evident from 1936 onward was accompanied by an equally strong concern with increasing the birthrate, greatly intensified—naturally enough—during the Soviet Union's Great Patriotic War, 1941-1945.<sup>27</sup> In 1944 the Presidium of the Supreme Soviet of the USSR decreed an increase of State aid to pregnant women, mothers with

<sup>24</sup> *Socialist society and the family*, in *POD ZNAMENEM MARKSIZMA* (Under the banner of Marxism) (1936), cited in SCHLESINGER, *ibid.*, Document No. 14 at 316.

<sup>25</sup> The author himself admits to having held this "entirely erroneous thesis" in 1929.

<sup>26</sup> Vol'fson, *Socialism and the family*, in *POD ZNAMENEM MARKSIZMA* (1936), in Document No. 14. "Explanations of the New Family Policy by Soviet Theorists," SCHLESINGER, *supra*, note 6 at 280, 314-15.

<sup>27</sup> The historical conditions calling for this, depletion of manpower by war, agricultural collectivization, urbanization bringing with it delinquency and falling birthrate, and the shifts in family policies between 1926 and 1944, are described and discussed in Juviler, *Family Reforms on the Road to Communism*, in JULIER & MORTON, *SOVIET POLICY-MAKINGS: STUDIES OF COMMUNISM IN TRANSITION* 29-60 (1967), where the author quotes the USSR Deputy Procurator-General for Juvenile Affairs, V. Tadevosian, as saying: "High fertility of the Soviet family was one of the Socialist State's basic purposes in publishing the Decree of 27 June, 1936, on the banning of abortions... [O]ne of the most crucial goals of the Decree of 8 July, 1944, was to stimulate the birthrate..." At 32-3, from an article in *SOTSIALISTICHESKAIA ZAKONNOST'*, No. 11, 38-41 (1944).

many children, and unmarried mothers; it strengthened measures for the protection of motherhood and childhood; it established the title "Heroine Mother" and instituted the order "Motherhood Glory" and the "Motherhood Medal". This legislation, embodied in a single Decree, became an act of signal importance that was to dominate Soviet family life until well after the death of Stalin in 1953.

Article 1 and 2 of the Decree increased State assistance to mothers by beginning aid from the third child onwards and establishing a new detailed table of payments. Article 3 provided State assistance in the form of monthly payments for single (unmarried) mothers for each child beginning with the first, as well as a lump sum on the birth of the third child and subsequent children, such assistance to continue even after marriage. Article 4 imposed a duty on State children's institutions to accept without charge the child of any unmarried mother who wished it to be brought up in a children's institution, but reserved to the mother the right to remove the child and bring it up herself. Article 5 provided for an increased lump sum to be paid out of Social Insurance and Mutual Assistance Funds for the needs of each new-born child. State assistance to unmarried mothers, however, ceased when the child reached 12 years of age, while in the case of married mothers, it continued until the child reached 16. Article 7 prohibited employment of pregnant women (from the 4th month of pregnancy) in overtime work in factories and of nursing mothers on night work during the nursing period; Article 8 and 9 provided for double rations of food and supplementary foodstuffs for pregnant women; Article 10 reduced the fees for places in crèches and kindergartens for parents with small incomes and three or more children.

Section III of the Decree instituted the "Motherhood Medal" (1st class and 2nd class medals for mothers with 6 and 5 children respectively), the Order "Motherhood Glory" (1st, 2nd and 3rd class for mothers with 9, 8 and 7 children respectively), and the title of honor, "Heroine Mother", with the award of the Order Heroine Mother and a certificate of the Presidium of the Supreme Soviet of the USSR (for mothers who gave birth to and brought up 10 children). In all cases the awards were to be conferred when the latest child reached its first birthday and provided all the others were living.

The Decree also imposed taxes on men between 20 and 50 years and women between 20 and 45 years who had no children or only one or two children,<sup>28</sup> though it exempted servicemen and officers

<sup>28</sup> Earlier, a Decree of the Presidium of the Supreme Soviet of the USSR of 21 November 1941, imposed taxes on single and childless citizens of the USSR.



and their wives, women receiving assistance from the State for the support of children, citizens whose children had perished or disappeared at the front in the Patriotic (Second World) War, students and certain invalids.

Article 19 declared that the rights and obligations of husband and wife specified in the 1926 Family Code would flow only from a *registered* marriage. *De facto* matrimonial relations originating before the Decree could be registered. An unregistered relationship would not only have no legal consequences, it was made subject to Article 10 which abolished a mother's right to apply to a court formally to establish paternity and to award maintenance for the support of a child fathered by a person with whom she was not living in registered marriage. The registration of the birth of such a child was to be in the surname of the mother only.

The 1944 Decree sought to discourage divorce by introducing a two-stage procedure. The petitioner was required to present to the People's Court at the respondent's place of residence a notice of desire for dissolution, including a statement of reasons, and to pay a commencement fee. Publication of the notice in a local newspaper was also required. (Newspapers played their part in discouraging divorce by accepting only a very limited number of such notices for publication, producing long delays about which the parties could do nothing.) The People's Court summoned and communicated the notice to the respondent and could examine witnesses. It did not resolve the matter but called both parties before it and attempted reconciliation. If the attempt failed, the petitioner then might apply to a higher tribunal (Regional, Territorial, District or City Court) for dissolution. The higher tribunal, in dissolving the marriage, also dealt with questions of custody and maintenance of children, division of property and resumption of previous surnames. A dissolution fee of 500 to 2,000 roubles was payable by one or both of the parties and the divorce was entered in the parties' passports.

Although the Decree did not enumerate "formal" legal grounds for dissolution, it did essentially "judicialize" divorce by declaring that an *ex parte* request was no longer sufficient, by requiring the establishment of motives (which might be supported by witnesses) and by permitting a court to reject the suit. The procedure was described by G.M. Sverdlov as counteracting "light-hearted attitudes toward the family and family obligations," and protective of the rights of the individual as well as those of the community.<sup>29</sup>

<sup>29</sup> Sverdlov, *Some Problems of Judicial Divorce*, SOVETSKOE GOSUDARSTVO I PRAVO, No. 7, 221 (1946). The text of the Decree is translated in 11 MODERN L. REV. 163 (1948), together with an article by Sverdlov commenting on its application in practice.

While conditions under Stalin from 1936 onward did not permit open or even muted criticism of his policies, subsequent events have made it clear that widespread resentment was directed against many of the provisions of the 1944 Decree. The denial of the right of unmarried mothers and illegitimate children to support and maintenance from the *de facto* husband or putative father, and the stigmatization of illegitimacy generally, were especially unpopular.<sup>30</sup> The hostility came into the open after Stalin's death and led to proposals for modification of the Decree and for enactment of All-Union Fundamental Principles of Legislation on Marriage and the Family. Despite the increasing frankness of criticism after Stalin's death, the regime proceeded cautiously for the modification proposals clashed to a significant extent with Khrushchev's repeated exhortations on behalf of large and stable families.

There was initial ameliorating legislation. The prohibition on non-therapeutic abortions was repealed in 1955; principal justifications were the large number of abortions performed illegally, outside hospitals and under insanitary conditions,<sup>31</sup> and fidelity to the Leninist doctrine that no woman should be forced to bear a child she did not want. The "birth stimulation" taxes first imposed in 1941 and extended in 1944 were rescinded in 1948 for unmarried women and married couples with less than three children. In 1961 the Supreme Soviet of the RSFSR established a special Commission for Minors in the Republic and in 1967 the Presidium of the Supreme Soviet confirmed and strengthened the authority of this Commission. It was empowered to set up local committees to consider all cases of lack of supervision of, and petty breaches of law committed

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As a guide to application of the divorce provisions of the 1944 Decree, the Plenum of the USSR Supreme Court issued on 16 September 1949, an "Instruction on judicial practice in dissolution of marriage" declaring "A Court may dissolve a marriage only when, upon studying the concrete circumstances of the case, it arrives at the conclusion that the action has been brought on well thought-out and thoroughly substantiated grounds and that continuation of the married state would be contrary to the principles of communist morality and interfere with the creation of normal conditions for living together and bringing up children."

<sup>30</sup> The dissatisfaction with the situation of unmarried mothers and illegitimate children was so great that two significant practices developed. First, fathers of children who could not enter into a registered relationship with the mother adopted their own children, thus conferring upon them the father's name, support, inheritance and other rights. Secondly, in 1960, the Court of Appeal of the RSFSR resuscitated Art. 42 of the 1928 RSFSR Family Code concerning persons who had accepted support responsibility and were therefore obliged to continue it in case of need; this article was applied to compel putative fathers to maintain extra-marital children if they had ever been in "permanent cohabitation" with the mother and the child.

<sup>31</sup> For an account of Soviet attitudes and data on abortion and contraception between 1955 and 1965, see Heer, *Abortion, Contraception and Population Policy in the Soviet Union*, 17 *SOVIET STUDIES* 76 (1965-66).

by minors. In late 1965 a Decree of the Supreme Soviet of the USSR simplified divorce procedure by abolishing the two-stage process and reducing the fees payable; jurisdiction in the local People's Court of the respondent's place of residence was retained.

The All-Union Fundamental Principles of Legislation on Marriage and the Family were finally promulgated on 25 June 1968, operating from that date as law in all Union Republics and setting guiding principles for their future legislation.<sup>32</sup> They represent an attempt to achieve a rational balance between stability of the family, no longer really expected to wither away, and the proclaimed socialist-Marxist concern with the equality and independence of women. While declaring further consolidation of the Soviet family one of the most important tasks of the Soviet State, the Fundamental Principles include reforms intended to eliminate some of the most severe hardships occasioned by the legislation of the 1930s and the 1944 Decree. Thus, the Fundamental Principles extend the concept of joint matrimonial property to include property acquired by only one of the spouses while the other is running the household, taking care of children or unable to acquire independent earnings for other valid reasons. The court is permitted to depart from the principle of equal shares in dividing matrimonial property, if the interests of minor children or of one of the spouses demand such a departure (Art. 12). There is a mutual duty of maintenance during marriage, a duty to support a disabled spouse for one year after dissolution of the marriage and, where there has been a lengthy marriage, the period of maintenance may be extended up to five years (Art. 13). Generally, a marriage is dissolved by a court if it is established that further joint life of the partners and the preservation of the family is impossible. A dissolution by mutual consent can also be effected by registration at ZAG if there are no minor children of the marriage.

As between parents and children, mutual rights and obligations "are based on the origin of children certified according to procedures established by law." The parents of a child born of an unregistered relationship can submit a joint statement as to parenthood to the local ZAG office. In the absence of a joint statement, the paternity of such a child can be established by court action. Evidence supporting the action would be cohabitation of the mother and the defendant and the presence of a common household prior to the birth of the child, as well as any joint upbringing or maintenance.

<sup>32</sup> See Stone, *The New Fundamental Principles of Soviet Family Law and Their Social Background*, 18 INT'L. & COMP. L. Q. 392 (1969) containing a translation of the Fundamental Principles.

of the child (Art. 16). The rights and duties of parents to educate, maintain, and have custody of their children are spelled out firmly. "Parents must educate their children in the spirit of the moral code of a builder of communism . . ." (Art. 18) and they can be deprived of parental rights (without being relieved of parental duty to maintain) if they do not carry out their duties, if they abuse their parental rights, maltreat their children, exert a harmful influence on them or are chronic alcoholics or drug addicts (Art. 29). In such cases, the children are placed in the care of guardianship and trusteeship institutions.

Adoption is permitted only of minors and in their interests; it is effected by the decision of the executive committee of a district or city Soviet of Working People's Deputies. Generally, the consent of parents who have not been deprived of parental rights and the consent of the child if over 10 years of age are required. The consent of a parent deprived of such rights or of one who has not taken part in the upbringing of the child is not required (Art. 24). Adopted persons and their issue have the same personal and property rights and obligations with regard to the adopters and their relatives as relatives by birth (Art. 25).

#### V. WOMEN'S POSITION IN THE SOVIET UNION TODAY

The citizen's right (and duty) to work proclaimed by the First Soviet Constitution of 1918 became a guaranteed right only under the 1936 Constitution. Article 118 defines the right to work as the right to guaranteed employment and payment for the work in accordance with its quality and quantity; this right "is ensured by socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment."<sup>33</sup> Article 122, as we have seen, declares women to have economically, politically and socially completely equal rights with men.

The right of women to work is described by a representative writer<sup>34</sup> as encompassing the following related elements: the right to receive the same pay as men on the basis of ability; freedom to choose kinds of work and trade or professional training; the right of

<sup>33</sup> Soviet writers insist that this right is "new, real, the subjective right of the Soviet citizen, his right to work which he has a duty to fulfill and which therefore the State has a duty to guarantee him": Polunov, *O sushchnosti i garantiakh prava na trud v. U.S.S.R.* (Concerning the nature of the right to work in the U.S.S.R. and its guarantee), *UCHENYE ZAPISKI KHAR'KOVSKOGO IURIDICHESKOGO INSTITUTA* No. 18, 88 (1959).

<sup>34</sup> TOLKUNOVA, *PRAVO ZHENSCHIN NA TRUD I EGO GARANTII* (The Right of Women to Work and Its Guarantee) 13 (1967).

women to special protection of their work and to domestic conditions conducive to work.

The right of Soviet women to work has long been accompanied and still accompanied for all but a small segment of the population by a need to work. The Soviet doctor or engineer who earns 125 to 140 roubles a month cannot maintain a wife and even one child on this salary; it is assumed that his wife will also work. Soviet sources emphasize strongly the social prestige associated with working and the social opprobrium cast upon the non-working wife, at least if she is not obviously and devotedly involved in domestic duties. They also emphasize the extent, in comparison with most Western countries, to which women have been accepted in all branches of useful work and their high representation in the judiciary and political organs. To the outsider, however, it is still striking that Soviet women remain very strongly underrepresented not only in the very highest organs and in the genuine centers of power but even in the Communist Party itself, where women, in 1967, formed 20.9 per cent of the membership.

According to figures published in 1969 by the Central Statistical Office of the Soviet Ministries of the USSR,<sup>85</sup> the 1966 elections to the Supreme Soviet of the USSR resulted in the election of 425 women deputies or 28% of the total number of 1,517 deputies.<sup>86</sup> In the Supreme Soviets of the Union and Autonomous Republics in 1967, 2,983 women were represented or 34% of the total; in the territorial, regional and other local soviets of workers' deputies, there were 875,303 women or 42.8% of the total. These women include workers, *kolkhozniki*, teachers, doctors, engineers, scholars, actresses. There are women ministers, deputy-ministers of Union and Republican ministries, chairmen and deputy-chairmen of the Presidium of the Supreme Soviets of the Republics, chairmen, deputy-chairmen and secretaries of the executive committees of local soviets of workers' deputies, supervisors of government committees and other societies.

<sup>85</sup> ZHENSCHINY I DETI v. S.S.S.R.: STATISTICHESKII SBORNIK (Women and Children in the U.S.S.R.: Collection of Statistics) (1969). On 1 January 1969, there were 129 million women in the USSR forming 54% of the total population. (In 1940, there were 101 million or 52%.) The SBORNIK (p. 31) states that the disparity between the numbers of males and females decreases with decreasing age so that among the population below 20 years of age, males now outnumber females.

<sup>86</sup> *Ibid.*, p. 6, also presenting comparative figures for England (26 women representatives), the USA (12 women members of the 10th Congress), France (12), and Italy (33). See also SOVIET UNIONS 50 YEARS: STATISTICAL RETURNS, Central Statistical Board attached to the Council of Ministers of the USSR 32 (1969). In the Soviet Union, in elections for such bodies, nomination and election are still synonymous.

In 1968, 3,396 judges of the People's Courts or 31.7% of the entire judiciary were women. There were 4,985 women advocates or 35.4% of the total;<sup>37</sup> 4,376 women bailiffs (56.2%); 2,100 women notaries (78.2%); and more than 252,000 women acting as people's assessors in the courts (44.7%). Women account for more than 60% of the heads of departments and sections and consultants and inspectors of organs of justice;<sup>38</sup> in academic life, in 1967, for 20% of all associate professors.<sup>39</sup> The statistics for full professors are not given, and the statistics for degrees in 1968 show a marked drop for women from 31% of the holders of candidate degrees to only 12.5% of holders of doctorates.<sup>40</sup>

In pre-Revolutionary Russia, women in the labor force were distributed as follows: 55% were domestic servants, 25% were farmhands, 13% worked in industry (mainly textile and sewing) and 4% in education and public health services. Today women account for 47% of the workers, office and professional personnel in industry, 28% of the workers in construction, 43% in agriculture, 24% in transport, 72% in education, 74% in trading, public catering, material-technical supplying and State procurement, 75% in credit and insurance institutions, 85% in public health.<sup>41</sup> The *Sbornik* (Compilation of the Central Statistical Office) claims that women in agriculture and industry are generally in positions of administrative, technical and mechanical responsibility, having acquired the necessary educational qualifications. The development of machinery and automation in industry and the network of dining-halls, crèches, kindergartens, boarding schools, etc. are alleged to have further facilitated women's participation in the labor force.<sup>42</sup>

The proportion of women in the professions is at first sight very impressive. Seventy-two percent of the doctors are women, 68% of the teachers and cultural-educational workers, 63% of the accountants, 30% of the engineers with diplomas.<sup>43</sup> The number of women "scientific workers" in the last seven years, it is stated, has increased from 128,700 to 294,900. There were, at the beginning of

<sup>37</sup> ZHENSHCHINY I DETI, *supra*, note 35 at 7, which claims that in the same year in England only 5%, in the USA, 3.5% and in Canada only 2% of the practicing lawyers were women.

<sup>38</sup> *Ibid.*, p. 7.

<sup>39</sup> CENTRAL STATISTICAL BOARD OF THE USSR, NARODNOE KHOZIAISTVO S.S.S.R. v. 1968 (1969).

<sup>40</sup> CENTRAL STATISTICAL BOARD OF THE USSR, NARODNOE KHOZIAISTVO S.S.S.R. v. 1967, 806 (1968).

<sup>41</sup> ZHENSHCHINY I DETI, *supra*, note 35 at 9; see also SOVIET UNION: 50

<sup>42</sup> *Ibid.*, note 36 at 239-41.

<sup>43</sup> *Ibid.*, p. 10.

<sup>44</sup> Learning capacity in all these categories, however, remains very modest—the average wage of each is about 110 to 125 rubles per month (compared with 60 roubles for unskilled workers and 400 for full professors).

1968, 2,200 women doctors of science, 45,400 candidates of science, 1,300 women full and corresponding members of the Academics of Science or University professors, 11,600 docents, 9,000 senior scientific workers, 22,900 junior scientific workers and assistants. As a whole, women form 45% of the workers in science and scientific services.<sup>44</sup>

In the area of education, the Soviet State claims a major improvement in the relative position of women, or in overcoming their previous inferiority. In pre-Revolutionary Russia, three-quarters of the population between 9 and 49 years of age were illiterate; four-fifths of the women were illiterate. In rural areas only 12.5% of the women were literate (2.8 times less than the male proportion) and the proportions were considerably lower in Central Asia, Siberia and other parts of outlying regions. Today, there is compulsory eight-year education for all children.<sup>45</sup> Women now comprise 54% of the pupils of middle specialist educational institutions and 47% of the students in higher educational institutions. According to official figures, on 15 November 1966, there were 7,540,000 women with a higher or specialized secondary education, making up 58% of the total number of such specialists in the national economy.<sup>46</sup>

Soviet labor legislation takes into account the "physiological peculiarities of the organism" of women and, "in the interest of protecting mother and children," by a number of decrees prohibits or restricts women's labor in, e.g., heavy work,<sup>47</sup> work in metallurgical and metal-working industries (as stokers and firemen, found-

<sup>44</sup> *Ibid.*, p. 11. The comparative figures in percentages given by the *Sbornik* are: in the USA women are 7% of medical doctors and about 1% of engineers; in England, 25% of medical doctors and 4% architects; in Sweden, the *Sbornik* claims, there are 10 women professors.

<sup>45</sup> "Since the Revolution, Soviet schools have in principle been co-educational. The exceptions have been certain of the military service schools and a number of secondary schools in the 1940s and early 1950s. Early in World War II, experiments in separating the sexes were begun in a number of secondary schools in Moscow. After experiments in other major cities, separate education was introduced in 76 cities in the 1944-45 school year, and the following year the principle was extended to 146 cities . . . In some schools all ten grades were segregated, in others only the intermediate and upper grades. The proportion of students participating in separate education was never large. In 1943-44 only 7.2 per cent of the total enrolment in the RSFSR was involved . . . but when the experiment was abandoned some ten years later, in 1954, only about 13 per cent of the pupils were involved." DODGE, *WOMEN IN THE SOVIET ECONOMY* 105-06 (1966). The schools involved, however, were those that educated the Soviet Union's social and educational elite.

<sup>46</sup> *SOVIET UNION: 50 YEARS*, *supra*, note 36 at 241. The 1926 figures are 151,000 (65,000 and 86,000) or 29% (28% and 30%).

<sup>47</sup> See e.g. *Postanovlenie N.K.T. S.S.S.R. of 14 August 1932, "O predel'nykh normakh perenoski i peredvizheniia tiazhesti vzyroslymi zhenshchinami"* (Concerning the limitations on the norms of transfer and movement of weights by adult women), *SBORNIK ZAKONODATEL'NYKH AKTOV O TRADE* 406-07 (1960).

ation or pit diggers), in chemical industries (as packers of lead paints), in transport (as drivers of goods vehicles with a tonnage exceeding 2.5 tons).<sup>48</sup> Labor legislation shortens the working hours of women employed in mineral-extracting industries and underground construction. Further, women are excluded from underground work unless they are employed in supervisory, sanitary or service capacities, or are required to participate in such work in conjunction with their studies, or are engaged in non-physical work.<sup>49</sup> When they take up employment elsewhere or after studies or retraining, they are protected in the continuity of length of service if the interruption is for not more than six months; in the continued payment of their average monthly earnings up to three months during studies or retraining; and in the preservation of the right to living quarters, priority and place in kindergartens and nurseries as if still employed in the former place. The RSFSR Code of Labor Laws, enacted in 1922 and operative until 1970, prohibited the employment of women and persons under 18 years of age, except in situations of necessity, in night work (Art. 130) and of pregnant women and nursing mothers in overtime and night work (Art. 131).<sup>50</sup> New Fundamental Principles of Labor Legislation of the USSR, enacted by the Supreme Soviet of the USSR on 15 July 1970, are promoting new Labor Codes in all the Union Republics, but have not significantly affected any of the provisions on the rights and status of women as secured under the 1922 Code and subsequent legislation.

Special legislation already attends to conditions of labor in industries in which female labor predominates or is preferred, e.g. in textile production, where an all-Union decree recommends that in enterprises working in three shifts, there should be a five-day week with two rest days for those on evening and night shift.<sup>51</sup>

<sup>48</sup> See e.g. Postanovlenie Soveta Ministrov R.S.F.S.R. of 17 May 1966, "O uluchsheni uslovii truda pri maliarnykh rabotakh na suostroitel'nykh i sudoremontnykh predpriiatiakh" (Concerning the improvement of conditions of labor in painting work in shipbuilding and ship repairing enterprises), which prohibits female labor in such enterprises.

<sup>49</sup> Postanovlenie Soveta Ministrov S.S.S.R. of 13 July 1957, "O mero-priiatiakh po zamene zhenskogo truda na podzemnykh rabotakh v gornodobyvaiushchei promyshlennosti i na stroitel'stve podzemnykh sooruzhennii" (Measures for the substitution of women's labor in underground work in ore-extracting industries and in underground construction), *Sbornik postanovlenii S.S.S.R.* 1957, no. 8, art. 81. Instruction of the State Committee of Council of Ministers, no. 292, 30 August 1957, on the question of labor and pay, lists the positions connected with underground work which women may occupy, generally technical, professional, administrative or service positions.

<sup>50</sup> Additional time must be added to the established rest-period for mothers nursing at work; this time is counted as working time (Art. 134).

<sup>51</sup> See Postanovlenie Soveta Ministrov S.S.S.R. of 31 August 1960, "O rezhime raboty na predpriiatiakh tekstil'noi promyshlennosti: rabota nekotorykh proizvoditsia v tri smeny" (Concerning the regime of work in enter-



In the area of social security, women have a number of privileges over men. Old-age pensions are payable, regardless of capacity to work, to men 60 years of age with 25 years of employment service and to women 55 years of age with 20 years of employment service.<sup>52</sup> Workers engaged in more arduous forms of labor have lower age and service requirements (55 years for men and 50 for women). Workers employed in underground work, on furnaces or in work injurious to health, retire at 50 if they are men with not less than 20 years of employment and at 45 if they are women with not less than 15 years of service. The scheme is governed by the Statute Concerning State Pensions of 14 July 1956 and Regulations thereunder. Article 10 of the Statute Concerning State Pensions and Article 17 of the Regulations Concerning the Application and Payment of State Pensions (issued under a decree of the Council of Ministers, USSR of 4 August 1956) gave women who have borne and reared five or more children to the age of eight years the right to retire and receive old-age pension at 50 if they have had a service record of not less than 15 years (unless they are entitled to retire and receive old-age pension at an earlier age). Mothers of many children have a right to this advantage whether or not the children live with them.<sup>53</sup>

"In protection of motherhood and children," pregnant women are granted leave of 112 calendar days, 56 days before and 56 days after birth, regardless of the length of service of the woman, though not necessarily on full pay. They may also receive social insurance benefits additional to both their pay and the special benefits payable on the birth of a child.<sup>54</sup> The added benefit is intended as material

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prises of textile industry, the work of which is carried out in three shifts). See also UZBEKOV, O PRAVOVOM REGULIROVANII USLOVII TRUDA ZHENSHCHIN V. U.S.S.R. (Concerning the legal regulation of conditions of labor for women in the (USSR) (1962). *Sovetskoe gosudarstvo i pravo*, no. 3, 108, 109, explaining that by lengthening the weekly rest-hours the new regimen aids women workers in the carrying out of their domestic affairs, enabling them to attend to the bringing up of their children and to better use their free time.

<sup>52</sup> Pension rates vary with the amount of monthly wages, length of service and type of work, the minimum rate being 30 roubles a month and the maximum 120 roubles. *Kolkhozniki* retire at a later age and their pension rates are calculated differently from workers in production.

<sup>53</sup> Art. 10 of the Statute excluded adopted children from the five children specified. UZBEKOV, *supra*, note 51, questions the rationableness of this, especially as adopted children were included until the new State Pension Statute of 1956 (at 110). A number of other legislative measures include adopted children in establishing benefits accruing to mothers, e.g. the Regulations on payment to pregnant mothers, mothers of many children and unmarried mothers, and on payment of social insurance benefits to dependents on the death of a breadwinner. For a full study of Soviet social insurance and pensions law generally, see RUDDEN, SOVIET INSURANCE LAW, *Law in Eastern Europe* no. 12 (1966).

<sup>54</sup> Regulations concerning the application and payment of benefits under State social insurance, of 5 February 1955. In the case of a difficult birth or the birth of two or more children, leave is extended to 0 days after the

assistance on the occasion of birth to workers and working families without a high income; it is not paid if the parent applying for the benefit received in the two months preceding the birth wages exceeding 50 roubles a month.<sup>55</sup> Medical aid for women in childbirth is free of charge. In 1966 there were 225,000 beds for women in childbirth in hospitals, maternity homes and obstetric centers, 36,300 obstetricians and gynaecologists, 80,280 midwives and 180,300 assistant midwives.<sup>56</sup>

The Program of the CPSU adopted by Resolution of the 22nd Congress of the CPSU on 31 October 1961, declares that

The residues of the unequal position of women in domestic life must be fully removed; all social and domestic conditions must be established for combining happy motherhood with women's more and more active and creative participation in social labor and social activity, in the pursuit of science and of art. Women must be given relatively lighter work that is at the same time sufficiently remunerated. The duration of pregnancy leave is to be increased.<sup>57</sup>

It is necessary to secure conditions for shortening and lightening women's labor at home, and for subsequently making possible the replacement of such labor by social/public means of satisfying the material-daily needs of the family. In pursuit of this aim [the use of] advanced, inexpensive household machinery, gadgets [and] electrical appliances will be widespread; public institutions, in the near future, will fully satisfy the population's household needs.<sup>58</sup>

The CPSU Program calls for the development of a network of public catering institutions (dining-halls in enterprises, institutes and large houses) to satisfy the needs of the whole population. It calls for improvement in public catering in respect of quality, taste and price of food produced, and foresees a time, over the next 10-15 years, when it will cost less to eat in public places than to eat at home and when public dining rooms therefore will largely replace private cooking. Ten years have passed and it is clear that there has been no such significant development of public facilities. In big cities, at least, there has been a steady, if slow, increase in the

birth. Art. 70, 71 & 75 set out a sliding scale of payment during maternity leave which varies from full pay to two-thirds of pay, according to computations based on the size of the salary and the length and conditions of service.

<sup>55</sup> UZBEKOV, *supra*, note 51 at 110-11, submits that it would be more sensible if the Regulations were amended to take into account the wages of both parents, setting a maximum, say, of 100 roubles a month.

<sup>56</sup> SOVIET UNION: 50 YEARS, *supra*, note 36 at 267. Midwifery at home is still very common.

<sup>57</sup> The All-Union Fundamental Principles of Labor Legislation promulgated in 1970 and the Republican Labor Codes enacted subsequently (which do not yet cover all the Republics) have not increased the duration of pregnancy leave.

<sup>58</sup> 22 S'EZD KOMMUNISTICHESKOI PARTII SOVETSKOGO SOIUZA (Twenty-second Congress of the Communist Party of the Soviet Union); Stenographical notes, vol. III, 17-31 Oct. 1961, 300-01 (1962).

standard of living since the death of Stalin, but the Western tourist is still struck overwhelmingly by the comparative austerity, hardship and inconvenience of life for the vast majority of Soviet people, especially if one thinks of them as the citizens of a major political and industrial power. The consistent neglect of services and consumer products has weighed most heavily on women.

In recent years, various Soviet academic and Party institutions have begun to encourage certain limited empirical sociological investigations of family life and of the status of women in the Soviet Union. There have been a number of conferences and symposia discussing problems and results. These investigations, though now possible and on the agenda of semi-public discussion—as they were not in Stalin's day—still take place under very severe limitations. Soviet sociological techniques and expertise are at a very crude stage of development. While we do not know which results are suppressed, we do notice the questions that are not asked (e.g. questions about social stratification and style of living as correlated with family income). The admission of a problem must be preceded by a paean of praise to the new conditions that Soviet power has already produced. A study by Z. Iankova,<sup>59</sup> the main point of which is to show that the amount of time spent by women in domestic chores has actually *increased* since the 1930s, is typical.

From a study of 1,000 women working in industrial enterprises, materials obtained from letters by women writing to *Izvestiia*, questionnaires answered by 8,500 workers in Gorki, materials from current statistics, and other sources, Iankova arrives at the conclusion that

In the years of Soviet power, woman has come to fulfill in the family qualitatively new roles as educator, organizer of the home, of family leisure, etc. . . . These new roles are fully consistent with [woman's] contemporary social roles. As social [roles] they also form her personality, assist in the unfolding of her creative potentiality. The appearance of these new roles is a manifestation of the overcoming of the former inequality of women in domestic life, creating conditions for the formation of families of a new type, of a familial collective, members of which are bound to each other in relations of comradeship, mutual help and mutual understanding.<sup>60</sup>

<sup>59</sup> Iankova, *O Bytovikh Boliakh Rabotnitshei Zhenshchiny—K Probleme Osushchestvleniia Fakticheskogo Ravenstva Zhenshchiny S Mushchinois* (Concerning the daily roles of working women—Toward the problem of achieving the practical equality of women with men), in SOLOVEIV (ED.), *PROBLEMY BYTA, BRAKA I SEM'Y* (Problems of daily life, marriage and the family) 42 (1970).

<sup>60</sup> Iankova, *ibid.*, at 46.

Out of these various roles, *however*, the author continues, new contradictions and tensions arise, contradictions between the new *social* roles and the traditional *familial* roles, as reflected in tensions between *new* and *old* or *traditional* familial roles.

...the rise of new roles did not free the overwhelming majority of women from old, traditional roles, related to [satisfying the] needs of members of the family, being the least productive, wasteful of the maximum time and energy (cleaning, washing, preparing meals, repairing clothes, etc.). The working day of women lasts, in relation to these, 11 to 12 hours. There arises the contradiction between new social and old familial roles on the one hand, and between new and old familial roles on the other. New familial roles, superimposed on old social and familial roles, create immeasurable physical and nervous overloading for women, make difficult the real use of her equal rights with men. Unlike the survivals of past inequality of women, the above-mentioned contradictions are contradictions of the rise and development of new social relationships in domestic life, in connection with the gradual optimization of its framework. Nevertheless, the final resolution of the problems of social equality of women with men depends on the overcoming [of these contradictions].<sup>61</sup>

These "contradictions" directly explain the increase in hours Soviet women today give to their domestic chores: in the 1930s, in the first study of this problem in the Soviet Union, Strumilin had estimated that domestic economy occupied four hours of work; today, according to Iankova, it involves four to six hours. The unfavorable comparison, made more anomalous by the fact that there must have been significant improvement in labor-saving devices in the meantime, is explained away by emphasizing the expansion of women's cultural-educational role in the family. In the 1930s, according to Iankova, women were mainly occupied in serving members of the family, washing, preparing food, cleaning, and similar chores. Today they are concerned with such activities as the socialization of children, supervision of their studies, visits to children's institutions, creating in the home a special psychological atmosphere of mutual sympathy, working out of family orientation, organization of leisure. On the other hand, Iankova admits that highly qualified workers, employed in the management of machinery, mechanical, technological processes, generally spend two and a half to three and a half hours a day on housework, as compared with three and a half to five hours or more spent by the less qualified.<sup>62</sup> Other factors

<sup>61</sup> Iankova, *ibid.*, at 46-7.

<sup>62</sup> In another study in the same collection, Andriushkiavichene, "*Zhenskii trud i problema svobodnogo vremeni*" (Women's work and the problem of free time), *ibid.*, 78, 89, the author estimates the amount of time spent by a Lithuanian woman on housework (apart from the hours she spent at work) to be 4 to 5 hours each week-day and 7 to 8 hours on her "rest" days.

remain largely unchanged. As in the 1930s, men still perform a smaller proportion of the traditional housework (30-40% of such chores as buying provisions, cleaning, preparation of food). They attend to 29% of the accounts, fulfil 12% of the parental function of visiting schools and 14% of the supervision of lesson preparation, though they are responsible for 68% of the repair of broken things.<sup>63</sup> Only 5% of the time spent by women in housekeeping is carried out by such institutions of household services as public restaurants, laundries, crèches and nurseries. A minority of the families studied had washing machines (15%), refrigerators (37%), vacuum cleaners (20%). The poor development of public services in the form of restaurants, nurseries, crèches, laundries is repeatedly stressed in Soviet writings.<sup>64</sup>

<sup>63</sup> See Andriushkiavichene, *ibid.*, 82, who describes "free time" under socialism (presumably distinguishable from "free time" under capitalism) as "that part of time outside work which is spent in study, in increasing one's qualification, in social work, rest etc.," as that "time which people use outside the limit of the of the laboring day for their own all-sided development" (quoting G. Prudenskii in *Kommunist* no. 5, 41 (1960). If this is so, the author says, then women spent 1.2 times less than men in social activity, self-education and tourism, 1.7 times less in study, 2.2 times less in sports and 4.4 times less in hobbies, etc. (quoting B. Grushin in *SVOBODNOC UREMIA* (Leisure) (1967)). The author's own data shows that working women with families have significantly less free time than unmarried women, and young women more than women in middle age. Working women up to 20 years old have an average of 42 hours leisure a week while the comparable male has 54 hours; with age, leisure time is shortened to 20-30 hours a week for women, and to 45 hours a week for men. See also Velichkene, *Trud i zdorov'e zhenskchiny-rabotnitsy* (Labor and Health of Working Women), in SOLOVIEV (ED.), *supra*, note 59 at 95, 97.

<sup>64</sup> Cf. Pimenova, *Uslugi v. sem'e* (Services in the family), in SOLOVIEV (ED.), *ibid.*, p. 141, giving the percentage of persons interviewed who constantly eat at home as 95.5%, those who sometimes eat at home as 2.7%, those who eat in public dining halls constantly as 1.8%, sometimes as 36.6%, and those who eat at work as 59.8%. A similar table of figures shows an overwhelming percentage of home (and hand) washing of linen, a very small amount of public laundering and a slightly higher figure for washing at public machines. Panova's study in the same collection, "*Voprosy truda i byta zhen-shchin*" (Questions of labor and daily life of women), giving figures for the Soviet Union generally, shows that: only 23% of children of pre-school age attend pre-school institutions (in Lithuania only 12%); 16% of the retail commodity circulation of foodstuffs passes through public dining facilities; and about 2% of the linen of the population is washed in laundries (p. 92). A study of Lithuanian families by Andriushkiavichene, *supra*, n. 62, however, claims that domestic mechanisation can be seen to play a big role in lightening the work of the women at home at certain crucial periods, as the family becomes "established". Among Lithuanian families in the age group 31-40 years, she claims, 62% have washing machines, 38% sewing machines, 19% refrigerators, 53% television sets, while among younger people, the figures are sewing machines 18%, washing machines 34%, refrigerators 2% and television sets 35%. She also points out that women-housekeepers between 31-40% years of age are much better served by domestic machines than are women under 25 who have not gained middle or higher education. "A high level of education would seem to be a factor stimulating the modernization of daily life; [one must]...not forget that the level of education has an immediate influence on earnings" (at 81).

A study on working women and their domestic life in Lithuania<sup>65</sup> points out the high increase in women's participation in the labor force and professions since 1945,<sup>66</sup> but stresses two factors: first, the rate of development of mechanization and automation of labor lags behind the rate of growth of industrial production, with the result that much unmechanized labor remains (which involves women rather than men, because the level of professional-technical education among women is still significantly below that of men).<sup>67</sup> Secondly, a study of women working in an electro-mechanical factory in Vilnius employing mainly women, showed that 80.4% of the 604 interviewed would prefer not to work the full working day. Of these, 46.1% attributed their wish to work only part-time to their desire to take care of their children, 26.9% attributed it to health, 22.6% to the desire to engage in studies and 4.2% to other grounds. Of those not wishing to work full time 80.3% were under 40 years of age, and the majority had children; the 21.7% who were under 20 years said they wished to go on studying, having only recently completed schooling up to the 7th or 8th year, or evening, technical and other continuing higher education.

In the Soviet Union, then, the problem of the equality of men and women has allegedly resolved itself primarily into the question of their position in the social-domestic arena. Political life, while also evincing marked signs of female inferiority, presents a problem not yet openly discussed as such. The burden of domestic and household responsibilities still falls particularly heavily on Soviet women. Soviet society is still a society of noticeable austerity and serious material shortages in many areas of daily life. In the last few years, the Soviet State has been more ready to admit such shortages and the Program of the CPSU has called for their removal in the pre-

<sup>65</sup> Panova, *ibid.*, p. 87.

<sup>66</sup> From 29% in 1945 to 48% in 1967 in the national economy, 25% to 47% in industry, 4% to 18% in construction, 14% to 29% in transport and communications. The proportion of women employed in non-production spheres is given as: 84% in public health services, 75% in trade, social (public) food services and material-technical supply services, 73% in credit and insurance institutions, 57% in organs of government and management. In 1967, women represented 25% of the engineers of Lithuania, 36% of the technicians, 51% of the agronomists, 30% of the technicians and veterinarians, 52% of economists with higher education, 71% of the doctors, 70% of the teachers, librarians and cultural-educational workers and 34% of the scientific workers: "*Narodnoe khoziaistvo Litovskoi S.S.R.*" (The National Economy of the Soviet Socialist Republic of Lithuania), *Statisticheskii sbornik* (Statistical Collection) 167 (1957), and "*Ekonomika i Kultura Litovskoi S.S.R.*" Economy and Culture of the S.S. Republic of Lithuania), *Statisticheskii sbornik* 215 (1967); Panova, *ibid.*, p. 87-8.

<sup>67</sup> Thus in 1968 in Lithuania, the proportion of females studying in professional-technical institutions was 22.1%. Panova, *ibid.*, 88, citing a figure issued by the State committee for profession-technical education attached to the Lithuanian Soviet of Ministers.

sent decade. In the meantime, Soviet social scientists prefer to focus their attention on plans and policies, while soft-peddalling, or putting into their "proper context", present shortcomings. As Iankova writes:

Communist daily life contemplates not the equal distribution of "slave" functions but the removal of "domestic slavery" as a social institution, not the division of roles of women in serving the family evenly with men, but the liquidation of these functions as a result of industrialization. At the present time, Communist living contemplates the creation of optimal conditions for the development of new functions of women in the family, for the formation on this basis of new principles of intrafamilial distribution of those duties which in the same degree must be inherent as well in men as in women—the bringing up and education of children, the working out of group consciousness, value orientation, organization of free time of the family, etc.<sup>68</sup>

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<sup>68</sup> Iankova, *supra*, note 59 at 47.