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Christina Carlsson Wetterberg  
Professor of history  
Department of Humanities, Education and Social Sciences (HumUS)  
Örebro university  
SE - 701 82 Örebro  
tel + 46 (0)19 301017, mail christina.carlsson-wetterberg@oru.se

**Gender Equality and the Welfare state.  
Debates on Marriage Law Reform in Sweden at the Beginning of the 20<sup>th</sup> Century**  
Christina Carlsson Wetterberg

At the beginning of the 20<sup>th</sup> century, marriage legislation was reformed in all the Nordic countries. Male privileges were abolished and equality was declared. Marriage was constructed as a union between two independent individuals that could be dissolved if both wanted to. It was not until the 1960s that a similar legislation was beginning to take shape in the rest of Europe.<sup>1</sup> This comprehensive Nordic marriage reform, which took place during the 1910s and 1920s, was preceded by an intense debate, a systematic Scandinavian cooperation and a political pressure, not the least of which came from the women's organizations.

The reform was carried out at a time when marriage was considered to be in crisis. Decreasing marriage rates, declining population, increasing illegitimacy and the effects of women working outside the home were issues frequently discussed in the public debate. How would marriage be saved? How would the support of women and children be arranged? How would a healthy population be guaranteed in the modern society? These were central questions for contemporary politicians all over Europe. One answer to these questions in the Nordic countries was this extensive reform of the marriage laws. Equality between the spouses was an important aspect and objective with the reform. Individualization, liberalization and secularization were other important features. Alongside these marriage reforms, new child laws were also adopted giving illegitimate children extended rights.<sup>2</sup> The children laws were, in the same way as the marriage laws, unique from the European perspective.<sup>3</sup>

For a long time, this early marriage reform, where gender equality was put at the forefront, did not receive much attention within research. Contemporary observers, however, presented it as groundbreaking and noted with satisfaction that the Nordic countries had been pioneers in this field.<sup>4</sup> The uniqueness of this Nordic marriage reform was later stressed by the British legal historian David Bradley. In the study, "*Family Law and Political Culture*" from 1996, he pointed to fundamental differences between British, German and Nordic legal culture with respect to how the relationship between the state and the family were perceived. In Britain, the family was understood as a private sphere where the state should intervene as little as possible. In Germany,

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<sup>1</sup> Bradley 1996, p. 13, There were comparable features in other jurisdictions at this point in time, but these were isolated phenomena, see also Bradley 2001, p. 65.

<sup>2</sup> Bergman & Hobson 2002; Bergman 2003.

<sup>3</sup> Therborn 1993.

<sup>4</sup> Wetterberg 2000.

the state intervened but in favour of a patriarchal order, while in the Nordic countries the reform stated that equality between the spouses should prevail.<sup>5</sup>

In the research project, “The Nordic Marriage Model in a Comparative perspective”, I have, together with three other Nordic researchers, made a detailed study of the laws and reform process behind them, which is the basis for this article.<sup>6</sup> Within gender research, the relationship between modernity and gender is often understood in more structural terms, where the male breadwinner family is seen as a common characteristic for gender relations in modern western society. Instead of taking this for granted, this has been made a question for analysis in the project. What kind of marriage did the reform actually construct? Was it a break with a patriarchal order or did it just represent a modified form of gender inequality, as has been argued by some researchers? Two assumptions were that concepts such as power, gender, division of labour and equality must be understood from the historical context and that it is important to highlight the historical actors to understand historical change.<sup>7</sup> In this article, I will concentrate on the Swedish reform processes and debates.<sup>8</sup> The analysis is guided by three main questions: How did the reform of marriage relate to other contemporary political debates around social reform, population policy and eugenics? What did the contemporary actors mean when they talked about equality? Which role did the women’s organizations play in the process? I will start by briefly putting the question of marriage in a wider context, discussing the reform in relation to the specific Nordic path towards a modern society, before concentrating on the Swedish case.

## 1. Marriage and modernization in the Nordic countries

The Nordic countries are characterized by a rather late modernization in terms of industrialization, the development of an urban middle class and legislative reforms. This meant that the process of modernization ran parallel with the process of democratization and the growth of popular movements. In our project, we have argued that this direct development from a mainly agrarian to a modern, democratic society at least partly can explain the distinctiveness of the Nordic marriage reform as well as women’s role in the process.<sup>9</sup>

The economic liberalization and the democratization of political life were processes that developed relatively painlessly and without major conflicts in the Nordic countries. In the middle of the 19th century, freedom of economic activity was introduced, the capital markets were made free and universal education was introduced. In 1915, universal suffrage for men and women had been introduced in all the Nordic countries, except Sweden, where women got this right in 1921. At the time of the outbreak of the First World War, the parliamentary principle was at least

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<sup>5</sup> Bradely 1996.

<sup>6</sup> The other participants in the project were Kari Melby, Bente Rosenbeck and Anu Pylkkänen. Among publications from the project are Melby et al, *Inte ett ord om kärlek. Äktenskap och politik i Norden, ca 1850-1930*, [Not a Word About Love. Marriage and Politics in the Nordic Countries, 1850-1930], Centrum för Danmarksstudier 11, Makadam förlag 2006; Melby et al, “The Nordic Model of Marriage”, *Women’s History Review*, Vol. 15, Number 4, September 2006; Melby, Kari, Ravn Anna-Birte, Rosenbeck, Bente & Wetterberg, Christina Carlsson “What is Nordic in the Nordic Gender Model?”, in Pauli Kettunen & Klaus Petersen (eds.): *Beyond Welfare State Models: Transnational Historical Perspectives on Social Policy*. Edward Elgar, London 2010.

<sup>7</sup> For this theoretical discussion see Melby et al 2006, especially chapters 8 and 10, and Wetterberg & Melby 2008.

<sup>8</sup> For this theoretical discussion see Melby et al 2006, especially chapter 8 and 10, and Wetterberg & Melby 2008.

<sup>9</sup> Melby et al 2006, p. 303.

formally accepted. Parallel to this, the church lost influence in legislation and politics. A wide range of social movements, secular as well as revivalist, played an important role in this overall process of modernization.

It was, however, not obvious that individualism and freedom for women would also be recognized, especially not the married women. From the middle of the 19<sup>th</sup> century, equality between the sexes and the role of the family in modern society became the subject of heated debates. The Nordic women's movement, which began to grow towards the end of the century, demanded individual rights for all women independent of their marital status. This also meant a demand for abolishing the old hierarchical power structure in the family. This was a controversial claim that male politicians, lawyers and the church did not automatically support. In spite of the fact that women's work was of great importance in these agrarian and poor societies, the idea of woman as a free and financially independent individual aroused resistance. But, a combination of pragmatism and the presence of a group of radical liberal male politicians and lawyers who supported the women's movement led to changes in the laws at the end of the 19<sup>th</sup> century. In a first stage, it was mainly unmarried women who were affected by getting their majority and extended rights to education and work, but through some partial legal reforms married women also received increased economic rights. In Norway and Denmark, they even got their majority, but in these countries as well as in Sweden and Finland, the husband still had the authoritative right to decide on economic matters as well as in issues concerning the children. Interesting enough, married women in Denmark, Norway and Finland got the right to vote before their position within marriage was profoundly reformed, while in Sweden both reforms were approximately parallel.<sup>10</sup>

#### a) The Scandinavian cooperation

The need to reform marriage legislation had long been on the agenda when the reform process started in 1910. It had been discussed in parliamentary debates, at common Nordic lawyers meetings and within the women's organizations.<sup>11</sup> The immediate cause for starting the reform process was the development of international private law. After having joined the 1905 Hague Conventions relating to marriage in 1909, the Swedish government took an initiative to harmonise Nordic marriage laws. It started as a Scandinavian cooperation, including delegates from Denmark, Norway and Sweden. A common law committee was established which met numerous times between 1910 and 1918 to create a new model for marriage legislation. Inter-Scandinavian migration was mentioned as one of the main factors necessitating harmonisation. Another explicit goal was to enhance gender equality. The commission also expressed the fear, often heard in public debate, that young women would hesitate to marry as long as the law deprived them of their majority and economic independence.<sup>12</sup> This means that the woman question from the very beginning of the preparatory work was an issue of great significance as was an eagerness to stabilise family ties.

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<sup>10</sup> For the legal reforms see Blom. & Tranberg 1985, pp.154, 43f ; Blom 2000; Melby, Ravn & Wetterberg, 2008, p. 231.

<sup>11</sup> Melby et al 2006, p. 62.

<sup>12</sup> Bradley 1996, p. 31.24

The Scandinavian Committee issued two reports: one in 1913 dealing with the formation and the dissolution of marriage, and another in 1918 that addressed the legal effects of marriage. The legislative bodies of each country passed these bills with only minor amendments. In all countries, most parties but predominantly the liberals were in favour of the suggested reform. The church was no longer opposed to the reforms as such, and its role in the debates was more insignificant than before. The reform did not seem to be very controversial politically. The political consensus – or the will to compromise – was evident. This has, in fact, been seen as a significant aspect of Nordic political culture.<sup>13</sup> While Scandinavia includes Denmark, Norway and Sweden only, the Nordic countries comprise also Finland and Iceland. Since those countries choose to adopt similar marriage laws during the 1920s the result of the process was a common Nordic marriage model.

#### b) The political situation in Sweden

In Sweden, as in the other Scandinavian countries, it was mainly male lawyers and liberal politicians that pushed the question, but the women's organizations also had a prominent role, directly as well as indirectly. They were invited to give their comments on the draft bills and in 1915 the national Family Law Committees included one woman among their members, and these women also joined the Scandinavian committee.<sup>14</sup> There was also a Nordic cooperation among women. In 1914, a Nordic feminist meeting was called upon to discuss the issue in Copenhagen.<sup>15</sup>

Politically, Sweden was more conservative than the other Scandinavian countries at this point in time and women lacked the right to vote. This has been seen as an important explanation for a development of a rather close cooperation on concrete issues between different women's organizations in Sweden, which was hardly the case in the other Nordic countries.<sup>16</sup> The Swedish women's movement also seems to have been stronger and, even if the gendered division of work was rarely thoroughly questioned during the early decades of the 20th century, the Swedish women's movement defended women's right to work outside the home to a greater extent than in the other Scandinavian countries.<sup>17</sup> This may partly be due to the fact that the social democratic women's movement was more developed in Sweden. Within the bourgeois women's movement there was also a more radical liberal fraction that adopted a more equality-oriented feminism.<sup>18</sup> Even if women were formally excluded from politics, they could act in other ways through informal channels and networks and through various organizations. In this respect, the Nordic women's movement seems to have been more influential than in many other European countries, at least in comparison to Germany, where women's organizations were prohibited until 1908.<sup>19</sup>

The most important national organizations engaged in the marriage law debate in Sweden were the Fredrika-Bremer-Association, the National Council of Women of Sweden, the social democratic women's organizations and the National Association for Women's Suffrage. The

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<sup>13</sup> See for example Stråth & Sørensen 1997, p. 20, Christiansen & Petersen 2001, Petersen 2006, Melby et al 2010.

<sup>14</sup> Melby et al 2006, p. 18.

<sup>15</sup> Melby 2006 et al, p. 64-70.

<sup>16</sup> Sainsbury 2001; Bergman 2003.

<sup>17</sup> Sommestad 1997, Hagemann, 2002.

<sup>18</sup> Carlsson 1986, Manns 1999, p. 178.

<sup>19</sup> Evans 1976: p. 10f, Kulawik 1999.

Fredrika-Bremer-Association was the most important bourgeoisie women's organization founded in 1884.<sup>20</sup> The National Council of Women of Sweden was a local branch of the International Council of Women, established in 1896. It assembled many different kinds of women's organizations, some of which were feminist, and it had a relatively cautious and conservative image.<sup>21</sup> The Social Democratic Women's movement emerged during the 1890s. A formal national organization was not established until 1920, but the social democratic women held national congresses from 1907, appointed a central committee and had a journal founded in 1904.<sup>22</sup> The last of these organizations was the National Association for Women's Suffrage, founded in 1904. At the time when the debate on the marriage reform started, a more radical feminism gained ground in the suffrage organization.<sup>23</sup> Neither the National Association for Women's Suffrage nor the social democratic women were part of the local branch of the International Council of Women.<sup>24</sup> Even if the women's organization's principal views on emancipation differed, they cooperated on specific issues, as in the case of the marriage law reform.

When the law proposals were put forward in the Swedish parliament in 1915 and 1920, they evoked intense discussions. The critique mostly came from the conservatives while liberals and social democrats – if not all factions – supported the proposals. There were conservatives that were totally against it, but in most cases it was a question of changing details and formulations. The debate on the two proposals will be treated separately and start with the debate over formation and dissolution of marriage.

## 2. Formation and dissolution of marriage

The Scandinavian committee issued the report on the formation and dissolution of marriage in 1913, and in Sweden a law was adopted in 1915. Corresponding laws were adopted in Norway in 1918 and in Denmark in 1922.<sup>25</sup>

### a) The main features of the law reform

One important aspect of this part of the law reform was the *liberalisation of divorce*. In 1909, Norway had already passed a liberal Divorce Act that was a formalisation of the liberal divorce practice through dispensation, which had been prevalent in all Nordic countries prior to the 20<sup>th</sup> century. The Norwegian Act laid the basis for the Nordic reform in which no-fault divorce was accepted as the basic principle of divorce legislation, which meant that the spouses had the right to divorce if both wanted it. In earlier law, divorce could be obtained only due to adultery or desertion. Now divorce could either be obtained by mutual consent on the grounds of incompatibility, or by the claim of one of the spouses on a number of specific grounds including neglect of maintenance, alcoholism and irretrievable breakdown of marriage.

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<sup>20</sup> Manns, 1997.

<sup>21</sup> Bokholm 2002, p. 271 f.: Petersens 2006.

<sup>22</sup> Carlsson 1986.

<sup>23</sup> Levin 1994, p.284, Manns 1997, p. 178, Rönnbäck 2000,

<sup>24</sup> Petersens 2006, p. 56-58.

<sup>25</sup> For more details about this reform see Melby et al 2006, Chapter 3 and 4 and Melby et al in *Women's History Review* 2006.

At the same time as this law gave individuals the right to divorce it also, with its judicial consequences, aimed to secure the maintenance of the other spouse, usually the woman, and of children. As a rule, the matrimonial property was to be distributed equally between the two, i.e. deferred communal property.<sup>26</sup> During the period of separation, mutual maintenance continued. After divorce, a maintenance order should be issued, requiring the one to support the other depending on needs and capacity. Especially in Denmark and Norway, housewives were understood to be dependent on such support, whereas in Sweden, a clean break was more favoured even though a corresponding maintenance rule did exist there as well.

The regulations concerning the *formation of marriage* in the old law had mainly been related to age and kinship and were largely based on ethical and religious grounds. There were some impediments related to certain forms of handicap, but they were few. With the new law, the marriage age for both women and men was raised. The marriage age for women had by tradition been high in the Nordic countries, following the north-western European family pattern.<sup>27</sup> Now the marriage age for women was further raised, which was a signal that also the woman should be a mature and independent individual when entering into marriage. The impediments based on kinship became less important at the same time as more medical impediments were added to the law. These impediments were justified with eugenic arguments and aimed to create a healthier population. The legislators turned to medical expertise to get their points of view on the reform proposal, not to church authorities.<sup>28</sup> Marriage was no longer seen primarily as a moral and religious but also a medical issue to a great extent. This change was made possible by the early 20<sup>th</sup> century growth of genetics and scientific knowledge of heredity.<sup>29</sup> In fact, the law reformers were utilizing the latest scientific knowledge of their time. The illnesses regarded as impediments were, for example, mental disease, epilepsy, alcoholism, deaf-muteness, and contagious diseases such as venereal disease and leprosy. However, even though eugenic ideology played an important role in the debate, the marriage impediments that finally were listed in the laws were more limited than what the most eager advocates of eugenic legislation would have preferred. The Swedish law, however, came to contain more medical impediments than the Danish and Norwegian laws. Another aspect of the law which aroused debate in Sweden, were the new rules for the constitution of a marriage, which stated that the official marriage ceremony, either in church (the most common) or civil, became obligatory.<sup>30</sup> In the Nordic countries it was by tradition very common that couples lived together and even had children without being married.<sup>31</sup> This meant that the betrothal had a legal significance in earlier law, which it now lost.

The law proposal on the formation and dissolution of marriage, presented by the Swedish law commission in 1913, and the law adopted in 1915 followed the recommendations given by the Scandinavian committee on the whole. At the end of the process, women were given the possibility to present their points of view directly to the committee.

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<sup>26</sup> This is specific for the Nordic Marriage legislation, see Bradley 1996, p. 10-11, Bradley 2001.

<sup>27</sup> Hartman 2004, p. 90, Melby et al 2006, p. 126-127, Rosenbeck 2010.

<sup>28</sup> Melby et al 2006, p. 129-135.

<sup>29</sup> Broberg & Roll-Hansen 1996.

<sup>30</sup> Persson 1971, p. 10-12, Wetterberg 2003.

<sup>31</sup> Ohlander 1977, Lindstedt Cronberg 1997, p. 181, Lennartsson 1999, p. 158.

## b) Liberalization of divorce

The need for a liberalization of the divorce law and for a revision of the rules regulating the formation of marriage had already long been discussed in public debate and in parliament. A parliamentary bill from 1891 had proposed that a wife should have the right to divorce if the husband had misbehaved severely and later, in 1902, it had been suggested that the father's automatic right to custody should be abolished if both spouses were judged guilty of the divorce. In the later case, the initiative had come from the Fredrika-Bremer-Association.<sup>32</sup> Other bills presented concerned obligatory medical examinations before marriage and that infectious and hereditary diseases should be a reason for divorce.<sup>33</sup>

The law proposal that was put forth in 1915 followed these guidelines. The debate was intense and complex and didn't always follow political lines. On a more general level it aroused questions relating to more principal views on individual freedom, state intervention and sexual morals.

That the divorce legislation needed to be liberalized seems, in 1915, to have been an opinion that the majority of the members of parliament shared. The principle that unhappy marriages now could be dissolved by mutual consent only, was not easy for everybody to accept however. The more general acceptance of liberalization may be related to a wish to formalize an already existing liberal divorce practice, where many couples divorced, albeit under different names, categorized as abandonment. If one of the spouses went to another country, and stayed there for a specific period, the other could ask for divorce. In Sweden, it was common to go to Copenhagen and this kind of covert divorce practice went under the name of "Copenhagen travels".<sup>34</sup> According to the Law Committee's estimates, arbitrary abandonment was by far the dominant cause of divorce between 1901 and 1910.<sup>35</sup> But, except for an adjustment to current practice, an important argument for changing the law was, paradoxically, that liberalization of divorce was seen as a means to strengthen marriage – the argument was that more women would enter into marriage if they had the legal right to divorce if the husband misbehaved. This was an argument put forth in the public debate as well as in the parliament and it was also prominent in the women's organizations.<sup>36</sup> These organisations were all – on different grounds perhaps – in favour of a liberalization of the divorce law. For example, Lydia Wahlström, a leading figure within the Fredrika-Bremer-Association, believed that the marriage reform, including more liberal divorce rules, should improve the social morality and counteract what she called "wild marriages".<sup>37</sup> It is interesting to note that the National Association for Women's Suffrage and the social democratic women's organizations wanted to go even further in the direction of free divorce and suggested that divorce could be granted even if only one of the parties wanted it – that meant a complete no fault-principle.<sup>38</sup>

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<sup>32</sup> Dagny, 1891, p. 110, Cederschiöld 1903, p. 70f

<sup>33</sup> AK Protokoll, 1904, motion 269.

<sup>34</sup> Matovic 1984.

<sup>35</sup> Of a total of 4735 divorces 2224 were to be found under the category "arbitrary abandonment", Lagberedningens förslag 1915, p. 375, 611.

<sup>36</sup> Wetterberg 2000.

<sup>37</sup> Wahlström 1909, p. 9.

<sup>38</sup> *Hertha* no 9 1915; *Rösträtt för kvinnor* no 7 and 9 1915; *Morgonbris* no 3 1915.

### c) Marriage impediments

The debate on marriage impediments was also basically about individual freedom, with more of a focus on restrictions than liberalization. To what extent and on what basis should the law limit individuals' rights to marry? The Scandinavian law committee had turned to the Medical Faculty at Uppsala University to learn about the latest medical findings on heredity and genetics and to answer these kinds of questions.<sup>39</sup> The overall aim was to improve the health of the population and prevent marriages that were supposed to cause degeneration. The debate that followed the Swedish proposal, which contained more restrictions than the Danish and Norwegian ones, illustrates the complicated character of the question. The medical restrictions became more extensive than before, but not as extensive as some had wished. In the debate, there was a resistance to the eugenic ideas on ethical but also scientific grounds. The law committee at several points in its proposal also emphasized that medical science still could not comment with certainty on the degree of heritability of different diseases.<sup>40</sup>

If we leave the advice from the experts and go to the public debate, the statements made were much more definitive on these questions. The eugenic ideas were part of the contemporary thought and there was no direct connection either to political affiliation or sex. Below are some female voices from the debate, which illustrate that women as much as men seem to have supported eugenic ideas.

“In the same way as we, through socialism, consciously want to guide the production, we want to consciously and through eugenics create healthy, strong individuals”, writes the leading social democrat Kata Dalström in the women's movements journal in 1911.<sup>41</sup> Frida Stéenhoff, a radical and independent feminist, spoke of the need to “[...] snatch procreation from the dominion of chance and bring it up on a purposeful level of judgments and caution.”<sup>42</sup> Discussing the marriage reform in 1915, Agda Montelius, the chairwomen of the Fredrika-Bremer-Association, claimed that the law should have gone further and introduced more extensive marriage impediments.<sup>43</sup> Finally, Ellen Key, the internationally well-known feminist, was among those who pushed those thoughts even further. Apropos alcoholism and marriage, she writes: “A woman's alcoholism should be both an absolute basis for detention and a marriage barrier, until a doctor has declared her completely healed [...] For a man, alcoholism should be a marriage obstacle until he, with credible proof, can prove that he has abstained from alcohol for one year”.<sup>44</sup>

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<sup>39</sup> *Uppsala Medicinska Fakultets yttrande till Kungl. Medicinalstyrelsen med anledning av förestående revision af äktenskapslagstiftningen*, Uppsala 1911, s 6.

<sup>40</sup> *Lagberedningens förslag till revision av giftermålsbalkens och vissa delar av ärvdabalken I*. 1913, p. 131.

<sup>41</sup> “Liksom vi, genom socialism, målmedvetet vill leda produktionen, så vill vi genom rashygien målmedvetet skapa fram sunda, starka människor”, Dalström 1911, p. 5.

<sup>42</sup> “[...] rycka prokreationen från slumpens herravälde och föra den upp på omdömet och försiktighetens målmedvetna plan”, Stéenhoff 1910, p.11.

<sup>43</sup> Bokholm, 2000, p. 274.

<sup>44</sup> “Alkoholism hos en kvinna bör vara *absolut interneringsgrund* och *äktenskapshinder*, tills hon av läkare förklaras *fullt botad* [...]. För mannen bör alkoholism vara *äktenskapshinder*, tills han med trovärdigt intyg kan styrka, att han under ett åt varit *absolutist*”, Key, 1914.



An important aspect of this debate concerned the right of the state to intervene in individual and family life. This was at a time when government agencies' ability to control increased, but the suggestions to introduce obligatory medical certificates before marriage, for example, were also met with resistance since it was seen as a violation of privacy. This was long before the acceptance of sterilization as a means to improve the quality of the population. While the later sterilization policy mainly affected women, the eugenic and medical impediments that were discussed at the beginning of the century and in relation to marriage law, were mainly related to men – namely venereal diseases and alcoholism.<sup>45</sup> These were core issues within the women's movement, whose members often were engaged in the temperance movement and also worked against prostitution.

There were doubts as to whether medical science was advanced or developed enough to lay the groundwork for extensive marriage impediments, but there was also a fear that an extension would have negative consequences in a broader social and political perspective. The Medical Faculty had pointed to the contradiction that existed between an appropriate marriage rate and desired fertility within marriage on the one hand and healthy offspring on the other.<sup>46</sup> Excessive impediments could lead to a significant population decline or even have the effect that people simply would ignore the law and live together without marrying. Thus, one parried between different perceived threats: degeneration, population decline and more illegitimate relations.

All in all, it is clear that medical arguments were put at the forefront of the debate. The politicians and legislators now turned to the medical authorities for advice, not to the church. It is strange to note that the church, which for centuries had been the most important institution after the state concerning the regulations of marriage, was not involved in the preliminary negotiations. The religious authorities also complained about not having been given a more important role in the legislative process. I will not go into more detail on this issue, but what is important to point out is that the marriage law can be seen as the first building block in the modern welfare state based on social engineering.<sup>47</sup>

#### d) What was to constitute a marriage?

Another question related to this part of the law that evoked debate was that the official marriage ceremony, either in church (the most common) or civil, became obligatory. This meant that the betrothal now lost its legal significance. In the Nordic countries it was by tradition, as mentioned above, very common that couples lived together and even had children without being married. In Sweden, there was even a specific concept, "Stockholm marriages", for those couples living together without marrying. If a man had given a promise of marriage and did not fulfil it, the women and the children, according to the Swedish law, should have the same rights as married wives and legitimate children. This institution was called "the unfulfilled marriage".<sup>48</sup>

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<sup>45</sup> For an interesting discussion on the gender aspects of reproduction politics in Sweden see Freiburg 1993.

<sup>46</sup> *Lagberedningens förslag till revision av giftermålsbalkens och vissa delar av ärvdabalken I*. 1913, p. 131.

<sup>47</sup> Melby et al 2001, Melby & Rosenbeck 2009.

<sup>48</sup> Sveriges rikets lag [...] 1734, Giftermålsbalken 3: 9.

The abolishment of the unfulfilled marriage evoked an intense debate related to sexual morality and individual freedom. Three of the four national women's organizations sent statements to the Law Committee in which they defended and wanted to keep the unfulfilled marriage with the argument that it gave protection for unmarried women and their children.<sup>49</sup> Pushed by women activists, liberal members of the parliament, who in other situations defended individual freedom and rights, changed sides and defended an institution, which in practice meant a forced marriage for men, albeit temporarily.<sup>50</sup>

The unfulfilled marriages were not retained, but the demand from the women's organizations that the situation of unmarried women and illegitimate children would be considered in future legislation was met, and in 1917 a law regarding children born out of wedlock was adopted in the Swedish parliament. This law didn't go as far in equalising children born within and outside wedlock, as did the Norwegian counterpart from 1915, but it tried to secure maintenance for children born out of wedlock. In the case that the father had given a marriage promise, they also got the right to inherit from him. At least three of the mentioned women's organizations supported more liberal divorce legislation, and two of them even wanted to go further in the direction of free divorce. Indirectly, they thereby accepted that a marriage should be based more on emotion than on duty, but to really accept sexuality outside marriage went too far. The same year the Scandinavian Law Committee was established, there was a big demonstration arranged by women's organizations in Stockholm against sexual immorality and contraceptives. Radical liberal and social democratic women, however, never openly supported these kinds of actions.<sup>51</sup> But these disagreements on sexual morality and other issues were not an obstacle to cooperation on the reform of the Marriage Act.

The parliamentary debate on the unfulfilled marriage didn't follow political positions in general. Some conservatives accepted the proposal, others not. According to a conservative and religious point of view sexuality belonged to marriage, but the tradition of betrothal could still be defended in the name of tradition and since it meant a commitment to marriage.<sup>52</sup> Those who defended the proposal from a more leftist and secular view, wanted to give the individual more freedom and argued, in line with the family law committee, that marriage was an arrangement between the two independent parties.<sup>53</sup> However, there were also, as we saw above, liberals and social democrats that wanted to keep the so-called "unfulfilled marriages". Like so many times in this debate, a wish to defend individual freedom collided with other interests; in this case, the moral and economic protection of the unmarried mother.

The debate in parliament and in society on the 1915 law had been harsh; not everybody was happy, but with this law the first step had been taken towards a modernization of this very old marriage law. It implied liberalization and secularization but also increased state control. To some extent, it also promoted a more equal relationship between the spouses.

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<sup>49</sup> Skrivelse till lagutskottet 13/4 1915, Fredrika-Bremer-förbundet, Protokoll 13/4 1915; Hertha no 9 1915, Morgonbris no 5 1915, p. 9, Rösträtt för kvinnor no 9 1915.

<sup>50</sup> Bihang till riksdagens Protokoll 1915, Lagutskottets utlåtande 32, s 140-143, FK protokoll 1915 3 No 63 s 49, 75.

<sup>51</sup> Bihang till riksdagens Protokoll 1915, Lagutskottets utlåtande 32, s 140-143.

<sup>52</sup> See for example FK Protokoll 1915 3 No 63, p. 26, 28.

<sup>53</sup> AK Protokoll 1915, 5, No. 71, p. 19, 14, 48.

The women's organizations were generally happy with the bill. They particularly appreciated that the spouses in most respects were portrayed as equals. Swedish women didn't have the right to vote or to be members of parliament at this point in time, but they were called in as experts. They also used informal channels, such as male friends, colleagues and husbands, to exert influence.<sup>54</sup> In general, it was the political left who pushed the question and they also, as mentioned above, put forth the women's views in the parliament. Parliamentary initiatives on questions concerning marriage law and other questions important to women, such as the right to vote, introduction of a mother's insurance and abolishment of the regulation of prostitution, came from a rather limited group of – mostly liberal – men. It was always the same names that reappeared. The women's movement had been deeply engaged in the law process and their involvement became even stronger when the law committee in 1915 started to work with the other part of the law: the legal relationship between spouses.

### 3. The legal relationship between spouses

Perhaps the most controversial part of the reform concerned the legal relationship between the spouses. As already said, married women in Sweden were still formally under the guardianship of their husbands. In Sweden – and in Finland, which had formerly been a part of Sweden – there existed a specific concept for this relationship between the spouses, i.e. "målsmanskap". The husband was the head of the household and had formal power over all family affairs. This meant that he had authority over all household members and that he managed the household property. He was also the children's legal guardian. It was the marriage law from 1734 that, with minor changes, was still in force.<sup>55</sup>

The abolition of male power within the family, especially economic power, was of central importance for the women's movement from the beginning. Significantly enough, the first women's organization, constituted in 1873, was named The Association for Married Woman's Property.<sup>56</sup> The issue had at that point been on the political agenda for some time. Already in the 1850s a liberal parliamentary member had suggested an abolishment of male power within marriage. His main motivation was that young women would otherwise turn their backs on marriage.<sup>57</sup> As we have seen, this was an important argument when liberalization of divorce was discussed, and it was to become even more central when this other part of the law was discussed.

#### a) The Scandinavian proposal

In 1915, the work started with this part of the law within the national committees and on a Scandinavian level. The main focus was on economic matters. Among lawyers, within public debate and in women's organizations it had long been debated which solutions would be most appropriate if the husband's right to decide over and administer the common property would be removed. Should the spouses jointly own and decide over the household's economic means, or

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<sup>54</sup> Florin 2006.

<sup>55</sup> Boëthius 1969: p. 16f, Blom & Tranberg 1985, p. 184..

<sup>56</sup> Manns 1997, p. 50.

<sup>57</sup> Manns 2000. Wetterberg 2003, Melby et al 2006, p. 196.

should individual ownership, which had been introduced in English marriage law in 1882, be the most appropriate within marriage? The problem with individual ownership was that it didn't give those women who had no income or property a more independent and secure status, which was one of the aims of the reform. This problem was vividly discussed in the Scandinavian committee and on a national level. For the women members of the Scandinavian committee, as for the women's organizations, this was seen as a core issue and a lot of initiatives were taken. After endless discussions in 1918, the proposal that was presented was a kind of compromise. Individual ownership within marriage was the overarching principle, but this rule was supplemented by other provisions aiming to strengthen and secure the position of wives.<sup>58</sup>

There are four novel features that are of importance concerning the economic relations between the spouses. Firstly, husband and wife were, as previously mentioned, declared independent and formally equal owners of their own property during marriage. Secondly, in the case of dissolution of the marriage, their assets should, as the Swedish law of 1915 already stated, be divided into two equal parts (i.e. deferred communal property), unless otherwise agreed in a marriage settlement. Thirdly, the spouses were declared *jointly responsible for the maintenance of the family*, which meant that women's unpaid work at home was legally recognised as family support. However, even if the two main forms of maintenance were declared to be equal, there was little doubt that the woman was the economically dependent spouse. This was the background for the fourth novelty: a provision that furnished the wife with independent *housewife's rights*, which meant that she had the legal right to get money from her husband for household expenses and for personal use. This rule intended to secure the economic position of the housewife, who supposedly seldom owned or earned any significant self-supporting means. If the husband failed to provide adequately for his wife and for the family, the court could issue an obligation to do so.

When it concerned the custody of children, the Scandinavian committee proposed that the mothers in marriage should get the same right as fathers to decide for their children in everyday life. This was already the case in Denmark and Norway and it now came to be introduced in Sweden as well. By this reform, economic custody was distinguished from daily custody. Even if the borderline between the two elements of custody was blurred, it meant that full equality was not achieved at this point.<sup>59</sup> The Swedish proposal also included an additional deviation from the equality principle by denying women the right to keep their own family name. This had not been regulated at all earlier, but now it was stated that a wife automatically should be given her husband's family name. However, she could apply for permission to have a double family name. The Scandinavian countries chose different paths on this issue, but in none was it possible for the husband to choose the wife's family name.<sup>60</sup>

Rather than a pure economic or property rule, the Scandinavian proposal established an ideal marriage based on gender difference, where the spouses were responsible and independent individuals on the one hand and had to cooperate for the benefit of the whole family on the other. The reform therefore presented what we in our project have called a modified dual-breadwinner

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<sup>58</sup> For more details about this part of the reform see Melby et al 2006, Chapter 5-7, Melby et al in *Women's History Review* 2006, Wetterberg & Melby 2008.

<sup>59</sup> Smith, 1980, p. 56.

<sup>60</sup> Melby et al 2006, p. 364-367.

model, characterized by individualism, communal responsibility and gender difference<sup>61</sup> – a question we will return to later.

#### b) A debate among women

As previously pointed out, the aim to defend individual freedom came in opposition to other interests; it could be the protection of women and children or other broader interests linked to population policy. One of the leading lawyers in the Scandinavian law committee argued consequently that the law should stick to a mechanical equality principle and not deviate from it whether in favour of women or men. He proposed individual ownership within marriage even if it meant a weaker position for the woman that had no property or income. This question was thoroughly debated in an interesting way among Swedish women's organizations.

With the initiative of a leading member of the women's movement, a radical proposal had been worked out by the lawyer George Stiernstedt in 1915. The essence of the proposal was that all property, including earnings acquired during marriage, should be seen as common and be divided into two equal and individually owned parts. This was a solution in between the two previously discussed, i.e. common ownership on the one hand and individual ownership of one's own income and property on the other, a solution especially favourable for women without their own property or income.

The proposal was widely discussed in women's journals and at joint meetings with representatives from the most central women's organizations, sometimes including social democratic women.<sup>62</sup> In the discussions, this idea received a lot of support, at least in theory, as an ideal, but it also met with opposition. One objection was of a more pragmatic nature, namely that such a far-reaching reform *would never be accepted in the parliament*, which was probably true. The most important critique was that the proposal was in opposition to the claim that women should have *the right to dispose over their own income*, which had been so central to the women's movement. This objection came from the leading social democratic woman, Anna Sterky, but also from prominent liberal women. There was something repulsive about the idea that another person should dispose over the income earned through one's own work, as the lawyer Mathilda Staël von Holstein argued.

Other liberals, as well as conservative representatives, spoke in favour of the proposal, but the opinions on this issue did not totally follow organizational boundaries. It is interesting to note that most of those who talked in favour of the proposal came either from the more conservative National Council of Women or from the more radical liberal Suffrage Association. This can be explained by the fact that the proposal had a conservative as well as a radical touch. It could be seen as *conservative*, in the sense that it would strengthen the family as an institution and preserve the gender division of labour, but also as *radical* since it aimed at doing away with the economic power of the husband within the family. This duality explains why the proposal had supporters among conservative as well as among radical liberal women.

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<sup>61</sup> Melby et al 2006, p. 288-300, Melby et al 2010.

<sup>62</sup> Melby et al 2006, p. 211-218, Wetterberg 2002.

Ultimately, an agreement could not be reached. In the joint resolution that the women's organizations submitted to the marriage law committee in 1916, the equal sharing proposal was left out. Instead, they proposed that it should be possible to choose among different economic models in marriage. The question of name was left out.<sup>63</sup> Somewhat surprisingly perhaps, the question of whether a married woman should be entitled to retain her family name when married evoked debate among the women. For most engaged in the discussions, it was obvious that women should continue to have this right while some, in the name of the unity of the family, argued against.<sup>64</sup>

The debate among women's organizations about different economic models within marriage shows that women activists were extremely aware that the conditions for women were very different depending on class and whether they had their own income. It was almost impossible to find a solution fitting to all. When Stjernstedt's proposal was abandoned, women activists tried to influence the law proposal in more modest ways, and one of these was to claim that the woman who didn't have her own means should have the legal right to get a financial contribution from her husband to cover personal and household costs. The Norwegian member of the Scandinavian Committee, Elise Sem, brought this forth with support from the other women members, Emilia Broomé from Sweden and Estrid Hein from Denmark.<sup>65</sup> It was not easy to get acceptance for this claim especially because it included a requirement that all means of support that the wife received from her husband also should become her own property – those for personal needs as well as those for the needs of the household. The claim was accepted at last, but without giving the wife personal ownership of household means. If the women member had not pursued the issue so energetically, it would have probably not come up at all. Their claim for housewife's rights, which also implied that the wife could go to court if her husband did not fulfil this obligation, was based on the view that housework was to be valued as work on par with labour outside the home. This was a core question for the women's organizations, brought forth from the beginning together with a claim for a reciprocal maintenance obligation within marriage. The proposal that the Scandinavian committee finally presented also followed the broad outline of their proposals. "It seems as if the women get their way," as one of the members of the Committee put it.<sup>66</sup>

#### d) The parliamentary debate

The proposal was completed and presented in 1918 and the reform of the entire marriage law was taken up in the parliament two years later. There had just been a change of government. The first purely Social Democratic cabinet had replaced the previous Liberal-Socialist coalition government that had been in power since the spring of 1917. These political factors were probably of importance for the proposal being attended to so quickly and benevolently. A conservative opposition, however, showed up just before the parliamentary discussion. As this storm of protest seemed to be on track to growing stronger in parliament, the women's organizations gathered once again in joint meetings on resolutions, now in favour of the proposal

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<sup>63</sup> Fredrika-Bremer-förbundet, Styrelseprotokoll, A 2:5, 27/1 1916 Bil I, 16/3 1916.

<sup>64</sup> Melby et al 2006, p. 218.

<sup>65</sup> Wetterberg & Melby 2008, p. 51.

<sup>66</sup> Melby et al 2006, p. 221.

submitted. Faced with the threat that the proposal could be postponed, a large number of women's organizations sent a new letter in which they gave the proposal their full support.<sup>67</sup>

Since the work within the law committee seems to have gone quite peacefully and without any deeper disagreement, this backlash was probably somewhat unexpected. A debate that raged in Denmark at the same time around a book written by Harald Nielsen, called "Modern marriage", which was very critical of the Danish proposal and the proposed individualization within marriage was certainly a significant factor.<sup>68</sup> Karl Tiselius, a member of the Swedish Law Committee, expressed his surprise that this book had been met with such an "inexplicable admiration" in Sweden. "Since it took the viewpoint [...] almost exclusively from the aspect of the purely physical sexual relationship," it seemed to him to be irrelevant.<sup>69</sup> These conservative opponents saw the bill as a threat to marriage and the very foundations of society. This type of criticism, which reappeared in the parliament, saw the proposed law as too individualistic. There was also another kind of criticism in public debate, which on the contrary believed that the law should go further in the individualized direction. This position, often linked to different types of feminist thought, was of minor importance in the concrete debate on the Marriage Act however.<sup>70</sup>

The parliamentary debate was rather lukewarm in the second chamber, but more heated in the conservative-dominated first chamber. There the stands were filled. The members of the Law Committee as well as the better-known representatives of the women's movement were all there.<sup>71</sup> Some members had suggested that the entire proposal should be rejected. An overwhelming majority in the second chamber and two-thirds of the members of the first chamber, however, voted for the proposal to be considered.<sup>72</sup>

In the debate in the first chamber there was significant critique, but few totally opposed the abolishment of the husband's formal sovereignty within the family. There was one exception, a conservative member, representing peasant groups in the parliament, who rejected the proposal and characterised it as a lawyer's work.<sup>73</sup> Since the man in the household had his full confidence, the statutory right of the woman was not so important, he said, and turned against a marriage solely based on love. "[...] if the home and family should be the basis of society, it will be a shaky foundation, if it is based on love alone. If love ends, then the basis breaks." An ideal marriage for him was a "[...] voluntary and willing fulfilment of the ethical duties".<sup>74</sup> Another commentator believed that the women's organizations had too much influence on the bill and he feared that the proposed law would weaken marriage and increase the divorce rate. He also objected that society should have the possibility to interfere in the family's own affairs. He urged

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<sup>67</sup> Melby et al 2006, p. 224.

<sup>68</sup> Melby et al 2006, p. 258-264.

<sup>69</sup> "Eftersom det tog sin utgångspunkt [...] nästan uteslutande i det rent fysiska könsförhållandet", Dagens Nyheter 17/4 1920.

<sup>70</sup> For this debate and the feminist critique of marriage see Melby et al 2006, p. 227, Wetterberg & Melby 2008, p. 50-51. Blom 1994, Wetterberg 1998, 2010.

<sup>71</sup> Socialdemokraten 19/4, Svenska Dagbladet 18/4, Dagens Nyheter 18/4 1920.

<sup>72</sup> In the second chamber 126 of 152 members voted for the proposal to be treated in the first chamber 83 of 124. AK Protokoll 1920 3, nr 4: 8; FK Protokoll 1920 3, nr 34: 75. For a more detailed analysis of the debate see Melby et al 2006, p. 227-235.

<sup>73</sup> FK Protokoll 1920 3, No. 34: 23-25.

<sup>74</sup> "[...] om hemmet och familjen skall vara samhällets grund, blir det en skral grund, när den bygger allena på kärleken såsom känsla. Brister den, så brister grunden". Det ideala äktenskapet var för honom "{...} det frivilliga och villiga uppfyllandet av de etiska plikterna", FK Protokoll 1920 3, No. 34: 29.

rejection of the bill and a one-year deferral of the decision.<sup>75</sup> It was mainly conservative MPs who spoke for the denial and delay. Many were critical of Scandinavian cooperation and against what they called “lawyer-elegance”. This critique often referred to rural needs and interests. Individual ownership and management was seen as a practical problem in a farmer’s household, and there were fears of a fragmentation of the farmland due to the extended right of inheritance between spouses that the law also implied.<sup>76</sup>

The more substantial criticism was more or less explicitly based on a different view of marriage as an institution. Marriage, according to Swedish tradition was primarily a “religious-moral home life [...] where you learned to fear God and stay together through thick and thin [...]”, asserted a member of the first chamber.<sup>77</sup> Marriage is a commitment for life and not a treaty which can arbitrarily be set aside, said another, who also turned against the idea of equality between the sexes. Marriage existed precisely because man and woman were different. For him, it was “a pure absurdity” that they would be in every way equal.<sup>78</sup> Several criticised the bill because it equalized marriage with a business relationship, and looked to the right of individuals too much and not to unity and cohesion. “It is individualism which emerges in the first place with demands for rights. Selfishness and egoism may thus easily enter into coexistence”.<sup>79</sup> That the public would be allowed to interfere in family affairs angered many. Earlier, the man’s authority and community of goods held together marriage, but now the law would micromanage family. Thus, divisive and disruptive elements were brought into cohabitation.<sup>80</sup> The risk was that the law would discourage marriage and, if that would happen, a key purpose of the new marriage code, namely raising the marriage rate, would come to nothing.<sup>81</sup>

Of course, those who spoke in favour of the law drew an entirely different conclusion on this point. It is interesting to note that the defence of home, family and social stability also emerges as a key point for many of those defending the proposal – not only among conservatives but also among liberals and within the governing social democrats. This was very clear in the keynote speech held by the Minister of Justice, Östen Undén, where he stated that the equal status of wife and husband was, “[...] a guarantee for firm family ties and not a risk of their dissolution”. He saw the male supremacy and married women’s legal subordination as anomalies in relation to the societal development and to the rights long since given unmarried women. That the women’s organizations were so strongly committed to the reform was, for him, an important argument as was Scandinavian cooperation.<sup>82</sup> Most of those who defended the bill emphasised, as Undén did, the link between equality and the strengthening of family ties. It was particularly important for the conservatives who argued for a reform.

The new property law rules aroused wide debate. Conservative voices were raised for the maintenance of the man’s right to administer the joint estate, and many also turned against the

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<sup>75</sup> FK Protokoll 1920 3, No. 34: 13-18.

<sup>76</sup> FK Protokoll 1920 3, No. 34: 63.

<sup>77</sup> “religiöst-sedligt hemliv [...] där man lärt sig frukta Gud och hålla ihop i lust och nöd [...]”], FK Protokoll 1920 3, No. 34: 54-55.

<sup>78</sup> “en ren orimlighet”, FK Protokoll 1920 3, No. 34: 44-45.

<sup>79</sup> “Det blir individualismen, som träder fram i främsta rummet med krav på rättigheter. Självskheten, egoismen får härigenom lätt insteg i sammanlevnaden”, AK Protokoll 1920 3, No. 40: 33.

<sup>80</sup> AK Protokoll 1920 3, No. 40: 38, 40.

<sup>81</sup> FK Protokoll 1920 3, No. 34: 48.

<sup>82</sup> “[...] en garanti för familjebandens fasthet och icke en risk för deras lossande”, FK Protokoll 1920 3, No. 34: 5, 6.



equal property division after divorce, where the real estate was to now be included.<sup>83</sup> The law proceeded unilaterally from the couple's individual circumstances and the desire to protect the wife's financial interests and had not sufficiently taken account of the succession law effects, it was argued. The consequence would be that the soil would be "thrown into the commercial market and become a commodity".<sup>84</sup> This view was not strongly supported in the debate. To strengthen the family's right to the soil was hardly in line with the trend in modern agriculture policy, as the Minister of Justice emphasised.<sup>85</sup>

What the conservative supporters of the law saw as a major advantage was that they thought that it would reinforce the division of labour between the sexes. The purpose of the act was to, "[...] equate man and woman, to bind the woman at home and promote household harmony," as one of them put it.<sup>86</sup> Someone also made the sober statement, which probably calmed some party members, that the legal equality due to the husband's stronger position would not mean an actual equality. "The proposal has not sought to give the home-working wife full economic equality with the gainfully employed man, and the proposal has not chosen the solutions with this aim designated by the women's organizations," noted one member, probably thinking of the proposal made by Georg Stiernstedt.<sup>87</sup> In the women's argument, the big problem with reform was the difficulty achieving real economic equality. Thus, this became an argument for the reform in a patriarchal discourse.

The legal rules stating that the spouses were jointly responsible for family maintenance and that wives got the legal right to receive funds from the husband had, as we have seen, evoked a lot of debate in the law committees. In the parliamentary debate, it was the group of members, mostly liberals and some social democrats, who consistently promoted women's rights who addressed this issue. One of them, Carl Lindhagen, commented that the proposal's real genius lay here – that the wives' activities in the home were part of the family's maintenance. He criticised the debate for only dealing with financial details and wanted to stress the moral progress that the law represented, expressed by terms such as "humanitarian spirit", "justice" and "equality". One must be realistic, he added. Full economic equality could not be achieved under the current circumstances, but this was an important step. He and others severely criticized the law for completely departing from equality by denying women the right to keep their family name and not giving them full custody of their children. "The principle of male sovereignty probably still remains in many men's minds", Lindhagen concluded.<sup>88</sup>

With only minor adjustments in the original proposal, a new Marriage Act was adopted in the Swedish parliament in spring 1920. Unlike Norway and Denmark, it was decided that parts of the new law would not apply to current marriages, but only to those entered into after the law was adopted. Within current marriages, the husband should keep the right to administer the common estate. The husband's power in other respects, however, was abolished and married

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<sup>83</sup> FK Motioner 1920 3, Saml., 1 Bd, No. 173: 2.

<sup>84</sup> "kastas in i handelsmarknaden och bli en marknadsvara", FK Motioner 1920 3, Saml., 1 Bd, No. 173: 5.

<sup>85</sup> FK Protokoll 1920 3, No. 35: 37.

<sup>86</sup> "[...] likställa man och kvinna, att binda kvinnan vid hemmet och verka för hemmets endräkt", AK Protokoll 1920 3, No. 40: 55.

<sup>87</sup> "Full ekonomisk likställighet med den förvärvande mannen har förslaget ej heller sökt giva den i hemmet arbetande hustrun; och har förslaget ej beträtt någon av de vägar, som härför anvisats från kvinnosakshåll", FK Protokoll 1920 3, No. 34: 55.

<sup>88</sup> "Här lever och frodas trots allt en ganska kraftig maskulin renässans [...]", FK Protokoll 1920 3, No. 35: 25.

women got their majority. Furthermore, the property that a wife acquired after the law had entered into force should be managed by her, the new inheritance rights should also apply to these marriages as well and it should be possible for the spouses to sign a prenuptial.<sup>89</sup> There were different opinions among contemporary commentators which option was the best for wives in these marriages, the one chosen in Sweden or the one preferred in the other Scandinavian countries, a discussion that is also found within later research.<sup>90</sup> A lot of women were present when the proposal was discussed in the parliament. The vote for women had been decided but was to be confirmed. Therefore, they had their male allies put forward their claims. The women's organizations seem to have been fairly satisfied. The lawyer Mathilda Staël von Holstein, who had been active in the process from the very beginning, wrote the following in a women's journal in 1918:

“It is with joy and gratitude that we have taken note of the proposal. Marriage as a union consisting of two free individuals has been logically stated in the law. [...] One should wish this extensive work to be found in each home.”<sup>91</sup>

In sum, the arguments put forth in the debate were mainly of four different kinds. One was about the abolishment of male power within marriage, which for the women's organizations had a value in itself as a part of a bigger emancipating project. This project looked different for different organizations, but didn't prevent a close cooperation between different parts of the women's movement. In their quest for making marriage a union between two formally equal parties, they also had support from radical, mostly liberal politicians. Guaranteeing the maintenance of wives and children, especially if the husband/father did not act responsibly, was the second line of argument closely connected to the question of power. A reform of the marriage law was, from this perspective, a means to solve social problems and not a question for women in the middle and upper class only, which sometimes is assumed in research. It was as important, or maybe even more important, for working class women. A third kind of argument related to the strengthening of the family and the guarantee of its survival in the long-term perspective. Through equality, which could mean different things, and a greater economic independence within the family, young women should retain their faith in marriage and have the courage to marry. This argument could be more or less drastically formulated and was continually recurring in the debate. Some stressed women's rights and independence, while others put forth that the law should prevent immorality or strengthen the gender division of labour. The latter motif could even get those who were against women's emancipation to accept giving married women more individual rights. Finally, it is also relevant to talk about a fourth line of argument which was perhaps more prominent among lawyers and was quite simply about a wish to construct a logically consistent and more modern law. It addressed judicial inconsistencies per se, and pointed to the contradictions that had occurred when unmarried, but not married, women, got their majority and increased formal rights.

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<sup>89</sup> FK Protokoll 1920 3, No. 34: 12, No. 35: 48-49, Lagberedningens förslag 1918, p. 63-66, 412-419.

<sup>90</sup> Only at one point this issue was debated within the Scandinavian Law Committee: Melby et al 2006, p. 220. Svedrup 1997, p. 54ff, has claimed that the old Swedish rules gave the already married wife a greater room for maneuver than the manner in which the new rules were applied in Norway and Denmark, where the property which had been managed by the husband now became his property.

<sup>91</sup> “Det är med glädje och tacksamhet man tager del av förslaget. Äktenskapets natur att vara en sammanslutning av två fria individer har i lagen följdriktigt förverkligats. [...] Man skulle önska att det omfattande verket icke saknades i något hem”, Staël von Holstein 1918, p. 281.

#### 4. Concluding remarks

The analysis has shown that the debate on the marriage reform was closely intertwined with other contemporary political debates around for example social reform, population policy and eugenics. The reform of marriage, including increased individual freedom and gender equality, was seen as a means to create an orderly and stable society. This interconnection between liberalization, gender equality and the strengthening of the family was made from the very beginning of the reform process. The overall interest of protecting the family can be seen as an important condition for the reform to be accepted. Political actors with very different agendas could agree and accept the reform from their respective perspectives. The liberalization of divorce could by conservatives be seen as a means to restore marriage, since they assumed that it would increase the marriage rate and reduce the illegitimate relations. The same kind of arguments could be used for accepting the elimination of men's formal power within the family. For more left-wing commentators, it could apply to liberals or social democrats, the emphasis was more on the individual's and the woman's autonomy and right.

The arguments for extended individual freedom and gender equality thus appeared side by side with arguments in defense of the family, and ultimately social stability. The arguments, however, could be connected in various ways. Concepts such as freedom, equality and family were given different meanings by different political actors, and they also changed over time. Different views were put against each other, for example, when discussing why family bonds were loosening. Was it because of increased immorality, social or economic difficulties or had it perhaps its ground in what was called the "degeneration" of the human race? Eugenics gradually became an important motif behind some parts of the reform, which addressed the relationship between individual freedom and state control. This was a complex relationship, where the aims sometimes coincided and sometimes not. When the state for example regulated the economic relationship between the spouses, it was in the name of strengthening both women's individual rights and the cohesion within the family.

The combination of liberalization, equality, and state intervention that characterized this reform has also been highlighted in recent studies of other Nordic welfare reforms. To explain this peculiar model, researchers have, among other things, emphasized the Nordic political culture's imprint of consensus, the benevolent attitude toward government intervention, a peculiar ideological blend of individualism and collectivism and that Nordic women by tradition have had relatively independent position.<sup>92</sup> This article has not aimed to discuss the more general explanations, but it is clear that the pursuit of consensus, the ambition to meet both individual and societal interests, and the inclusion of women in legislative work characterized the process.

Equality was put at the forefront of the debate, which is of interest per se, not at least in a comparative perspective. But the debate also shows that equality was given different meanings in different situations and in different parts of the law. Equality was sometimes understood as sameness but mostly as based on gender difference. The aim to abolish male formal power within the family, which had been central for the women's movement from the start, was

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<sup>92</sup> For current research on the Nordic welfare state in a historical and comparative perspective, see Kettunen & Petersen 2010.

reached. But to give married women a more independent economic position was a more difficult problem to solve, especially for married women who had no income or property of their own. How could equality be reached in a society characterized by gender difference? Even if there was some male resistance against changing the old order, the most crucial problem was the fact that women's situation looked very different in relation to class, civil status and in relation to the labor market. This is clearly reflected in the many debates that took place within the women's movement. It was simply difficult to present a proposal fitting all women. The married woman without financial resources of her own would not become more independent through a system that was based on individual ownership. That the work in the household would be valued as maintenance on par with paid employment was therefore a central point in the proposals from the women's organizations, as was the mutual maintenance obligation. The equality principle behind these requirements was based on a broader definition of work, which in fact was at odds with the economic system based on waged work which gradually was replacing the agrarian-based household economy. This definition of equality was adapted to the specific historical situation where housework still was heavy, where public childcare were marginal and the proportion of married working women low. It was the women's organizations that put forth this change of definition, based on a more traditional view of work, by proposing rules aiming to give the housewife a more economically independent position. It seems reasonable to argue that it was because of the pressure from these organizations that the rules was adopted.

The new marriage law abolished the husband's formal power within the family and imposed equality between the spouses, an equality based, however, on gender difference to a great extent. The family that the reform constructed cannot be defined in a simple way as a male breadwinner family, as we have argued in the earlier mentioned research project on the Nordic marriage reform, but rather as a modified form of a dual breadwinner family, referring to the mutual maintenance obligation and to the redefinition of housework.<sup>93</sup> Without denying the deeply gendered structures within the Nordic countries at that point in time, the reform was a break – if not a complete break – with an old patriarchal order. Married women got their majority and became citizens in their own right; the family economy was individualized at the same time as married women got a more secure economic position within the household.

Within Nordic research two antagonistic positions can be recognized concerning the relationship between state intervention and gender equality: one where the Nordic welfare state is presented as women-friendly and another that examines how the state controls women. The analysis of the early marriage reform questions such a simple division and points to the fact that the state both protected the rights of the individuals and limited them in the name of the stability of the family and of society as a whole.<sup>94</sup> The reform can actually be seen as an early example of “state feminism” where gender equality was presented as a positive and necessary value for modern society.

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<sup>93</sup> For a more general discussion on this and on similarities as well as differences between the Nordic countries see Melby et al 2010.

<sup>94</sup> For a similar view see Berggren & Trädgårdh 2006, Lundberg & Tydén 2007.

## Referencer

- Berggren, Henrik & Trägårdh, Lars (2006). *Är svensken människa?: gemenskap och oberoende i det moderna Sverige*. Stockholm: Norstedt.
- Bergman, Helena (2003), *Att fostra till föräldraskap: barnavårdsmän, genuspolitik och välfärdsstat 1900-1950*, Diss. Stockholm.
- Bergman, Helena & Hobson, Barbara (2002), Compulsory fatherhood: the coding of fatherhood in the Swedish welfare state, in Hobson, B. (red.), *Making men into fathers: men, masculinities and the social politics of fatherhood*, Cambridge Univ. Press, Cambridge.
- Bergman, Helena (2001). 'En feministisk konspiration': Kvinnors politiska aktivism för barnavårdsmannainstitutionens införande i 1910-talets Sverige, in Florin C. & Kvarnström L. (eds). *Kvinnor på gränsen till medborgarskap. Genus, politik och offentlighet 1800-1950*. Stockholm.
- Blom, Ida (1994). Voluntary Motherhood 1900-1930: theories and politics of a Norwegian feminist in an international perspective, in Bock, G. & Thane, P. (eds) *Maternity & Gender Politics. Women and the Rise of the European Welfare States 1880s-1950s*. London/New York .
- Blom, Ida (2000). From Appendix to Independent Individual. Marriage and Citizenship in Scandinavia 1880s-1950, in Melby, K., Pylkkänen, A., Rosenbeck, B., Wetterberg, C. C. (eds) *The Nordic Model of Marriage and the Welfare State*. Nord 2000:27, Copenhagen.
- Blom, Ida. & Tranberg, Anna (1985) (eds.), *Nordisk lovoversigt. Viktige lover for kvinner ca. 1810-1980*. Oslo.
- Boëthius, Ulf (1968), *Strindberg och kvinnofrågan till och med Giftas I*. Stockholm.
- Bokholm, Sif (2002), I vimlet: mötesplatser för kvinnosak och kultur kring sekelskiftet 1900, i Österberg, E. & Wetterberg C. C. (eds), *Rummet vidgas: kvinnor på väg ut i offentligheten 1880-1940*, Stockholm.
- Bradley, David (1996), *Family law and political culture.*, Sweet & Maxwell, London.
- Bradley, David (2000), Family Law and Welfare States, in Melby, K. Pylkkänen, A. Rosenbeck B. & Wetterberg, C. C. (eds.) *The Nordic model of Marriage and the Welfare State*. Nord 27, Copenhagen.
- Bradley, David (2001), Evaluations of the projects "The Nordic Marriage Model in a Comparative Perspective" and "Women's Right to Work, Social and Private Security in the Nordic Countries and the European Union", in Ståhlberg, K. (ed.), *The Nordic Countries and Europe III. Evaluations*, Copenhagen: Nordic Council of Ministers.
- Broberg, Gunnar and Roll-Hansen, Nils. (1996) (eds), *Eugenics and the Welfare State. Sterilization Policy in Denmark, Sweden, Norway and Finland*. East Lansing, Michigan.
- Carlsson (Wetterberg), Christina (1986), *Kvinnosyn och kvinnopolitik. En studie av svensk socialdemokrati 1880-1910*. Lund 1986.
- Cedeschiöld, Maria (1903), Den svenska kvinnans rättsliga ställning i familjen och samhället. På uppdrag av Fredrika-Bremer-Förbundets komité för lagfrågor. *Dagny* No 3.
- Christiansen, Nils Finn and Petersen, Klaus (2001)The Nordic Welfare States: A Historical Reappraisal, in Petersen,K. and Christiansen, N. F. (eds.) *The Nordic Welfare States 1900-2000. Scandinavian Journal of History*, Vol.26, No.3.
- Dagens Nyheter 17 / 4 1920 [Daily Newspaper].

*Dagny: tidning för svenska kvinnorörelsen*, Fredrika-Bremer-förbundet, [The journal of the Fredrika-Bremer-association, 1886-1913], Stockholm.

Dalström, Kata (1911), "Litet om rashygien", *Morgonbris* No 11.

Florin, Christina (2006), *Kvinnor får röst: kön, känslor och politisk kultur i kvinnornas rösträttsrörelse*, Atlas, Stockholm.

Freiburg, Jeanne (1993) Counting Bodies. The Politics of Reproduction in the Swedish Welfare State, *Scandinavian Studies*, Spring, Vol 65 Nr 2.

Hageman, Gro (2002), Feminism, citizenship and social order: Gender politics in the 20th century Scandinavia. *Women's History Review* vol. 11 2002

Hartman, Mary S. (2004), *The Household and the Making of History. A Subversive view of the Western Past*, Cambridge 2004

*Hertha: tidskrift för den svenska kvinnorörelsen*, Stockholm: Fredrika-Bremer-förbundet, [The journal of the Fredrika-Bremer-association, 1914- ], Stockholm.

Janson, Jan (1964), *Debatten om civiläktenskapets införande i Sverige*, Natur och kultur. Stockholm.

Kettunen Pauli & Petersen Klaus (2010) (eds.), *Beyond Welfare State Models: Transnational Historical Perspectives on Social Policy*. Edward Elgar, London.

Key, Ellen (1914), Några randanteckningar vid lagberedningens förslag till äktenskaps ingående och upplösning, *Social tidskrift*, No 5 1914.

Kulawik, Teresa (1999). Maskulinism och välfärdsstatens framväxt i Sverige och Tyskland. *Kvinnovetenskaplig tidskrift*, No 3 1999.

Lundberg Urban & Tydén Mattias (2007), Stat och individ i svensk välfärdspolitisk historieskrivning, *Arbejderhistorie*, No 2 2007.

*Lagberedningens förslag till revision av giftermålsbalkens och vissa delar av ärvdabalken I. Förslag till lag om äktenskaps ingående och upplösning m.m.* (1913), Stockholm.

Levin, Hjärdis (1994). *Masken uti rosen. Nymalthusianism och födeselkontroll i Sverige 1880-1919: propaganda och motstånd*. Stockholm/Stehag.

Ohlander, Ann-Sofie (1977). Att vänta barn när man gifter sig: föräktenskapliga förbindelser och giftermålsmönster i 1800-talets Sverige. *Historisk tidskrift (Stockholm)*, No 97 1977.

Manns, Ulla (1997). *Den sanna frigörelsen. Fredrika-Bremer-Förbundet 1884-1921*. Stockholm.

Matović, Margareta R. (1984), *Stockholmsäktenskap: familjebildning och partnerval i Stockholm 1850-1890*, Stockholm.

Melby, Kari, Pylkkänen, Anu, Rosenbeck, Bente & Wetterberg, Christina Carlsson (2006), *Inte ett ord om kärlek. Äktenskap och politik i Norden, ca 1850-1930*, Centrum för Danmarksstudier 11, Makadam förlag.

Melby, Kari, Pylkkänen Anu, Rosenbeck, Bente & Wetterberg, Christina Carlsson (2006), "The Nordic Model of Marriage", *Women's History Review*, Vol 15, Number 4, September.

Melby, Kari, Ravn, Anna-Birte, Rosenbeck, Bente & Wetterberg, Christina Carlsson (2010), What is Nordic in the Nordic Gender Model?, in Kettunen P. & Petersen K. (eds.): *Beyond Welfare State Models: Transnational Historical Perspectives on Social Policy*. Edward Elgar, London.

Melby, Kari, Pylkkänen, Anu, Rosenbeck, Bente & Wetterberg, Christina Carlsson (2000) (eds.). *The Nordic Model of Marriage and the Welfare State*. Nord 2000:27, Copenhagen.

Melby, Kari, Ravn, Anna-Birte & Wetterberg, Christina Carlsson (2008) (eds.) *Gender Equality and Welfare Politics in Scandinavia. The limits of political ambition?*, Policy Press.

Melby, Kari & Rosenbeck, Bente (2009), Reproduksjon som fortolkningsramme for de nordiske velferdsstater: Foucault møder Giddens, *Tidsskrift for kjønnsforskning* 2009, No 1-2.

Melby, Kari, Rosenbeck, Bente & Wetterberg, Christina Carlsson (2001). Ekteskabslovreform. En foutsætning for velferdsstaten, Rømer Christensen, H., Lundberg, U. & Petersen, K. (eds), *Frihed, lighed og velferd. Rapporter til Det 24. Nordiske Historikermøde 2*. Århus.

*Morgonbris: arbeterskornas tidning*, [The journal of the Social Democratic women's movement, 1904-1992]

Persson, Lennart (1971), *Samvetsäktenskap eller civiläktenskap. Samvetsäktenskapet vid Göteborgshögskola år 1904 och dess betydelse för civiläktenskapets införande i Sverige*, Göteborg.

Petersen, Klaus (2006), 'Constructing Nordic Welfare? Nordic Social Political Cooperation 1919-1955', in Christiansen N. F. et al (eds), *The Nordic Model of Welfare: A Historical Reappraisal*, Copenhagen: Museum Tusulanum Press.

Petersens, Lovisa af (2006), *Formering för offentlighet: kvinnokonferenser och Svenska kvinnornas nationalförbund kring sekelskiftet*. Stockholm.

Riksarkivet, Stockholm, Fredrika-Bremer-förbundets arkiv [The National Archive, the archive of the Fredrika-Bremer-association).

Riksdagstrycket (Parliamentary publications, Sweden) 1915 and 1920: Första kammarens (FK) och Andra kammarens (AK) protokoll .

Riksdagstrycket (Parliamentary publications, Sweden) 1915: Skrivelse till lagutskottet 13/4 1915.

Rosenbeck, Bente (2010), Ægteskab og familie: fremtidlige perspektiver, in Rosenbeck B. & Sanders H. (eds) 400 års historia om familje och reproduktion, Makadam förlag.

Rönnbäck, Josefin (2000), Rösträttsrörelsens kvinnor – i konflikt och samförstånd. *Kvinnovetenskaplig tidskrift* No 4 2000.

*Rösträtt för kvinnor: tidning* . (1912-1919), utgiven av Landsföreningen för kvinnans politiska rösträtt. [The journal for the National Association for Women's Suffrage, 1912-1919], Stockholm.

Sainsbury, Diane (2001). *Gender and the making of the Welfare State: Norway and Sweden, Social Politics*. Oxford

Smith, L (1980). *Foreldremyndighet og barnerett*. Oslo.

Staël von Holstein, Mathilda (1918), Lagberedningens förslag till giftermålsbalk II. *Hertha* No 18 1918.

Stéenhoff, Frida (1910), *Humanitet och barnalstring*, Stockholm.

*Sveriges rikets lag. Gillad och antagen på riksdagen år 1734* [Swedish Law of 1734], Faximilutgåva, Gidlunds Stockholm 1981.

Therborn, Göran (1993), The Politics of Childhood: The Right of Children in Modern Times, in Therborn, G. & Castles, F. G. (red.), *Families of nations: pattern of public policy in Western democracies*, Dartmouth, Aldershot.

*Uppsala Medicinska Fakultets yttrande till Kungl. Medicinalstyrelsen med anledning av förestående revision af äktenskapslagstiftningen*, (1911), Uppsala.

Wahlström, Lydia (1909), *Statsintresset och kvinnornas rösträtt*, Stockholm 1909.

Wetterberg, Christina Carlsson(2010), *'Bara ett öfverskott af lif'. En biografi om Frida Stéenhoff (1865-1945)*, Bokförlaget Atlantis AB, Stockholm.

Wetterberg, Christina Carlsson (1998), Equal or Different? That's not the question. Women's Political strategies in historical perspective, in van der Fehr D., Rosenbeck B. & Jonasdottir, A. G. (eds) *Is There a Nordic Feminism?: Nordic feminist thought on culture and society*, London.

Wetterberg, Christina Carlsson (2003). Äktenskapet, äran och den individuella friheten: debatten om de ofullkomnade äktenskapen vid 1915 års riksdag, Fredriksson, G. (ed.), *Könsmaktens förvandlingar : en vänbok till Anita Göransson*, Göteborg.

Wetterberg, Christina Carlsson (2000), Kvinnans rätt och nationens väl. Debatten kring 1920 års giftermålsbalk. in Andersson, L. M., Jansdotter, A., Persson B. E. B. & Tornbjör C. (eds), *Rätten. En festskrift till Bengt Ankarloo*. Lund.

Wetterberg, Christina Carlsson & Melby, Kari (2008), The Claim of Economic Citizenship: the Concept of Equality in a Historical Context, in Melby K., Ravn A.-B. & Wetterberg, C. C. (eds), *Gender Equality and Welfare Politics in Scandinavia. The limits of political ambition?*, Policy Press.