

**The State, Public Policy and Gender:  
Ireland in Transition, 1957-1977**

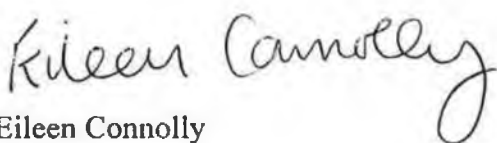
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**Dissertation submitted for the degree of PhD  
under the supervision of Professor Eunan O'Halpin  
at Dublin City University Business School**

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I hereby certify that this material, which I submit for assessment on the programme of study leading to the award of PhD, is entirely my own work and has not been taken from the work of others, save as and to the extent that, such work has been cited and acknowledged within the text of my work.

Signed

A handwritten signature in cursive script that reads "Eileen Connolly". The signature is written in black ink and is positioned to the right of the printed name.

Eileen Connolly

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## ABSTRACT

### **The State, Public Policy and Gender: Ireland in Transition, 1957-1977.**

Ireland experienced a period of major political and social change between 1957 and 1977 which included the redefinition of the role and status of women and the creation of a new public policy paradigm. By 1977 the main features of this public policy paradigm were in place in the form of an 'equality contract'. The 'equality contract' granted formal legal equality to married women in family law and procedural equality to all women in relation to employment. This replaced the hierarchically based system of family law and gender based discrimination that had dominated Irish public life in the 1950s.

This thesis examines these changes in the Irish state's gender regime, describing them as a product of a strong internal dynamic for change which interacted with external influences. Ireland, although it had a comparatively low level of economic development and industrialisation, experienced the impulse for change on gender issues at the same time as this was experienced in other democratic European states. In this context the Irish legislative state and its public policy output is described as being underpinned by views on gender, which are not static, but are renegotiated over time and form part of its political culture.

## ABBREVIATIONS

AIM	Action, Initiative, Motivation [lobby group for family law reform]
CSW	Commission on the Status of Women
EEC	European Economic Community
ESB	Electricity Supply Board
FUE	Federated Union of Employers
ICTU	Irish Congress of Trade Unions
ILO	International Labour Organisation
INTO	Irish National Teacher's Organisation
ITGWU	Irish Transport and General Workers Union
IWLM	Irish Women's Liberation Movement
IWWU	Irish Women Workers Union
NWCI	National Women's Council of Ireland (previously known as the Council for the Status of Women)
OECD	Organisation for Economic Co-operation and Development
RCC	Rape Crisis Centres
RTE	Radio Telefis Eireann (Irish public sector broadcaster)
TD	<i>Teachta Dala</i> (member of the Dail, the lower house of the Irish Parliament)
UN	United Nations
WAC	Women's Advisory Committee [of the ICTU]
WPA	Women's Political Association
WRC	Women's Representative Committee

## INTRODUCTION

In a twenty year period between 1957 and 1977 the Irish state went through a period of such significant change that it has with justification been described as a watershed in Irish history (Tobin, 1984: 6). These changes affected every aspect of life in Ireland: the family, the labour market, the church and the political system. They also affected the form of the state: this was the period of major expansion of the state into new areas of decision making and service provision. In many ways the changes that occurred in this period still define Ireland at the end of the 1990s.

A solid body of evidence testifies to the changes experienced by women in family life (Curtin, 1986; Beale, 1986) in the labour market (Jackson and Barry, 1989; Daly, 1980) and in social attitudes (Fine Davis, 1983). In addition to these changes the state's public policy regime was considerably redefined to incorporate a greater degree of gender equality. In 1957 the legal position of married women was inferior to that of single women and all men; marriage was based on upholding the authority of men as the heads of families and women's access to the labour market was severely restricted. By 1977 the idea of an hierarchical marriage had been replaced by a broad, if incomplete, legal equality between spouses, and in the labour market legal support for direct discrimination gave way to employment equality legislation that ensured procedural equality between the sexes.

It is the evolution of the state's public policy paradigm, from one that was based on the dominance of the husband in the family and the exclusion of women from many aspects of public life, to a policy regime based on procedural and formal legal equality between the sexes that is the central concern of this thesis. In particular it examines

the role of the legislative state (the Oireachtas and the government departments) in the major policy changes in family law, employment law and social welfare provision that took place in the 1960s and the 1970s. It does this by describing attitudes to gender and gendered relationship as part of the political culture of the elite groups within the Irish state and tracing the way in which alterations in attitudes to gender in the state underpinned and defined policy changes. The source of the information for this attitudinal change is the written records of the state contained in the Oireachtas debates, government publications and archival material. Published material from the social partners, women's lobby groups and the political parties has also been incorporated to contextualise the value changes exhibited amongst the state elites and to explore the sources of influence on policy.

The thesis focuses on the dynamic of change in government and political party elites. It does not investigate the role of the civil service elite in influencing policy. This is chiefly because of the nature of the primary sources used. The Dáil debates provide a verbatim, contemporary account of debate between the members of the political elites; like other primary sources, including published government and political party material they are premised on the idea of the civil service as having a purely administrative input into the development of policy. A different type of investigation is required to penetrate the formal fiction of ministerial responsibility and assess the role of the civil servants vis-à-vis the politicians. It is ultimately the politicians who take the policy decisions, who promote them publicly and interact with the interest groups in civil society. It is for these reasons that policy debates within the state are described mainly in party political terms.

The focus on the process of change within the state is one aspect of the thesis that distinguishes it from other writing on women and the state. It also results in the thesis questioning some of the assumptions that have informed this body of literature.



Other studies in this area have taken the perspective of women's interest groups in their interaction with the state (Galligan, 1998) or have looked at the dynamic for change in civil society in a way that has seen the role of the state as marginal (Beale, 1986). Both approaches are united in describing the dynamic for change as something external to the state. While not denying a major role in the creation of social change for women's organisations and of developments in civil society, the focus of this thesis is on the way in which such changes are experienced in the state. In taking this approach the autonomy of the state and its ability to play an active role in the shaping of constructions of gender and gender based relationships in wider society is being recognised.

In the literature dealing with the changes that saw women's rights issues being incorporated into public policy, a broad consensus has been established which described the public policy regime of the Irish state as more conservative and more patriarchal than other Western European states in its treatment of women (Pyle, 1990; Mahon, 1987; Gardiner 1993, 1996; Galligan 1998). In particular, more so than other states, the Irish state is seen to have been forced into change by external influences - the most important one being its membership of the European Community (Mahon, 1995; Gardiner, 1993; Galligan, 1993; Pyle, 1990). It is argued that while the impact of the EEC was felt especially in the areas of employment and social insurance, in other policy areas the state was forced to take action because women themselves organised politically to demand change. This reluctance on the part of the state to embrace change has been most frequently attributed to aspects of Ireland's political culture. The largest share of the blame has been given to the Catholic conservatism of the state (e.g. Galligan, 1993; Mahon, 1987), significance is also attached to the legacy of nationalism (Gardiner, 1993) and the dominance of localism and rural values (Randall and Smyth, 1987). Irish political culture is seen as successfully resisting the

changes, in family form and gender relations, that would have been the expected outcome of its industrial modernisation and economic growth.

This view of Ireland as an anomaly in Europe is not supported by a comparison of the changes that took place in Irish society and in public policy between 1957-1977 and the pattern of social and public policy change elsewhere in Europe. Significantly, surveying Oireachtas debates, government papers and official publications show that changes in attitudes to gender were also experienced at the level of the legislative state at the same time as such changes were influencing wider European society. What is most striking is that in spite of the fact that Ireland experienced economic growth later than other European countries, and its continuing lower level of economic development, it experienced many of the impulses for social change and especially for change in gender relationships at the same time as they were felt in the rest of Western Europe.

Ireland, in common with other European countries, from the end of the 1950s experienced a revaluation of women as wives and mothers accompanied by policy reforms that enhanced the legal status of women in the family. In Ireland three pieces of legislation - the Married Women's Status Act (1957), the Guardianship of Infants Act (1964) and the Succession Act (1965) - within seven years significantly altered the legal position of married women. These changes were contemporaneous with similar reforms of family law in other European states and in advance of reform in others (Kaplan, 1992). Throughout the Western world the improved social status of mothers was a key factor in the process of revaluing women's social role and status more generally and may have helped to create the space for women to become more assertive in their political demands.

Throughout Europe the pace of change accelerated from 1965 and division on issues of gender became more marked. In Ireland sharp divisions between different concepts of gender surfaced in the debate on the Succession Act, 1965, and between 1965 and 1972 women's rights issues were raised with increased frequency in the Dáil, culminating in a major legislative programme between 1973 and 1977 which fundamentally altered the gendered basis of the state's public policy paradigm. The divisions on gender within the state in this period had a significant intra-party as well as inter-party dimension, so that party politics provided one of the structural frameworks in which the new policy regime emerged. Across Europe from the mid-1960s women voiced strong demands for equal access to the labour market and for greater state support and protection for married women and for motherhood. This was also experienced in Ireland with a campaign for equal pay legislation gathering momentum after 1965, partly fuelled by male trade unionists' fears of competition from cheap female labour, and there were also a number of campaigns dealing with the welfare of women as widows, 'deserted wives' and 'unmarried mothers'. The strength of these campaigns were increasingly reflected in the Dáil debates and in negotiations between the government, social partners and lobby groups during the late 1960s and 1970s.

The campaign for employment equality was one that Ireland shared fully with other democratic states in Western Europe. This pressure in the early 1970s resulted in the EC directives on 'equal pay' (1974) and 'equal treatment' in employment (1976). Between 1973 and 1977 Ireland removed the marriage bar, introduced equal pay for work of equal value and outlawed discrimination in the areas of recruitment, training, conditions of employment and opportunities for promotion. To police this new legislation the Employment Equality Agency was established in 1977. Ireland participated in the European trend to increase the status of married women and reform family law in the 1960s and it also experienced the pressure to reform employment

law which resulted in the legislation of the 1970s. Also in common with the rest of Europe the rapid pace of social change in Ireland produced a number of new social movements, among them the new women's movement. This movement emerged in Ireland in 1970 concurrent with other similar movements.

Where Ireland lagged behind was in policy dealing with sexual morality. In the 1950s and early 1960s the Irish state's ban on divorce, contraception and abortion while on the conservative end of the spectrum was not out of place in the European context. However during the 1960s Europe experienced a process of secularisation, accompanied by moral liberalisation while in Ireland religious adherence remained high and the public views on moral issues continued to reflect those of the Catholic church. From the late 1960s, in Ireland, there were significant lobbies for contraception and divorce and by the 1970s contraception was quite widely used but it was not legalised until 1979 and then only in a limited form. At this stage the demand for access to abortion was not being made publicly and women's information networks on abortion were not part of public discourse.

The Irish state, in common with other European states, in its policy reforms was not just responding positively to a liberalising society and the growing demand for reform; it faced a deep social adjustment in gender relationships in which competing ideas of gender were being expressed in society and in the state. The state helped reshape and redefine gender relationships but it did so in response to a number of complex stimuli and not necessarily to the advantage of women. It is this process of renegotiation and redefinition of gender centring of the state that this thesis describes. The state's role in this process of renegotiation has implications for the way in which the state is viewed and for the role that is assigned to gender in the fundamental construction of the state. This thesis demonstrates how pivotal the state's definition of gender is to the essential form of the state. Gender issues are an example of the state's policy

process and in particular the state's response to changes in civil society and its developing interaction with a range of interest groups.

Chapter one discusses the way in which gender and the Irish state has been dealt with in the literature and provides a theoretical framework in which the gendered nature of the state can be explored. Gender is analysed as a political cultural value, in the context of the evolution of a public policy paradigm from one based on hierarchical family structures to one based on formal equality - Ireland's 'equality contract'. Chapters two through to six describe the evolution of this new policy paradigm in the Irish state and the changing values of state elites, especially political party elites, from the late 1950s to the late 1970s. These chapters, in addition to describing the renegotiation of the state's gender regime, also offer a reassessment of the programmatic differences between the three main political parties. Chapter seven places the changes in the Irish state's public policy regime in a European context, and argues that the extent to which Ireland diverges from the general pattern of European development has been seriously overstated in the literature.

## CHAPTER ONE

### GENDER AND THE STATE.

There has been a clear division between the way in which issues of women's rights and women's relationship to the state have been dealt with in the main body of political science writing, and the way in which these issues have been dealt with in the body of literature that has focused particularly on women. The dominant reason for this difference in focus is that these two sets of writing have defined different issues as being central or important. Political science has tended to view issues around women's rights, or political representation issues, as a separate sub division of politics and it has not seen gender as central to the construction of the state or its public policy decisions in areas other than those that impact directly on women. Neither has feminist writing accorded the state a central role in the development of women's status and their place in society but has instead focused on civil society. Political science tends to assume formal gender equality and full citizenship for women (Frazer and Lacy, 1993: 37) and an equality of opportunity of access to political decision making. In this schema gender divisions are a constant that do not directly relate to the power and structural issues that have been the main focus of political science. Feminist writing on the other hand has been focused on 'the specific demands that could express women's interests or the separate feminine values that could become the model for democratic politics'(Mouffe, 1993: 79) and it has seen women's actions in civil society as the major dynamic that has produced change in gender relationships.

This chapter will discuss the various theoretical frameworks that have been brought to bear on the relationship of women to the state and will suggest a framework that will be able, to both link and to draw from both sets of writing. It will also critically

examine the way in which modernisation has been widely used in elements of both sets of literature to explain the development of the Irish state. The concepts of political culture and gender are central to the development of this theoretical framework.

Gender is used as an alternative to the problematic analytical category 'women'. The category of women 'has no simple or unitary content' (Frazer and Lacy, 1993: 11). This presents problems for some forms of analysis where the primary goal is to distinguish different meanings assigned to being a 'woman' or the diversity of views held by different groups of women. Gender is more flexible because rather than defining the individual or group it defines their relationship to society or to particular social structures (Marshall, 1994: 114). Because gender is the social construction of biological sex it is socially and historically specific, it varies both over time and between countries, and even within individual societies it is subject to a number of possible interpretations. It facilitates an examination of the relationship between the sexes and the role of the state in constructing 'feminine and masculine lives' (Jenson, 1986: 9).

Political culture is widely used on a common sense level to define the cultural distinctiveness of a political system, the way in which social values and structures shape political interaction. It is not an explanatory theoretical model but it does provide a structured way of discussing the ideas that motivate the actions of state elites and helps contextualise inter-state differences in their historic experiences. Political activity is a product of a complex interplay of more fundamental societal factors; socio-economic development; cultural evolution; and political experience (Coakley 1993: 26-7). Although political culture has been described as an 'elusive concept' (Coakley, 1993: 47) it does reflect tangible and easily discernible factors in the political attitudes, political process and policy outcomes of individual states. For

this reason, in spite of the problems associated with measuring or defining the constituent aspects of political culture, it is a useful framework in which to analyse the development of the state.

This chapter will argue that some of the definitional difficulties of using political culture can be overcome by defining the attitudes to gender held by state elites, and other elites that influence policy, as political cultural values. These sets of values form an important part of the state's political culture and provide a framework in which to discuss the dynamic role of the state in the construction of gender through its public policy output. It will initially examine the way in which the use of theoretical models - modernisation, political culture and feminist theory of the state - has shaped the literature on the Irish state and the relationship of women to the state.

### **Modernisation.**

The ideas contained in modernisation theory have been extremely influential in both describing the development of the Irish state and in explaining its perceived differences from the European norm. Lee (1989) and Girvin (1993) from different perspectives, look at Ireland's failure to modernise along the path of other European countries. Pyle (1990), Mahon (1987), Jackson (1993), Gardiner (1993, 1996) and Galligan (1998) have examined how the actions of the state or aspects of political culture acted as a barrier to women benefiting from modernisation. Modernisation theories grew out of development studies in the 1960s with the aim of identifying how society evolves in response to industrialisation and economic growth (e.g. Huntington, 1968). In classic modernisation theory 'the economic elements of the modernisation process are linked to the emergence of the much wider range of social changes such as nuclear families, the work ethic, secularisation, pluralism and representative democracy' (O'Dowd, 1995: 169). Modernisation is the phased process through which a society



arrives at a state of modernity and one which involves changes in virtually all aspects of social behaviour. During this process the 'traditional values and structures must be totally replaced by a set of modern values' (So, 1990: 35). Once the process of modernisation starts it is assumed to be both irreversible and progressive, although the rate of change may vary the direction of change will not (So, 1990: 34).

Although modernisation theory has been modified over the years as a tool of development studies it is the classic version of the model that has tended to influence Irish political writing. Classic modernisation theory is attractive because it appears to encapsulate the post-war European experience. It is, however, seriously flawed because it rests on the assumption that economic development is automatically accompanied by progressive and liberal development in other areas. Industrialisation is seen to bring with it a bundle of other social changes including urbanisation; changing family structures; an increase in individualism; secularisation and sexual liberalisation. For women in particular, this means a change in family roles and an increased involvement in paid employment. It is because the assumptions of this sequence of events is so strong in the literature that Pyle (1990) can describe the relatively low levels of married women's involvement in the labour market as definite evidence that the Irish state deliberately discriminated against women to prevent the increase in their labour force participation that was the expected outcome of Ireland's modernisation process.

Irish writing from the 1960 and 1970s on Ireland's economic development stresses the significance of the change that the country was experiencing. There is an awareness that Ireland was participating in a process of change that was occurring throughout the developed world (McCarthy, 1980: 35). Writing strongly in a modernising mould Lee describes the improvement in the status of women, in legal

competency and access to employment and education, that occurred in the 1960s as a result of industrialisation, urbanisation and rising standards of living (1979: 174).

Later writing has, however, reassessed the nature and the depth of the change experienced by Ireland and has also reconsidered its political implications. It has placed the focus on the exceptional position of Ireland in the European context. Lee (1989) puts forward the thesis that Ireland's modernisation drive was inhibited by the 'possessor ethic' in Irish society. The 'possessor ethic' rewarded the owners of capital and resources irrespective of the use they made of them, and did not reward or recognise enterprise and innovation. Lee questions the revolutionary nature of the changes of the late 1960s and 1970s, believing that the revolutionaries were from the earlier period, because he only recognises the economic and not the social revolution. Girvin to some extent shares this belief, arguing that up to the 1970s in spite of industrialisation these 'background conditions did not lead to radical change, or even to substantial change at first' (1993: 384). Girvin and Lee both accept the key tenets of modernisation theory and seek to explain Ireland's apparent divergence from expected paths of development. Lee attempts to explain Ireland's failure to achieve growth rates similar to those prevailing in post-war Europe. For Girvin it is the perceived time-lag between industrialisation in Ireland, and social and political change, which contradicts the expected path of modernisation and for which a reason must be found.

The literature that deals directly with women and the state, like the general literature, is influenced by the tenets of modernisation. This body of literature has disputed the unproblematic inclusion of women in the modernisation process and a consensus has developed on the role of the state in changing gender relations, and also on the gendered nature of the state itself. This consensus is based on assumptions about the nature of the change that occurred in Irish society from the late 1960s and about the

role of the state in managing gender relations during this crucial period. These assumptions draw a picture of a state and society imbued with a political culture founded on a conservative Catholic nationalism still dominated by the values of a rural society and espousing a rigid hierarchical family structure and a high degree of gender difference. Unlike Lee and Girvin's focus on modernising elites within the state, the writing on women and the state assumes that the state acted as a conservative barrier to change and that, on gender issues at least, the modernising pressures and the modernising elite arose primarily in civil society. There is also a strong idea that from the time of EEC membership in 1973 this modernising strand in Irish society was strengthened by a closer association with more 'liberal' European states.

While the economic development of the 1960s has been described as facilitating women undertaking different social and economic roles it is argued that what prevented these changes simply being accommodated in the existing pattern of gender relations was the fact that women organised politically (specifically in the form of the modern women's movement and its associated single issue groups) to demand change (Galligan 1998). It is argued by a number of authors that the strong influence of a conservative Catholicism and nationalism meant that both the Irish state and civil society have resisted the progressive tendencies of modernisation (Gardiner, 1993: 75; 1996: 48; Mahon 1987: 53; Galligan 1993: 219). Beale (1986: 10), commenting on the position of women at the end of the 1960s, states that

Economic growth made some changes for women inevitable. ... But positive changes in women's position in society did not come easily. Women had to fight for them. Although the economic situation was now very different, the ideology of the family and the dominant view of woman's rightful place had changed very little. On almost every issue, whether it was equality at work or

reproductive rights, women found themselves in opposition to the whole weight of traditional values.

Mahon (1987: 53) is even more forceful, claiming that 'Ireland has resisted modernising influences and became, as it were, the last bastion of the traditional "protection" or enslavement of women' in the EC. For Mahon 'there can be no doubt that the continuing hold of the Catholic Church is the starting point for any analysis of the peculiar position of Irish women'.

Mahon describes the EC as a 'modernising influence' which along with 'feminist based organisations' and single issue campaigns 'helped to generate a more progressive role for women', but compared to the experience elsewhere in Europe 'Irish women's liberation was comparatively delayed' (Mahon, 1995a: 685, 704). In Ireland, more so than in other countries, it is suggested, change was forced on an unwilling state by its commitments to EC membership (Gardiner, 1993: 75; Galligan, 1993: 219; Pyle, 1990: 69). This view draws from a body of work which describes the EEC as a modernising influence and which sees social change in Ireland lagging behind change in the other member states. This view is stated most forcefully by Jackson (1993: 79) who claims that 'change in Irish society for women would come from outside the society and would be unwillingly imposed on reluctant legislators'. Change has been seen as originating primarily in civil society and the role of the state has either been ignored or defined as a reluctant response to external pressure. In this context the most significant change in Irish society is described as taking place in the 1970s rather than the 1960s. Beale (1986: 139) describes the equality legislation of the 1970s as a 'useful advance' which was achieved by women because of the coincidence of economic expansion and a shift in attitudes within Irish society, but significantly not as a result of government actions or a shift in attitudes amongst the state elites. The Irish Government only features in her analysis as trying to renege on

their commitment to equality in the public service in 1975 and being forced to back down from this position by an active campaign by women (Beale, 1986: 146). For Beale, not only is the site of change civil society, but changes in this area are not described as impacting on the state or government other than in the form of an external challenge which in the case of employment equality legislation had the support of EEC directives.

Situating women's rights in the context of modernisation has facilitated the placing of Ireland outside the type of analysis that is applied to other states. Pyle (1990: xvi), viewing Ireland as Said's (1978) oriental 'other' rather than a sophisticated 'us', claims that Ireland presents a unique case because the role of government in enforcing discrimination is 'so distinct that it is easy to see' and 'also simple to understand' and that it helps an understanding of discrimination against women elsewhere in ways 'that may be much less obvious'. Pyle is not alone in this view: Lewis (1993) also sees Ireland as an anomaly. Discussing the dramatic changes that took place in the position of European women in the 1960s and 1970s, she says that for 'countries other than Ireland the similarities and differences in behaviour are far from easy to explain' (1993: 10). In her opinion Ireland's exceptional status is easy to explain because it is reducible to one aspect of Irish political culture, 'the continuing strength of Irish Catholicism and its political influence', unlike the complex mix of social structure and historic experience that determine the differences between other states (1993: 9).

The way in which modernisation has been used in writing on the development of the Irish state, assumes that industrialisation, urbanisation and economic growth should also set in train social change following a perceived pattern, which in particular included the greater involvement of married women in paid employment, a greater focus on individualism and growing liberalism in sexual morality. There is also a

strong element in this writing which sees the level of industrialisation or economic development as a major indicator of the timing of social change (Pyle, 1990: 14). In the cases where Irish social change has not reached the levels expected the explanation has been sought in the particular nature of the Irish state and Irish society that have enabled it to successfully resist the expected outcome of modernisation. This has led to an examination of those aspects of Irish political culture that have set it apart from the European norm

### **Political Culture.**

In this vein the literature on the relationship of women to the Irish state has described particular aspects of Irish political culture as influencing the way in which the state has dealt with women. It has also been used to explain Ireland's failure to secularise and its adherence to conservative policies on issues of sexual morality. Randall and Smyth (1987: 190) cite the pervasive influence of the Roman Catholic Church whose 'moral and cultural hegemony has faced little serious challenge until quite recently' to account for the low percentage of Irish women involved in public life. The Church's influence is described as being maintained through the family and education system. This resulted in a 'particularly intense, if complex, process of socialisation', which resulted in women accepting 'an extremely traditional division of labour between the sexes' (1987: 200).

Gardiner (1993 : 48-51) argues that the status of women in the Irish state, up to the present day, has been influenced by the circumstances in which the state was founded. A hegemonic conservative Catholic nationalism dominated the new state, and its political engagement with feminism and socialism weakened both these political tendencies. This view is developed in a more complex form in Girvin's (1989: 39)

argument that moral liberalism was resisted because it would impair the dominant sense of Irishness. Gardiner sees the weakness of the Labour party as particularly detrimental to women's rights in Ireland because it constituted the loss of a 'significant constituency of support' for feminism (1993: 49). This view is supported by Galligan (1998: 64) who also describes the Irish state as patriarchal and sees its 'conservative political culture' as limiting the expression of feminism in Ireland compared to the intensity of feminist protest in other European countries. In particular, she describes the culture of corporatism which she believes resisted the implementation of employment equality as 'dominated by traditional and patriarchal values' (1998: 84). Used in this way political culture is essentially a static concept - changing only slowly in the long term. Garvin (1982: 177) points to this tendency in writing on Irish politics which treats political culture as an independent variable 'which causes but is not itself caused, which persists despite anyone's wish, is "natural", and is independent of conscious human agency'. For political culture to provide an adequate framework to analyse the way in which the gendered nature of the state changes over time it must also be capable of reflecting change in the short term.

Girvin presents the most thorough discussion of political culture and the development of the Irish state. He describes the homogeneity of Irish society increasing, in spite of industrialisation, and argues that Ireland remained 'pre-modern in its values, giving priority to religion, nationalism and the land over more material objectives' and that this situation only began to change during the 1970s (Girvin: 1993: 382). Girvin (1989) discusses Ireland in the context of the major changes in the liberal western democracies from 1945. He notes that in times of change 'there is always a tension between the pressure of change and the resistance induced by traditional elements of continuity' (Girvin, 1989: 31). The change Girvin is describing is that created by economic development; the 'rapid transition from an agrarian society to a modernising

industrial society' (1989: 37). As a consequence there was a challenge to traditional values from a newly developed stratum of the middle class which gave expression to ideas of individualism and secularism.

Girvin defines Irish political culture in terms of three separate sets of values operating on three distinct levels - macro, meso and micro - which are comparable to the division of political culture into system, process and policy by Almond, Powell and Mund (1993). Political culture at the macro level changes only in an historic time frame as it consists of the views of individuals in regard to the nation state and constitutional norms. The meso level, which is the least well defined, concerns the 'rules of the game', the broad framework in which politics is conducted. Its importance lies in that it is an interface between the macro and the micro levels. The micro level is where 'normal political activity takes place; and where change is most immediately detected' (Girvin, 1989: 34-36). It is at this level that the tension between liberal and traditional is contained. He believes that 'one reason for the rejection of liberalism is the widespread belief that the changes promoted would impair the integrity of the macro political culture itself', and that it would weaken an 'essential sense of Irishness still associated with nationalism and religion' (1989: 39). That is, the state limited the impact of modernising influences in key areas to maintain a distinct sense of Irishness founded on an essentially Catholic nationalism. So the tensions that modernisation brings are confined and controlled at the level of debates over the content of political programmes.

Political culture in Girvin's writing has a dynamic element, being explicitly based on the theoretical writings on political culture of Almond and Verba (1963) and Verba (1965). The basic definition of political culture offered by Verba (1965), contained in work designed to counter criticisms of *The Civic Society* (1963), describes political culture as 'the system of empirical beliefs, expressive symbols, and values which



define the situation in which political action takes place' (Verba, 1965: 513). Verba acknowledged that this definition was vague and wide ranging, but asserted that its usefulness lies in its potential ability to isolate an aspect of political culture that explains a particular political phenomena and provide the link between politics at the micro and the macro level (Verba, 1965: 515-516).

The focus in Verba's writing is on political change, modernisation and political stability. He therefore concentrates on those aspects of political culture most relevant to political change. It is this focus on political change and stability, coupled with the increasing availability of measures of public opinion and attitudes, that dictated the way the political culture paradigm developed. Following Almond and Verba (1963), Verba (1965) and Inglehart (1977), a body of work has grown up whose major concern is with 'individual political orientation and attitudes towards the political system, institutions and behaviour patterns on one hand, and the individuals self placement in this framework on the other' (Detlef, 1989:145). It measures political stability and efficacy by assessing the match between existing political structures and the political orientation of civil society. It is concerned with process not ideological content. The research data used, value surveys and opinion polls, have been criticised because of the inherent flaws of simplicity, inaccuracy and generalisation that this approach implies. Welch (1987: 484) states that 'the survey method puts political culture on the same conceptual level as public opinion'. This tendency is also found in Irish political writing (for example Coakley, 1993; Gardiner, 1996).

The tendency for political culture to merge with measures of public opinion is a conceptual difficulty of 'political culture', as defined by Verba. Pateman (1973: 293) argued that it arose from basing political culture narrowly on individual psychology and from neglecting the impact of political structures themselves on political culture. Pateman argues that 'political structure' needs to be interpreted widely so it does not

just mean formal political structures, but also 'authority structures' in 'various social spheres'. It is only by assessing the impact of the power relationships within social structures including those of the family, economy and the state, on political culture that it can be understood. She cites the example of political participation to show that without this reciprocal relationship aspects of political culture can be assumed to be a constant, rather than a variable. For Almond and Verba (1963) the level of political participation was described as a constant factor, the level of which appeared resistant to change. Pateman (1973: 303), however, describes political participation as dependent on the individual's experience of a variety of social structures including those of the state. It is Pateman's insistence on 'authority structures' and power relationships as an integral part of political culture that is important when considering the state's role in the construction of gender relationships.

Verba (1965) uses a narrow definition of politics and this has the effect of distancing the population as a whole from the political structures of the state and by implication the state from changes in civil society. He discusses the 'important differences between the political culture of various elite groups and mass political culture' (1965: 526), important because of their implications for political stability. This distancing can be seen in the way that he links the impact of the individual's experience of and placement in social structures in civil society, to their attitude to questions of politics. Verba argues that

[S]ince an individual's involvement in society is likely to be only peripherally political - since he is likely to invest more concern and affect in his personal relations or economic relations than in his political ones - it is quite likely that he will structure his political attitudes in ways that derive from his structuring of attitudes towards these more salient areas of activity (1965: 523).

Although it was not Verba's explicit intention, this analysis indicates the way in which cultural values developed through social relationships which impact on political ideas, helping to form the values of the state's elites and also to shape public policy. The feminist idea that the state and civil society are structured by the values that are found in personal relationships shares some points of similarity with this writing on political culture. It is in this way that concept of political culture can form a bridge between feminist literature on gender and political science writing on the state.

In political culture there is a conceptual difficulty on the issue of how dominant a cultural value has to be before it can be considered to form part of the political culture of a society. For Girvin political culture 'contains certain values which are shared by all in a particular society' (1993: 381). If this statement is intended to extend beyond the macro level it conflicts with his acceptance of the existence of subculture (1993: 381) and his assertion that in Ireland the 'homogeneous society upon which political culture was originally based has largely dissolved' and that Irish society is becoming more complex and pluralist (1993: 397). This conflict can be resolved by reference to Girvin's earlier use of the ideas of macro and micro political culture, macro political culture being defined by its universality and slow pace of change, and the micro level by its possible diversity. For Verba, homogeneity versus diversity is also a point of difficulty as he identifies the need to assess the homogeneity of the political culture of a state but also recognises the importance of the extent to which values diverge or are held only by certain groups (1965: 525). Attitudes to gender can operate at the macro, meso and micro levels of a state's political culture. At the micro level gender values shape public policy and political attitudes, and at the meso level the way in which women are involved in state elites helps shape the form of the political system and also impacts on political debate and policy outcomes. In the longer term attitudes to gender and the incorporation of women into the political system at the micro and

meso level will impact on political culture at the macro level - the state's constitutional values, definitions of citizenship and nationality.

Understanding the development of the Irish state would not be possible without international comparison of both legislative change and the nature of political debate on gender issues. It is clear that aspects of political culture are seen as a key determinant in explaining inter-state differences in the role and status of women. The gender regime of individual states is described by Lewis (1993: 12) as being the result of complex 'country-specific social, economic, cultural and political conjunctures'. While acknowledging the difficulties that arise in developing international comparisons, treating gender as a political cultural value which structures the thinking and actions of state elites, the elites of influential pressure groups and therefore the outcome of public policy, defines an area in which the comparison can be made in a way which helps to explain inter-state differences in policy outcomes.

### **Feminist Theory and the State.**

Writing on women and the Irish state has not tended to see the state as a site of change - partly because of the political activist roots of academic feminism and partly because of the way in which feminist theory has constructed the state. It has tended to see the Irish state as a unitary conservative force, protecting male dominance and resisting the gender change that would have, in other circumstances occurred as a result of economic development. This perspective has as its theoretical base a feminist construction of the state that describes patriarchy (or male dominance) as a social structure which defines the state and explains the gendered nature of public policy. Feminist writing within this paradigm has provided a strong theoretical tool with which to understand the continuity of female oppression and the way in which gender structures all social relationships including the political (Frazer and Lacy, 1993: 33).

It cannot so easily be turned to examine dynamic change in the gendered nature of the state itself.

Feminist theory's primary focus has been on 'either the specific demands that could express women's interests,' reflecting demands for policy change, or on the definition of 'specific feminine values that could become the model for democratic politics' (Mouffe, 1993: 79) and has only in the past decade begun to seriously deal with the 'state' as a theoretical construct (Marshall, 1994). There has been little interaction with mainstream theories of the state that examine the nature of the state and its relationship to society. This is because, as outlined by Mouffe, feminism has not in any rigorous analytical sense seen the state either as a site of change or as having autonomy and agency separately from the groups or individual actors that make up the state. This is the case even when discussion is on the state as in Watson (1989) or Boneparth and Stoper (1988). What is really being discussed in this literature is women's interest groups interacting with the state, not the state itself.

Initially feminism's theoretical view of the state drew on feminism as a social movement. As it emerged in the late 1960s feminism developed a particular critique of society that placed gender at the centre of all political relationships, and saw all personal relationships as based on power and therefore as political. Key strands of feminist thinking share this common base perspective which included the idea of the 'natural self' distorted by society, with Foucault's 'coercive state' (Foucault, 1989) often described as the major oppressor. Social change was thus required, to enable greater natural individual expression and self fulfilment. This view still colours definitions of the state.

### *The State as Male*

A radical feminist current continues to define the state as founded on, and reflecting male dominance, 'the state is but one manifestation of patriarchal power, reflecting other deeper structures of oppression' (Bryson, 1992: 194). MacKinnon (1989: 163) argues that 'the state is male jurisprudentially, meaning that it adopts the standpoint of male power on the relationship between law and society'. She also describes the state as 'male in the feminist sense: the law sees and treats women the way men see and treat women. The liberal state coercively and authoritatively constitutes the social order in the interests of men as a gender - through legitimating norms, forms, relation to society, and substantive policies' (1989: 161-162). This approach emphasises the continuity of female disadvantage and therefore sees the state as unchanging in that in all circumstances it defends men's interests and seeks to preserve the gender status quo. Allen (1990) presents an alternative radical view, arguing strongly that feminism does not need a theory of the state, because feminism has other priorities, which mean that it is sufficient to identify the state as 'male' or 'patriarchal'. In Allen's opinion, 'the state is a category of abstraction that is too aggregative, too unitary and too unspecific to be of must use in explanations, analyses or the design of workable strategies' (1990: 22).

Socialist feminist theorists attempted a synthesis between Marxism and feminism. Barrett (1980), in a seminal work, identified clearly the gender blindness of traditional Marxism. She advocated viewing 'male dominance' as a distinct structure, which like capitalism was based on inequality. These two structures were linked, not by the needs of capital for women's reproductive labour, but because both are hierarchies of power that can be subjected to the same methods of analysis. Male dominance and capitalism together define and disadvantage women, both collectively and individually. This view has influenced a considerable body of feminist literature.

MacKinnon (1989:80) disagreed with this perspective arguing that an alliance between feminism and Marxism would be to the detriment of feminism as Marxist theory 'can see women only at its periphery'. In spite of this fundamental disagreement MacKinnon's view of the state as a monolith representing male power is compatible with the Marxist view of the state as essentially a conservative force controlled by, and serving the interests of, the hegemonic group within society. There is also an element in Marxist based thinking which, like Allen, sees the state as irrelevant, because it is irreformable and thus both radical and Marxist currents in the feminist literature have tended not to attach much importance to the internal dynamics of the state in their writing.

Feminist theory has also explored the relationship between women's position in the family and their position in the labour force. This reflected a belief in the emancipatory power of labour force participation, coupled with the emphasis that many feminists have put on the importance of economic autonomy for full and equal citizenship. For socialist writers the state's role is important in so far as it is the political arm of the capitalist classes reflecting the economic power relationships of civil society, but the fundamental site of conflict and change for women is the family and the labour market. Barrett (1980: 158) described familial ideology as informing and influencing the labour market in a process that was 'undoubtedly reciprocal, leading to a reinforcing cycle which is difficult to break both analytically and politically. Developing this idea Pateman (1988) applied social contract theory to gender relations arguing that the 'sexual contract' forms the basis of conjugal relations and is a part of the sexual division of labour that 'extends from the private home into the public area of the capitalist market' (1988: 115). 'Civil society, including the economy, has a patriarchal structure. The capacities that enable men but not women to be 'workers' are the same masculine capacities required to be an individual, a husband and a head of a family' (1988: 38). As insightful as these

analyses are, they do not include the state as a central player. The state is simply a cipher for economic or male vested interests and is therefore not the focus of research.

### *The Liberal State*

An alternative approach draws from welfare liberalism and social democratic political practice, in defining the state as a source of power to be influenced, or colonised, to produce policy that will promote social change. In this case the state can also be viewed as primarily male but with the possibility of becoming increasingly feminised. The key questions generated by this feminist perspective are: how can the state be influenced to produce the desired public policy mix; what policies will most effectively produce gender equity; how can women be promoted in political hierarchies; and what is the role and impact of agencies of 'state feminism'?

Watson (1989), writing in this vein, examines the impact of Australian feminism's engagement with the state, focusing on how the structure of the state and the dynamics of party politics facilitated the involvement of women with a feminist agenda in the policy making process. In the case of Australia it is the combination of the alliance between feminism and the Labour party and the relationship between the Federal and State governments that has produced political opportunities for feminism. The importance of the actual configuration of the Australian state is also underlined by Eisenstein (1989), who comments on 'the significance of national differences in shaping feminist interventions. Comparing Australia with the USA she points to differences in the politics and the structure of the state and to the cultural differences which has meant that a 'particular mixture of feminist theory and practice' has emerged in each country (1989: 88). These differences have an effect 'upon the explicit and implicit objectives of local feminist activity. In Australia a 'socialist-feminist praxis linked to the politics of the welfare state' is dominant, in contrast 'American feminists working in the area of legal reform often draw upon the tradition



of radical feminism with its basis in gender theory, concentrating on the debate over equality and difference' (1989: 88-89). Boneparth and Stoper (1988), writing from the perspective of the American women's rights lobby, also assign a key role to the structure of the state and public policy in determining the actions, strategies and degree of success of women's rights lobbyists. In an essay in the same volume Costain (1988: 40-1) cites the role of the US Congress in 'maintaining the openness of the system to new interests' as one of three key factors in allowing the women's movement access to political decision making.

This literature, while pointing to the potential importance of political culture in framing the different state structures within which women's rights lobbyists work and which influence the nature of the feminist movement in each country, does not pursue this discussion. Its focus has been on the women's movement itself reacting to a *given* state structure rather than analysing the nature of the state and understanding its varying development in different countries.

### *The Patriarchal State and International Comparisons*

Walby (1990) produced a theoretical model to explain the obvious gender changes that had occurred in British state policy and practice, and in the condition of women in the twentieth century. Believing that the term patriarchy has evolved from its original usage, 'a system of government in which men ruled society through their position as heads of household' to a modern meaning of systematic and institutionalised 'domination of women by men' (Walby, 1990: 19), she sought to describe a shift in both the form and the degree of patriarchy in six different social sites: household production; employment; the state; sexuality; violence; and culture (1990: 24). For Walby, the degree of patriarchy includes 'aspects of gender relations such as the slight reduction in the wages gap between men and women' (1990: 23). Changes in the form of patriarchy involve a shift from 'a private to a public form of

patriarchy over the last century'. For Walby this does not mean that the family has ceased to have a patriarchal structure but it is no longer the main site of women's oppression. This has meant a change in patriarchal strategy from exclusion from the public sphere under private patriarchy to segregation and subordination under public patriarchy (1990: 24). For Walby 'the state is engaged with gendered political forces, its actions have gendered-differentiated effects, and its structure is highly gendered.' In total this means that the British 'state is patriarchal as well as capitalist' (1990: 150). Walby states that 'patriarchy is not an historical constant' (1990: 173) and that the private and public forms of patriarchy constitute a continuum rather than a rigid dichotomy. In spite of these provisos, her use of patriarchy emphasises the continuity and the similarity of women's experience both through time and across international boundaries. The weak explanatory power of her thesis for comparative analysis is demonstrated most forcefully in its inability to explain the international differences which are essential to an understanding of the Irish state. In order to make international comparisons she sub-divides public patriarchy into two: 'one founded on the labour market and the other on the state as the basis of bringing women into the public sphere'. This gave a three fold division: the USA is seen to have a 'labour-market-based form of public patriarchy', Eastern Europe before the fall of communism had a form of public patriarchy based on the state, and the countries of Western Europe have a 'mixed state/labour-market-based form of public patriarchy' (Walby, 1990: 181). This reduces the explanation for the variety of women's experience across Western Europe to one variable - the state sector private sector mix of the economy.

Walby's thesis describes the changing nature of patriarchy but it cannot be used to describe gender change within the state or to usefully make international comparisons. The reasons for this relate to the implicit assumptions of patriarchy as a theoretical construct. Patriarchy describes the structures and power relationships by which men

as a group dominate women as a group. As a model it is designed to describe the negative, dominant/subordinate, relationship that exists between the sexes. It cannot be used to describe any other form of relationship. Its usefulness lies in the way it can identify the continuous and universal aspects of women's oppression; it cannot be used successfully to describe diversity. Walby's focus on the labour market as a major site of patriarchy produces her internationally variable factor, the state/private sector mix. What she is describing is variations in forms of patriarchy within this very narrow band, not variations in women's experience or in the gendered nature of states.

The issue of the variety in patterns of gender relations and the differences in the comparative status of women in European countries was addressed by Kaplan (1992) in a wide ranging study of contemporary Western European feminism. She rejects explanations based on religious differences which have associated Catholicism with conservative attitudes particularly with regard to women, and modernisation which associates a high standard of living and high levels of industrialisation with progressiveness, as incompatible with the evidence. She quotes the examples of Catholic but progressive Denmark and affluent but conservative Switzerland to show that neither religious affiliation or wealth were accurate indicators of progressiveness.

Kaplan places the variation in the role and status of women across Europe in the social, cultural and political differences between the individual states (1992: 54-7). She argues that the differences between the states meant that under pressure for change women found it easier to make gains in some areas than in others, for example women in France gained more ground in employment and maternity rights while women in the Netherlands make greater gains in the area of sexual autonomy. However because she defines the state as being structured by male dominance she inevitably limits the explanatory powers of her insight into what constitutes inter-state

differences. Drawing from theories of male dominance as an institutionalised power structure she argues that the nature of male dominance leads to a 'see saw' effect which means that if women make gains in one area male dominance will be able to resist change in another area. This process over time builds on the initial differences in patterns of gender relations between countries (1992: 57-8). This is ultimately an unsatisfactory solution to the problem of understanding differences in gender between states as well as understanding the process of gender change within states and public policy processes. Even if the 'see-saw model' is verifiable it does not explain the original pattern of gender relations or the processes of change at work in the different countries or why change is possible in different areas in different countries. It amounts to little more than a statement that those with economic and political power have the ability to reduce, or compensate for, the impact of changes that they perceive to be disadvantageous to their interests. This is in spite of the tenor of the bulk of her work, which roots the difference of women's experiences in the specific histories of individual states.

Theoretical models that describe the state as patriarchal or structured by male dominance are inevitably static in their definition of the state. This is because they focus on the continuity of those aspects of political behaviour that maintain gender inequality even in circumstances where there has been significant changes in the form and actions of the state. This concern with continuity makes it difficult for them to deal with the state as a site of change, or to examine how the gendered nature of the state has changed over time. Because the state is defined as male, women are cast in the role of victim, or external challenger to the state and not primarily as participants. This also leads to an over-emphasis on the degree of separation between feminist movements and the society, including its political milieu, in which feminism developed.

During the 1960s and 1970s Ireland experienced strong social change that was felt throughout Irish society. That change included a re-evaluation of gender relations and the feminist movement was a manifestation of this re-evaluation. It is inconceivable that such a degree of social change would not also affect the Irish state or the individuals that composed the state elite. So while feminist based lobby groups were developing a critique of the state and lobbying for policy change, the values of the state elite were also changing. Defining the state as patriarchal cannot deal with change of this nature as it focuses on the elements of continuity in the state's construction of gender to the disadvantage of women.

### **Redefining the State as Gendered**

In the past decade feminist theory has continued to develop beyond its original paradigm and activist roots. Two distinct lines of development have been the adoption of post-modernist ideas and a renewed interest in defining the state. The development of post-modernist feminist political writing has links with modern writing on political culture in that they both move away from viewing the state as a centralised entity and see it as more diffuse, fragmented and diverse. This is in line with post-modernist feminism's view of the individual which has moved away from the idea of a natural self and the binary opposition of gender. It has also jettisoned the 'generalised other' of formal citizenship for the 'particular' other that recognises diversity. Because it has these qualities it does not focus on, describe or define a centralised state or deal with state elites. The politics it is concerned with is primarily the politics of civil society. Rather than becoming involved in the analysis of the apparatus of the legislative state and its meaning, it has described the most significant political development as occurring in the diversity and potential radicalism of civil society.

Those writing in a post-modernist paradigm emphasise the significance of image and language for the processes of the state. Cooper (1995: 1), for example, is concerned with 'the ways in which sexuality as disciplinary structure, identity and culture shapes state form and practice'. Like MacKinnon she deals with the way in which sexuality, rather than gender, structures the state. Her area of interest is sexual orientation and other policy issues dealing directly with sexual activity such as prostitution and sexual violence. However unlike MacKinnon her conception of the state is fluid rather than unitary and fixed. She focuses 'on the state as a multifaceted phenomenon, an entity with many overlapping identities, a concept always in discursive flux' (1995: 74). Moving away from the impact of gender on the actions of the state Sawyer (1996: 118-9) looks at the gendered metaphors that have been applied to the state, arguing that the 'neo-liberal upsurge of the last twenty years and the neo-liberal case against the welfare state has gained much of its emotional force from a sub-text that is highly gendered'. She points to the fact that the 'gender of the minimal state has almost always been masculine while the welfare state has been more likely to be seen as female' and that the femininity of the welfare state is being used to undermine its appeal.

The writing of Cooper and Sawyer indicate the problem that post modernism's disavowal of the concrete presents for an analysis of state actions. Post modernism has rightly debunked the idea of a natural self and focused attention on the fundamentality of social or cultural construction to the definition of human nature. It has also been useful in directing attention away from political structures themselves and focusing on the ideology and values that animate them and that created them. It is these aspects of post modernist writing that have been widely influential across a range of social science literature. The problem post-modernism presents for political science writing in particular is that it has abandoned the 'generalised other' in favour of diversity and difference. The idea of the 'generalised other' is at the centre of

public policy legislation and the written constitution of states. The concreteness of the legislative state and its public policy output does not lend itself to a purely post-modern interpretation.

A second strand in the literature has retained the focus on the state as an entity but has attempted to deal with the problems inherent in both defining the state as male and using 'women' as an analytical category in political writing. Connell (1990: 508) begins from the need to appraise the effectiveness of feminism's engagement with the state in the search for reform. He states that there is no established theoretical framework to which the appraisal can be related because feminism has no developed or widely agreed theory of the state. He argues that the 'state is not inherently patriarchal but is historically constructed as patriarchal in a political process whose outcome is open' (Connell, 1987: 129). Gender inequality is a social structure, an organised field of human practice and social relations which Connell (1987: 16) terms 'gender relations'. Connell's (1990) thesis is that the state is constituted within gender relations as the central institutionalisation of gender power.

As a result of the way states are formed they are 'bearers of gender', that is they have a gendered character. The state's 'gender regime' is the result of social struggles and is linked to the wider gender order of society (Connell, 1990: 523). For Connell, the fact that the state embodies gender in this way gives it cause and capacity to 'do' gender, that is to regulate society's gender order and this regulatory activity inevitably involves the transformation of gender categories. Because of its powers, the state is understandably the focus of interest group mobilisation around issues of sexual politics (Connell, 1990: 527-30). As the state and society is constantly changing, crisis tendencies develop the existing gender regime and it is these points of crisis which allow new political possibilities to emerge (Connell, 1990: 532). Connell

views changes in the gendered basis of the state as occurring in the long term and focuses on pronounced social change as the instigation for gender change.

Connell makes it clear that when he talks of gender and gender dynamics he is not just talking about gender as the culturally constructed relationship between the sexes defined in binary and oppositional terms: he is also talking about independent changes in either masculinity or femininity. In terms of the development of the state, it is changes in masculinities that he sees as central to political development. Implicit in this argument is that it is not necessary to define gender in binary oppositional terms. A binary oppositional definition of gender has also been challenged by post-modern writing which, having abandoned the idea of a natural essential self, views the categories of 'woman' and 'man' as illusory. It is argued that theory should aim to promote the idea of a plurality of gender identities that are not founded on ideas of subordination and dominance. Marshall (1994: 114-5) suggests that to understand gender as relational, rather than essential, reliance on 'historically abstracted dualism's - such as family/economy, male/female - as framing the individual/society relationship must give way to more fluid, historically nuanced conceptions of identity formation and subjectivity which do not fall back on the conflation of the gendered division of labour with the public/private dualism' which has informed so much socialist based writing. Frazer and Lucy (1993) argue that the state-civil society distinction is now replacing the public private divide of political and feminist theory. While an attachment to this theoretically established dualism is not essential, the idea that gender is male and female defined in opposition to each other remains a useful one because of its ability to define the power relationship inherent in gender. This power relationship is illustrated by the way in which a change on one side of the equation of gender is perceived as affecting the other side. Ideas of masculinity and femininity exist in a state of tension in gendered relationships and that tension also exists in the cultural ideas built on these relationships.



As an analytical tool gender can be used both descriptively and analytically. Descriptively it refers to those aspects of social relationships that are based on perceived differences between the sexes (Scott, 1988: 42). These views, held by individuals and groups of individuals on the relative attributes and range of social roles proper to the sexes, are termed 'gender values'. They are a gender based system of beliefs, constructing gender based power relationships as they are constructed by them. The term 'gender relations' can be used analytically to describe the collective social relationships formed by gender based differences in power and function.

Scandinavian feminist research has used gender to develop the idea of the 'gender contract' which 'socially and institutionally specifies gender roles' (Duncan, 1994: 1175) and which can be used to describe the way in which the state, through its public policy output defines gender. Hirdmann (cited in Duncan, 1994: 1186-8) began from the premise that all societies have a gender system, that is, in most aspects of life men and women are assigned different roles. A 'gender contract' is the agreement between the sexes that sets out the rules that determine gender behaviour. Hirdmann (cited in Duncan, 1994: 1187) describes a 'housewife contract' emerging in Sweden in the 1930s which lasts until the 1960s. It was replaced after a period of gender conflict by an 'equality contract'. This contract gave women procedural legal equality in employment and in family law. It did not, however, alter fundamentally men and women's relationship to caring and family roles. Women's new public and employment roles had to accommodate their ongoing domestic roles as wives and mothers. Duncan argues that 'one issue which Hirdmann leaves largely implicit is how gender contracts are put into place and by whom' (1994: 1189). This thesis discusses the role of the Irish state in the renegotiation and implementation of the 'gender contract', culminating in an Irish version of the 'equality contract' described by Hirdmann, being given legislative form in the 1970s.

Seeing the state as constructed by gender and as participating in the development of the 'gender contract', is flexible in that it allows for dynamic internal change and it can also cope with the positive as well as the negative aspects of gender relations. As Duncan (1994: 1192) argues it allows for 'action by women and men' and can 'link patriarchy as a varied structure, with different outcomes at different places and times'. Defining the state as gendered in this way also means seeing the personnel within state elites as having a set of gender values - ideas about what it means to be male and female. These values flow from gender relations in civil society, that is the structural relationships between the sexes, usually reflecting power inequality, and are based on ideas of gender difference and differences in social roles. Although the gender values of state elites derive from the evolving relationships in society there is not a simple causal link between them or between elite values and public opinion. State elites may contain conflicting sets of gender values and promote different sets of public policy outcomes based on these values. The ideological range of competing sets of gender values is one of the factors that defines the gendered state.

This view of the state as gendered aids an analysis of the forces that produce public policy in areas where there is an obvious gender content, such as employment equality legislation, social welfare rights and family law. It also defines the gendered nature of those aspects of public policy which are not direct gender issues such as agricultural funding. Although the Irish state can be described, with justification, as structured by male dominance (or patriarchy) in 1977, as it was in 1957, in that twenty year period the gendered nature of the Irish state changed significantly and an internal process of change can be clearly traced. Understanding this process is an essential part of understanding the Irish state.

The writing on women and the Irish state has been underpinned by a theoretical view of the state that has emphasised the elements of continuity as opposed to change in its treatment of women. It has also described the social and cultural influences that have impacted on the state and the women's movement as being distinct and different. The state is static and conservative, resisting the changes demanded by a progressive women's movement. This picture is a caricature of the state and the state's relationship to women's lobby organisations. Because it is 'unlikely that the social meaning of gender will be fixed or stable in any relatively complex society' (Frazer and Lacy, 1993: 201) it is unrealistic to theorise a state that does not participate in the ongoing renegotiation of gender. This is not an argument for defining the state as progressive and liberal but rather for a view of the state that acknowledges that its definitions of gender change over time and that those changes are in response to a similar set of social and cultural stimuli to that which motivates women's interest groups. By defining the gender values of the state elites as part of the state's political culture, a discussion on the gendered state can be integrated into the existing literature on the relationship between political culture and the development of the Irish state. It is towards an examination of those gender values and the development of the Irish state that the following chapters turn.

## CHAPTER TWO

### CONSENSUS IN THE 1950s

At the end of the 1950s, as Ireland was entering a period of sustained economic growth and industrialisation (Kennedy et. al. 1988: 55), among the state elites there was high level of consensus on gender issues. The nature of this consensus and also the way in which the muted opposition to it was framed, is demonstrated in the debates on the Married Women's Status Act, 1957, and the Garda Act, 1958, and in the government's decision to end the marriage bar for national school teachers. This consensus had changed very little since the foundation of the state and was build on the authority of husbands and the exclusion of women from most aspects of public life. It is necessary to understand the shape of this gender regime and the extent to which it dominated public life in the late 1950s and early 1960s in order to contextualise the extent and direction of the change that occurred during the 1960s and 1970s.

#### **Gender and the Irish State 1922-56.**

The Irish state, from its foundation in 1922, has confronted commentators with what appeared to be a paradox, in that its conservative and anti-feminist regime seemed to mark a decisive break with the high level of women's involvement in the nationalist movement that led to its creation. Why did the political advances made by women prior to 1922 not transfer into pro-women policies in the new state? The way in which this question has been addressed has been a major influence on writing on the post 1950s Irish state and its treatment of women's rights issues.

The nationalist movement that produced the Irish state of 1922 had been formed in the early years of the twentieth century at a time, internationally, of growing political radicalism (Foster, 1988: 431-60). This radicalism, from 1908, produced a strong and active women's suffrage campaign which was a tangible expression of first wave feminism (Cullen-Owens, 1984; Murphy, 1989). Many feminist women were both suffrage campaigners and nationalists and their actions and ideology carved a place for women in nationalism (Connolly, 1994). By 1917 Cumann na mBan had a clearly feminist agenda, urging its members to keep 'before the public the fact that ... women are entitled to the same rights of citizenship as men' (Connolly, 1994: 50). Also in 1917, in a response to the re-organisation of Sinn Féin, a group of nationalist women formed Cumann na dTeachtaire to press for women's rights and representation within the Sinn Féin organisation. Their stated objectives were to safeguard the political rights of women; to ensure the adequate representation of women in the republican government; to urge and facilitate the appointment of women to public boards throughout the country; and to educate Irish women in the rights and duties of citizenship (Connolly, 1994: 57). They successfully gained places for women on the national executive of Sinn Féin and on the political bodies that formed part of the government of the embryonic Irish state. In the 1918 general election Constance Markievicz was elected to parliament and appointed Minister for Labour in the provisional government.

From 1919, Ireland experienced a period of political instability and violence that extended into the new state, and the events of these years had a profound impact on the position of women. The new state honoured its pledge to give women the vote on the same terms as men. Women over 30 had been able to vote and stand in elections since 1918, and one of the first acts of independence was to extend this to all women over 21. In all other ways, the new state proved extremely conservative in its attitude to women and to gender relationships. The state in 1922 inherited the British

legislative framework and common law practices which collectively gave married women very few legal rights and upheld the domestic authority of husbands and fathers. Married women did not have an independent legal status; husbands had rights to control their wife's income and property; a wife's income was considered to be her husband's, for the purposes of taxation and under common law wives had no right to a share in their husband's property or income beyond the right to be maintained, at a level which he decided. Wives could be disinherited on the whim of their husbands, but husbands had the right to inherit all their wife's property. Mothers had no automatic rights of custody or guardianship over their children even in the event of the death of the father and it was the father who had the sole right to make all the decisions regarding the upbringing of children. The women who campaigned for female suffrage believed that giving women the vote would lead to a re-ordering of political priorities resulting in the reform of this body of family law (Connolly, 1994: 80).

Subsequently, the Irish state not only retained this body of conservative law but also reinforced it. The very limited provision for divorce by act of parliament was ended; the 1924/27 Juries Acts effectively excluded women from jury service; the 1929 Censorship of Publications Act covered access to information on birth control; during the 1920s and 1930s marriage bars that meant the compulsory retirement of married women from public employment were introduced; the Criminal Law Amendment Act, 1935, banned the sale of contraceptives; and the Conditions of Employment Act, 1936, placed restrictions on women's capacity to engage in shift work or work in occupations specified by the government. Women in the new state became less visible in public life; there appeared to be little energy for campaigning and few avenues open for political dissent.

The Irish constitution of 1937 which embodied the dominant gender values of the state defined the role of women as mothers working within the home. It deliberately limited the equality that it gave to women, as citizens, to political equality - the right to vote and stand for election. It qualified the clause stating that all citizens were equal before the law with the words; 'this shall not be held to mean that the State shall not in its enactments have due regard to difference in capacity, physical and moral, and of social function'. This allowed the state to continue to limit the public role of women and to preside over a body of law that treated married women as the legal inferiors of their husbands.

At this stage the state had little conception that its policy regime could be considered a form of discrimination. The Department of External Affairs in 1935, following consultation with other government departments, decided that it would be possible for Ireland to comply with a League of Nations convention guaranteeing equal rights for both sexes in every branch of municipal law provided that it could still reserve some posts for men (or women) and ban married women from working.<sup>1</sup> That the Department of External Affairs had so little understanding of what constituted discrimination against women indicates the limited impact of first wave feminism on the political culture of the state.

This failure to bring the political gains made by women in the nationalist movement prior to independence into the new Irish state has been explained from a number of perspectives. It has been attributed to the innate conservatism of Catholic nationalism founded on rural economic values reasserting itself, when it no longer needed the political mobilisation of women (Ward, 1980, 1982, 1983; Murphy, 1989) or to the fact that many prominent feminist women backed the wrong side in the civil war and were therefore marginalised by the winning side (O'Dowd, 1987). The experience of

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<sup>1</sup>National Archives, Department of An Taoiseach file (DT) S7985A.

women has also been explained as part of the post colonial experience which in a climate of insecurity about identity leads the state to adopt what are perceived to be traditional positions (Meaney, 1991: 7; O'Dowd, 1987). It is also true that the foundation of the Irish state coincided with an international climate of growing conservatism, a reversion to authoritarian family models and the limitation of women's access to employment and other public roles. In Ireland this international trend towards the right was reinforced by the social and economic conservatism of the Cumann na nGaedheal government that was in power between 1922 and 1932.

A hierarchical view of the family and women's roles, which resulted in the limitation of women's citizenship by the Irish state, was challenged by a number of women's groups, some of which had been founded in the early years of the century and whose membership tended to be drawn from the generation of women who were politically active before 1922. The Irish Women's Citizens Association, founded in 1923 in the aftermath of the suffrage campaign and the Women Graduates Association, founded in 1902, lobbied against the Criminal Law Amendment Act, 1935, the Conditions of Employment Act, 1936, and the clause in the 1937 constitution that defined women as 'mothers in the home'. These two organisations participated in setting up the Joint Committee of Women's Societies and Social Workers,<sup>2</sup> founded in response to the

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<sup>2</sup> *THE JOINT COMMITTEE OF WOMEN'S SOCIETIES AND SOCIAL WORKERS*. Set up in 1931 when the Corrigan Report on Sexual Offences was presented to the government, and the suggestions of social workers were rejected. These suggestions related to issues such as: raising the age of consent to 18 years; equal treatment in law for a women found soliciting and her client; provision of a women's police force; appointment of more women probation officers; jury service for women on the same terms as men. In 1942 the following organisations were affiliated to the 'Joint Committee':

Central Association of Irish School Mistresses,  
Dublin Hospital Almoners Association,  
Irish Matrons Association,  
Irish Women Citizens Association,  
Women's National Health Association,  
Women's Social and Progressive League,  
Women Graduates Association of Trinity College,  
Women Graduates Association of National University,  
Girls Friendly Society,  
Saor an Leanbh,  
Irish Nurses Association,  
St. Patrick's Guild,  
Mothers Union,  
IWWU.

The IHA joined in 1946. (Tweedy, 1992: 20).



provisions of the Criminal Law Amendment Act which in addition to banning contraception, dealt with the control of prostitution, and the age of sexual consent. The aim of the new organisation was to lobby for policy changes which included; a female police force; women probation officers; jury service for women on the same basis as men and the raising of the age of sexual consent for women to eighteen (Maddock, 1996: 115). The women involved in this campaign were concerned with women's vulnerability in cases of prostitution, rape and sexual assault within the exclusively male criminal justice system.

Many of the personalities from the pre-independence period played leading roles in this critique of the State. Mary Hayden, a founder member of the Women Graduates Association, a suffrage campaigner and member of the Gaelic league was instrumental in organising a mass meeting of women opposed to the proposed 1937 constitution (Maddock, 1996: 119) which was part of a concerted lobby campaign by women's organisations<sup>3</sup>. The membership of the Women Graduates Association that mobilised against the definition of women's citizenship that the constitution proposed, included Professor Mary Macken, Professor Agnes O'Farrelly (first president of Cumann na mBan and a supporter of the Irish Parliamentary Party) and Hanna Sheehy-Skeffington (founder member of the Irish Women's Franchise League and a former national executive member of Sinn Féin and a deputy editor of the republican newspaper *An Phoblacht*). Mary Kettle, a former suffrage campaigner and one of the first women members the United Irish League of the Irish Parliamentary Party, led the Joint Committee of Women's Societies and Social Workers. The influence of this generation of women was felt practically and in terms of their ideology, right into the 1950s. The Irish Housewives Association, founded in 1942, saw itself as an integral part of a network of women's organisations that had their

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<sup>3</sup>National Archives, DT S9278

roots in pre-independence Ireland and especially in the suffrage campaign (Tweedy, 1992: 18-20). In 1958 the continuing influence of this generation of politically active women was demonstrated when the reunited Irish Congress of Trade Unions selected Margaret Skinnider, a feminist and veteran of 1916, to chair the newly established Women's Advisory Committee.

The dominant themes of Irish first wave feminism that continued to influence both the culture of the state and women's organisations critique of state actions, were the nature of sexual difference, centring on motherhood, and the meaning this had for women's relationship to the public sphere. First wave feminism had stressed a gender difference rooted in motherhood and women's nurturing role, and based on this the particular contribution women could make to public life. They also believed in the right of women who did not choose motherhood to participate equally with men in most areas of the public sphere, including employment and politics. This ideology supported the family but it wanted to see wives and mothers placed on an equal legal footing with their husbands, with regard to family decision-making and authority. It was also argued that women's psychology and experience made their input, not just desirable, but essential in some areas of public life, especially those connected with health and welfare, (Connolly, 1994: 62-4).

The suffrage movement, the major manifestation of feminism, had an essentially middle class membership (Ryan 1994: 131) which meant that its political demands focused on the needs of middle class women. It also contained a strong philanthropic element which meant that as a movement it also felt entitled to define the needs of working class women. In practise this meant that while it campaigned for the rights of well educated women to pursue a career and participate in political decision making it saw the needs of working class women in a different light.

This attitude was exemplified by the Irish Women Workers Union (IWWU), founded in 1911 in the feminist fervour of the day, but whose practical action demonstrated that its philanthropic character moulded its support for women's rights. The Irish Women Workers Union was dominated until the 1950s by Louis Bennett and Helen Chenevix, upper class women of independent means,. The IWWU's aim was to improve the lot of working class women who worked through necessity. They did not unconditionally support either the right of married women to work or the principle of equal pay. On the question of married women working, in 1926 the IWWU monthly paper said to married women with working husbands who were looking to return to work: 'you are exceedingly selfish to want to take up a job which you don't need when there is so much unemployment' (*An Bhean Oibre*, Dec. 1926). The philanthropic attitude towards working women was so strong in the union that even in 1983 the IWWU President Rosaleen Bracken felt she had the support of at least a sizeable section of the union when she expressed the view that most married women work for financial reasons, but that some work for 'social reasons, for they're bored in their homes and they want to meet people ... these ladies with respect, should be able to find, or they should be helped to express themselves otherwise' (quoted in Jones, 1988: 352). Helping working class women, through the trade union movement, was in the prevailing culture of the IWWU an act of charity - not an assertion of citizenship.

The Irish state, like first wave feminism, also based its public policy on a strong belief in gender difference, but it was a difference based on male superiority not a difference of equals. The state allotted an employment role for single women and it was envisaged that some women would never marry and would continue to pursue their career. But career paths even for single women were narrow and tended to be poorly paid. The state strongly discouraged all married women from working and, in spite of the expression of the centrality of motherhood and women's role in the family to the

state, contained in the constitution, the state had no comprehension that it should accord support to or protect women as mothers. The state supported the family based on a form of marriage that was defined by male authority and male control of property. The tangible gains that women had made as a result of first wave feminism were only in the areas of a narrow political citizenship, education and limited employment opportunities for middle class single women. In the absence of any subsequent challenge to the existing gender regime, the language and unresolved debates of first wave feminism remained influential in the 1950s, defining the parameters of the limited debates on gender that occurred within the state. Three such instances of debates on gender, the Married Women's Status Act 1957, the Garda Act 1958 and the dropping of the marriage bar for national school teachers demonstrate, not a state in the process of change, but how hegemonic and unchallenged were the gendered aspects of the state's political culture at the end of the 1950s.

### **Attitudes to Marriage**

The views of the state elite on marriage and the position of women within marriage were clearly articulated in the debate on the Married Women's Status Act 1957, introduced by the second Costello 'Inter-party Government'. This debate demonstrated how the state elite defined gender difference, the nature of marriage, and the position of women within the family, and how these definitions consciously shaped public policy. The Act has been seen as evidence that legislators were beginning to 'show some awareness of the extent of formal gender-based inequalities' (Galligan 1998: 30). This is too generous an assessment, as the Act was very limited and fundamentally conservative in its aims.

The bill was introduced by Minister for Justice, James Everett of the Labour Party. It provided that a married woman would be capable of acquiring, holding and disposing 'of any property and would be subject to the law relating to bankruptcy and to the enforcement of judgements and orders as if she were unmarried' (CSW Report, 1972:173). Most of the Bill's provisions were not new: they consolidated into one piece of legislation the various laws regarding the property rights and the ability to contract of married women. The impetus for the introduction of the bill appears to have been the ability of married women and married couples to defraud their creditors using the limitations on a married women's ability to contract and her liability for debt in addition to the legal restraints on her capitalising inherited property. In addition, it was stated in the Dáil that one of the reasons for bringing the Bill forward was that there had been cases where a wife injured in a motor accident while being driven by her husband could not claim damages from the insurance company because according to law she and her husband were legally the same person.

Both sides of the House claimed the Bill as a significant step in women's progress towards equality, although its actual impact was limited to that relatively small number of women who were engaged in business and therefore could be a debtor, or women who needed to sue their husband because of an insurance claim. As was pointed out during the debate it was as much about limiting the responsibility of husbands for their wife's debts and preventing couples from using the limitations on the ability of wives to pledge their husbands credit to avoid paying creditors, as it was about raising the legal status of married women. The significance of the debate on the Bill rests on the considerable amount of attention it focused on the implications of this legislation for the meaning of marriage and the way in which this illustrates the values held by the elites within the state on the eve of a period of major political and social change.

The Bill was a source of some contention not because of its stated aims but because of what were seen as the unintentional side effects of the legislation, effects that were potentially so serious that it was argued that the bad in the Bill as it was published, far outweighed the good. The 'social implications' of the section which granted married couples the right to sue each other, was considered capable of seriously weakening the institution of marriage and doing 'inestimable damage'<sup>4</sup>. One fear was that it altered the balance of power between husband and wife by giving married women a new separate legal status. Senator Eamon O Ciosain of Fianna Fáil expressed this fear, arguing that

certain legal rights exist already for the protection of the married women's status. Here however we are opening the door entirely so that the husband and wife will now stand as two entirely different people in the eyes of the law....for the first time, we are providing the married woman with the temptation to bring her husband into court in a civil action when she might not think of it otherwise<sup>5</sup>.

This fear of civil action between a married couple was firmly based on the possibility that couples would be able to use the courts to separate. This view was expressed by Deputy Thomas Finlay of Fine Gael (later to become Chief Justice), who stated that

in the attempt to tidy up the law we may create a situation in which husbands and wives will find it easier to part, or easier to follow the temptation to part, than they do at present in this country<sup>6</sup>.

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<sup>4</sup>Oscar Traynor, Fianna Fail, Dáil Debates, Vol. 160, c.1577, 28 Nov. 1956.

<sup>5</sup>Seanad Debates, Vol. 47, cc. 79-80, 16 Jan. 1957.

<sup>6</sup>Dáil Debates, Vol. 160, c.1561, 28 Nov. 1956.

The arguments that were used against the bill arose primarily from the need of the Fianna Fáil opposition to criticise the government. This meant that those deputies with a real concern that the bill had the potential to weaken the institution of marriage were given a free hand. That such a conservative argument could be advanced, indicates that it was a view which politicians held out of personal conviction, or which they felt would appeal to at least a significant section of the electorate. The extent of agreement on gender values between the two sides of the House is indicated by the government defence of its legislation, which accepted the view of marriage put forward by the opposition but argued that the act would not produce the feared changes.

It was the right to sue in ejectment, slander and assault that were considered to be the most dangerous aspects of the legislation because they would allow married couples to bring each other into court on issues 'which would not of themselves constitute grounds for a legal separation', for example a single assault.<sup>7</sup> Throughout the debate there is a tolerance of domestic violence and a total failure on the part of politicians to equate it with other forms of assault. The idea that married couples could sue to have their spouse ejected from their property, even if that property was the family home, appeared to some to be introducing a form of separation, given that marriage was based on an absolute right to cohabit. This right was extended to wives by virtue of their dependency and to husbands because of their right to consortium (a man's right to cohabit and have a sexual relationship with his wife). If a husband was free to eject his wife from the family home that he owned, the right of married women to occupation of the family home was jeopardised. If a wife could have her husband ejected from the family home it would make the husband's legal right to 'consortium' unenforceable in those cases.

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<sup>7</sup>Deputy Finlay, Dáil Debates, Vol. 160, c.1556, 28 Nov. 1956.

Independent Senator Arthur Cox, arguing from a conservative perspective, pointed out that the Act might 'irretrievably' damage the rights of wives. In doing this he described vividly the property relations that were at the heart of the marriage contract:

One important part of the marriage ceremony is that the husband gives his wife the right to his property or goods. Of course, to a large extent, in practice, that is nonsense nowadays because it does not mean that the wife gets all the husband's investments or anything like that, but it does mean that she gets very great rights in many ways to his property, to live in his house and use his things.<sup>8</sup>

It is not the extreme economic dependency of the wife in this view of marriage that is seen to be a problem but the fact that if a wife is given a measure of legal individuality the existing law which protects her, albeit totally dependent, position in the family may cease to be even a limited safeguard. Cox's argument rests on his support for the existing arrangements and his disinclination to give married women any additional rights or new forms of protection.

The concern for the maintenance of male authority in marriage and in particular for male property rights was also reflected in the question of whether granting married women the legal status of single women in financial matters would affect the laws of succession. Under these laws the entire estate of a married woman devolved onto her husband. Fears were expressed that this bill would mean that married women would now be free to make wills and leave their property where they wished, as single women and all men could do.<sup>9</sup>

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<sup>8</sup>Seanad Debates, Vol. 47, c. 85, 16 Jan. 1957.

<sup>9</sup>T. Finlay, *Fine Gael*, Dáil Debates, Vol. 160, c.1558, 28 Nov. 1956.



Fears of these outcomes were countered by the Attorney General, McGilligan's argument, that although this bill gave freedom to sue, existing defences such as the right of the wife to occupation of the family home and the husband's right to consortium were not being removed. Court action in those cases would be unlikely to prove successful. He also assured the Dáil that the existing succession laws would not be invalidated by the new act, illustrating how completely the government supported the view of marriage that was being articulated by the opposition..

In the debate on the bill, opposition and government deputies argued about whether the existence or absence of the right of married couples to sue each other would be most likely to preserve unaltered the existing institution of marriage. Those promoting the bill argued that allowing husbands and wives to sue each other provided a safety valve that could prevent the complete and irrevocable break down of the marriage. It was also stated that it was better to keep the legal dealings between couples to the civil arena rather than the criminal one. The civil suit against a violent husband was described as being preferable to criminal proceedings. Deputy Boland (Fianna Fáil) argued that

If it is easy for a wife to come into court, instead of its being a safety valve at a lower level than the ordinary separation business .... if a wife sues her husband in open court, it will wind up with a separation and it should not be made easier for her to do that.<sup>10</sup>

In James Everett's opinion, allowing married couples to sue each other for assault and slander would preserve marriages in difficulties because it would provide a safety valve at a lower level, thereby avoiding a complete separation.<sup>11</sup>

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<sup>10</sup> Dail Debates, Vol. 160, c.2284, 12 Dec. 1956.

<sup>11</sup> Seanad Debates, Vol. 47, co. 74, 16 Jan. 1957.

Everett's view of marriage, like that of many other deputies, is not primarily based on affection or mutual respect, instead its core values are centred on property, male authority and the permanency of the marriage contract. In the minister's contribution, as in the majority of others on the debate, it is women who are described as the initiators of legal action against their husbands. Many deputies feared that the Bill would cause problems because it would facilitate women taking their husbands to court for assault or slander.<sup>12</sup>

The Attorney General pointed out that very few women had made use of the existing law by 'instituting criminal proceedings against husbands for assault' and asking 'from where does this apprehension come that there will be resort to the courts for, say, minor assaults'. He summed up saying

merely because we say a wife can sue her husband for torts of the personal violence type or defamation, it does not follow that our courts will be cluttered up with women who are supposed to be living in harmony with their husbands revealing to the public that they have been subject to violence for a long time and been defamed by their husband over many years. That is far removed from reality. The fact that we lay it down that they can go to court will not be regarded by these people [married women subjected to violence by their husbands] as an encouragement to go to court<sup>13</sup>.

In emphasising that in spite of the existence of domestic violence it was unlikely to become more evident through the courts, the Attorney General indicated that his major concern was to keep such matters in the private sphere of the individual family

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<sup>12</sup>Deputy Brennan Dail Debates, Vol. 160, c.2284, 12 Dec. 1956; Deputy Esmonde Vol. 160, c. 1576, 28 Nov. 1956.

<sup>13</sup>Dail Debates, Vol. 160, c.2289, 12 Dec. 1956.

and not a matter of public concern. This concern with the privacy of marriage and the belief that once marital problems became public the likelihood of the break down of the individual marriage was increased, and the concept of marriage itself was weakened, was expressed by a number of deputies. On the question of whether or not assaults by husbands should be brought to court Deputy Gerald Boland (Fianna Fail) stated 'if the whole world knows about it, it will be much worse' and Deputy Denis Allen (Fianna Fail) that 'it is much better to have them fight at home.'<sup>14</sup>

The key arguments used by the government against the 'fears' expressed in connection with the Bill centred on the fact, as the Attorney General argued, that in practice the legal nightmares envisaged by some deputies and senators simply would not happen. Only rarely were the arguments against the Bill answered by expressing a more progressive view of marriage. University Senator, Professor Hayes of UCD for example believed that

marriage can stand up to a great deal more than the rights given under this section. I do not see why, in modern circumstances, a wife should not have the right to sue her husband for negligence and to take an action for assault. The fact that she has not such rights does not seem to me a very great rampart, support or bulwark for matrimony. I do not think that the absence of such rights is a support for Christian marriage.<sup>15</sup>

The motivation for the Bill stemmed from the need to tidy up the existing legal provisions. That there was no significant public demand from women's organisations for the Married Women's Status Act, was indicated by Oscar Traynor's question: 'from what source did the demand for this bill come'<sup>16</sup>, and Fianna Fáil Senator

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<sup>14</sup>Dáil Debates, Vol. 160, c.2287, 28 Nov. 1956 and c. 1580, 12 Dec. 1956.

<sup>15</sup>Seanad Debates, Vol. 47, cc. 288-289, 27 Feb. 1957.

<sup>16</sup>Dáil Debates, Vol. 160, c. 1577, 28 Nov. 1956.

Eamon O Ciosain's query as to whether the Irish Countrywomen's Association had ever been consulted<sup>17</sup>. The relative lack of interest displayed in the Bill by women's organisations is reasonable given the small number of women the Bill would effect. Few women owned property or were involved in business and the costs involved in suing in a civil case, as well as the social stigma implicit in making marital difficulties public, ruled out, for most women, the possibility of using this Bill to alleviate a violent or abusive marriage.

Summing up the impact of the bill, the Minister claimed that

the progress of organised society is judged by the status occupied by married women. If and when this Bill becomes law, we will be able to say that our law as to the legal position of married women is the most modern and advanced in the civilised world<sup>18</sup>

The self congratulatory tone of this statement demonstrates that for the state elite at this time discrimination against women was not a political issue.

## **Women and Employment**

The position of women in the labour market was defined by the same attitudes to gender that shaped the views of the state elite on marriage. Because women's place was considered to be in the home, concentrating on housework and childrearing - cloistered from many aspects of public life - women's access to the labour market was similarly circumscribed. At its most benign, state policy and social practice agreed on the 'family wage'. Trade unionists in the late nineteenth and early twentieth century had campaigned for a level of wages that would allow a working man to support a

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<sup>17</sup>Seanad Debates, Vol. 47, c. 80, 16 Jan. 1957.

<sup>18</sup>Seanad Debates, Vol. 47, c. 78, 16 Jan. 1957.

wife and children. The reverse side of the family wage was the structured disadvantage, or outright exclusion, of women from the labour market. Restrictions on women's employment took the form of legislation that limited the nature and conditions of women's employment, marriage bars, restrictive trade union practices and gender differentiated pay.

Catholic social teaching in the 1950s fully supported the idea of paying men more than women, as they were seen as the natural head of the family. It only supported equal pay when men and women were doing exactly the same job and giving an 'equal return' to the employer, so that cheap female labour would not undercut male employment.<sup>19</sup> In the 1950s Department of Industry and Commerce officials felt that equal pay, as sanctioned by Catholic doctrine, was not an issue, as in general commercial and industrial life there were very few cases in which there actually was equal pay or where this condition for equal pay would be fulfilled. Women's lobby organisations - the Women's Social and Progressive League and the Irish Housewives Association - separately lobbied the Department of Industry and Commerce on the question of equal pay and though they succeeded in meeting officials they were not taken seriously.<sup>20</sup>

The relationship of women to the labour market had a strong class dimension with many women, especially working class women, engaged in employment through necessity. The operation of marriage bars effected women working in clerical, administrative and professional occupations. It appears to have been aimed at discouraging the employment of middle class women. A government memorandum from 1936 states that while the marriage bar in the civil service applies to established posts it was also used in unestablished posts but not in every case. However, 'the rule

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<sup>19</sup>National Archives, Department of Labour, W129.

<sup>20</sup>ibid, notes of meetings on 27 Nov. 1950 and 5 Dec. 1950.

does not apply to subordinate positions such as office cleaners.’<sup>21</sup> The marriage bar also affected many women working in industry, for companies that were considered to be good reliable employers; for example Guinness and Jacobs retired all female employees when they married<sup>22</sup>. The Civil Service Regulation Act of 1956 placed a legal requirement on the civil service to retire women from pensionable positions on marriage.

After the First World War some form of marriage bar that limited or prevented the employment of married women became common across Europe and in the United States. Ireland is atypical, not because of the ‘bar’ itself, but because of the relatively late date of its removal. In the United States ‘marriage bars’ were initiated between 1900 and the 1930s when they became a method of rationing scarce jobs (Goldin, 1992: 6). In England the civil service operated a marriage bar until the Second World War (Sanderson, 1986 : 151) and in Germany a similar ban survived into the 1950s (Kolinsky, 1989: 49). In the post-war industrial world, marriage bars evaporated in the face of labour shortages and in the USA and across Europe there was a substantial increase in the number of married women working, with the majority of them involved in part-time employment. Ireland’s very high rates of unemployment and emigration meant that there was no economic pressure to encourage married women into the workforce even on a part-time basis.

At the end of the 1950s the idea that a government could or should intervene in the labour market to prevent direct discrimination against women did not exist. This is illustrated by the response to a proposed amendment to the Married Women’s Status Bill which purported to give married women the right to seek employment and to remain in employment. Even those who supported the ending of the marriage bar for

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<sup>21</sup> National Archives, DT S9278.

<sup>22</sup>In conversation with women who were employed by these companies in the 1960s. Women received a gratuity from the company which was presented to them by a member of the senior management in a spirit of congratulations.

married women did not want to support this amendment. Professor Stanford of TCD, speaking in the Seanad, expressed his support for the 'principle' of the amendment, and Professor Hayes of UCD pointed out that

At the present moment, the position is that a married woman is, in fact, capable of seeking employment, of entering employment, or of continuing in employment. The position is .... that there are people who will not allow her to continue in employment, but if this amendment were accepted, that situation would not be altered.<sup>23</sup>

The level of antagonism to the idea of married women working, and the degree to which state action on this issue was an anathema to the majority of politicians and trade unionists, is demonstrated by the arguments with which the trade unionist and Labour Party Minister Everett made against the amendment. He stated

There is a lot to be said against laying down in this Bill - which it was never intended to do - that an employer should be compelled to give employment to a married woman. Some Unions might put up another argument about married women depriving other people of employment. ... We cannot and ought not to interfere with the freedom to contract and the freedom to employ.<sup>24</sup>

Direct trade union antagonism to married women working was also very evident, for example, Edward Browne, President of the Irish Transport and General Workers Union, wrote to the Taoiseach Eamon de Valera in 1958, complaining about the state employing married women in temporary or part-time positions. He claimed that these women were not working out of necessity, but had husbands who were working or

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<sup>23</sup>Seanad Debates, Vol. 47, c.274, 27 Feb. 1957.

<sup>24</sup>Seanad Debates, Vol. 47, cc. 277-8, 27 Feb. 1957.

who had civil service pensions, and were 'thus depriving our young girls of permanent pensionable employment'.<sup>25</sup>

### *The Garda Act*

The need for policewomen has been a long standing demand of Irish feminists which had formed part of the feminist agenda in the new state since the campaign on the Criminal Law Amendment Act 1935. The Inter-Party Government had considered introducing women police officers but had decided against it on the basis of cost. The idea was raised by the incoming Fianna Fáil government who planned to introduce twelve Ban Gardai on an experimental basis in Dublin. This modest proposal produced a surprisingly heated Oireachtas debate on the nature of female employment, the relationship of women to the public sphere and the marriage bar. The discussion on the marriage bar is particularly interesting because, at the same time as the government in the Oireachtas was reaffirming its belief in the marriage bar in the debate on the Garda Siochana Bill (1958), it was discussing the dropping of the marriage bar for national school teachers.

At the time of the introduction of the Garda Siochana Bill (1958) there were a small number of women already employed as police assistants, there were four in Dublin, and there was also a number of local voluntary organisations whose aim was to assist the police with regard to female offenders and cases involving children. The recruitment of police women was seen as a formalisation of this system. The Bill formally had the support of Labour and Fine Gael so the debate centred on the detail of the Bill and how it would operate. As well as being used as a platform for some deputies and senators to express their fears about women taking on this public role, it was also used by a minority to express support for 'equal pay'.

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<sup>25</sup> Browne to de Valera, 11 Dec. 1958, National Archives, DT S16319 A



The government's stated reason for recruiting women Gardai was to take on 'police duties, mainly in connection with matters affecting children and young women ... in accordance with humanitarian principles.' Furthermore

it is the intention that women police will be concerned primarily with these matters but that they will be given general police training and may be required to do any *police duties which women would be capable of performing* [author's emphasis].<sup>26</sup>

Speaking in the Seanad the following month, Oscar Traynor, the Minister for Justice, also emphasised the need for women police officers 'where sex offences are involved'.<sup>27</sup> As an argument for introducing women police officers it clearly followed the argument made by women's organisations in its emphasis on cases involving women and children. The continuity of the demands by women's organisations for police officers with first wave feminist thinking is shown particularly by the contribution of the two Fianna Fáil deputies, Mary Honor Crowley and Celia Lynch. The suffragist movement in Ireland, from at least 1912, had lobbied for a women's police force, even going as far as to organise women's patrols in Dublin. Their arguments were based on the idea that women would be better able to assist women, girls and children than a male force. Feminism at the time had among its major concerns the prevalence of prostitution and the physical and sexual abuse of women and children. From the founding of the state various women's organisations had kept this demand on their agenda and it had come to the fore in the aftermath of the Criminal Law Amendment Act 1935. Both of the women TDs who spoke welcomed the bill but pointed out that it was not particularly revolutionary. Celia Lynch observed that many countries had women police officers, and that

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<sup>26</sup> Dáil Debates, Vol. 168, c.599, 22 May 1958.

<sup>27</sup> Seanad Debates, Vol. 49, c.590, 4 June 1958.

Women's organisations have been fighting hard for the introduction of a women's police force for many a long year, particularly the Joint Committee of Women's Societies and Social Workers who have done Trojan work in getting the government to come to an agreement about the establishment of the force.<sup>28</sup>

It is also interesting to note the extent to which women police were linked to the idea of women having a vocation for social work and moral guidance, an idea which was also a strong tenet of first wave feminism (Connolly, 1994) and the philanthropic movement (Luddy 1995). Celia Lynch accepted that women police should deal with women and child offenders and that they should also 'help advise girls in moral danger'.<sup>29</sup> Mary Crowley's contribution also recognised a social work element, emphasising the special skills of women. She believed that because of the youth of the potential recruits they 'should also be trained by *women* [author's emphasis] experts in dealing with women and children.'<sup>30</sup> Mary Crowley also supported the idea of a broader role for women within the police force. Approving of them being given the same training as men, she also felt that they should be allowed to take part in the same duties as men to give them as broad an experience as possible, and that women's 'special gift for detail would help them in work connected with detective work.'<sup>31</sup>

Other deputies were concerned to limit the role played by the police women strictly to that of dealing with women and children, for which men were deemed unsuitable, and were afraid that women could be used to replace male officers. One deputy insisted that no clerical work that could be carried out by men should be performed by

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<sup>28</sup> Dáil Debates, Vol. 168, c.619, 22 May 1958.

<sup>29</sup> Dáil Debates, Vol. 168, c.620, 22 May 1958.

<sup>30</sup> Dáil Debates, Vol. 168, c.606, 22 May 1958.

<sup>31</sup> Dáil Debates, Vol. 168, c.605, 22 May 1958.

women.<sup>32</sup> James Everett raised the question of whether there would be night duty for women, saying:

I do not want an imitation of what has happened in Northern Ireland or England where women police under 25 years are trying to act as male policemen - probably watching the licensed premises, hotels and so on.<sup>33</sup>

Picking up another theme of first wave feminism, which had campaigned strongly for banning of alcohol and combining it with a stereotyped view of women as being dogmatic and extreme, lacking men's judgement and experience. Donogh O'Malley saw a serious problem, as

women being what they are, you might get one of them who has a complete aversion to alcohol. She might be a certain type of social worker and very genuine, but she might spend most of her night duty raiding certain premises when the ordinary male member of the force would exercise his discretion.<sup>34</sup>

It is evident from the debate that women were assumed to be suitable to act as police women because of inherent qualities they possessed as women, not because of their ability to acquire skills through training. It is on this basis that a number of deputies raised the issue of the proposed age of the recruits, seeking to have it raised from 20 to 25, believing that otherwise the recruits would not be sufficiently mature and would not yet have developed those innate skills that went with femininity.<sup>35</sup>

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<sup>32</sup> Dail Debates, Vol. 168, c. 619, 22 May 1958.

<sup>33</sup> Dail Debates, Vol. 168, c.608, 22 May 1958.

<sup>34</sup> Dail Debates, Vol. 168, c. 618, 22 May 1958.

<sup>35</sup> e.g. O'Malley, Dail Debates, Vol. 168, c. 616, 22 May 1958; J. Brennan, Dail Debates, Vol. 168, c. 621, 22 May 1958.

The issue of the age of recruits and the nature of training led to expressions of concern that the effect of the marriage bar would lead to money being wasted, training recruits who would only give a short service. This led to suggestions that a vetting procedure at the interview stage could possibly weed out those women most likely to marry. One deputy suggested that 'while recruits should not actually be horsefaced, they should not be too good-looking; they should be just plain women and not targets for marriage.'<sup>36</sup> The acceptance by the government and the opposition of the extra costs involved in maintaining the marriage bar was summed up by Oscar Traynor who said that the 'marriage hazard is one of the things we have to accept.'<sup>37</sup> Equal pay was also raised during the debate but in the context of an expression of support for equal pay for police women. In the Seanad Mary Francis Davidson, the Labour Party's general secretary, with the support of Professor Stanford, argued for the application of the 'principle of equal pay for work of equal value' as the police women would be doing largely the same work and taking the same risks as their male colleagues.<sup>38</sup> Oscar Traynor replied that while he supported the argument, 'the position is that we have not reached that happy state where equal pay for men and women has been accepted generally in the state', indicating a real security on the part of the state elite that there existed no substantial popular demand for equal pay.<sup>39</sup>

The debate on the Garda Bill demonstrated that the government and opposition were united in seeing a distinct role for women in public life and in employment, based on what were considered to be female attributes of caring and empathy, especially with regard to the welfare of women and children. The doubts expressed about the bill, which were to some extent conceded by the form the Fianna Fáil bill took and the minister's comments, were centred on the fear of women in a position of authority upsetting the masculine public sphere by the imposition of perceived female values.

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<sup>36</sup> Frank Sherwin TD, Independent, Dublin North-Central. Dáil Debates, Vol. 168, c.625, 22 May 1958.

<sup>37</sup> Dáil Debates, Vol. 168, c.629, 22 May 1958.

<sup>38</sup> Seanad Debates, Vol. 49, c.593, 4 June 1958.

<sup>39</sup> *ibid.* c.609.

Fears were also expressed that the natural order of things would be upset by encouraging women to behave in a man-like manner and that the welfare of police women would be compromised by placing them in moral danger and subjecting them to the power of gossip which could lead to the loss of their character. This aspect of the opposition to the employment of police women became a minor controversy (Tobin, 1984: 98) during the early 1960s when strong opposition was expressed to Ban Gardai posing as prostitutes.

On a more mundane level fears were also expressed that because wages paid to policewomen would be lower, they would be used to replace policemen. The attitude of Labour TDs reflects Irish trade union opinion at this time in that they advocated that the way to overcome the threat presented by lower paid women workers was to limit the extent to which they could be employed, and the tasks which they could be allocated.

### *The Marriage Bar and National School Teachers*

In 1958 the government decided to end the marriage bar for national school teachers. As the marriage bar was a departmental regulation, not a legal requirement, the decision to rescind it was taken by the cabinet on the advice of the minister for Education, Patrick Hillery. The action was taken in response to strong public dissatisfaction with shortages of qualified national teachers and in the face of trade union and Labour Party opposition.

The ban had been initially introduced in 1934 at the instigation of the government, against the wishes of the Irish National Teacher's Organisation (INTO) and without

the backing of the Catholic hierarchy who had taken a neutral stand on the issue.<sup>40</sup> The decision to drop the marriage bar for national school teachers arose from the need to find a solution to the problem of the shortage of teachers, particularly in rural areas. This had resulted in the employment of large numbers of untrained teaching assistants, a situation which had caused considerable public dissatisfaction over a number of years.

A departmental committee recommended the dropping of the bar for national school teachers. This recommendation was based on the fact that the costs of retaining married women as teachers was much smaller than the costs that would be involved in increasing the numbers of teacher training places to the point where the supply of teachers would match the demand including the wastage through retirement on marriage. Faced with this economic reality the Department of Education conveniently came to the conclusion that teaching, more so than other professions, did not hinder a married women teacher from the 'fulfilment of her duties and obligations in regard to the creation and maintenance of a home'.<sup>41</sup> Primary teaching was promoted by the departmental committee as a female vocation that could easily be combined with housework. Women were considered particularly suitable to care and educate young children and the relatively short working week and long holidays allowed women plenty of time for other activities.

Although the decision to employ married women teachers was taken mainly on cost grounds the Department of Education demonstrated an awareness of the way in which the employment of married women was beginning to change internationally. In a memorandum with a fairly progressive tone it stated

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<sup>40</sup> National Archives, DT, S6231 C. Memorandum from the Department of Education to the Government, 28 Apr. 1958. The memorandum contained the recommendations of a departmental committee set up by the minister to make recommendations on how the problem of untrained teachers in national schools might be solved. With one dissenter, they supported the ending of the marriage bar.

<sup>41</sup> *ibid.*

Many married women are employed in industry now, both in the office and the factory, many professional and business women continue to work in their respective fields after marriage. Objections can be raised to the employment of large numbers of women in industry etc., but the fact must be faced that such is now the pattern of life in many countries. A fact that makes it more difficult to defend the exclusion of married women from the teaching profession.<sup>42</sup>

As the debate on the Garda Act (1958) indicated state elites remained strongly attached to the idea that married women should not work. The Labour Party also predominantly shared this opinion. Brendan Corish, later to be party leader, criticised Jack Lynch, the minister for education for removing the marriage bar, claiming that it was a 'dangerous precedent which might spread other women working in the State service'.<sup>43</sup> In this Corish, was reflecting the attitude held by the trade unions elites at this time.

The attitude of trade unions to women working is exemplified by the INTO's reaction to the appointment of a woman rather than a man, as principle of a Protestant primary school. They wrote to the minister for education, arguing that because of the small number of such vacancies, the headship should have gone to a man, who may have family responsibilities, rather than to a single woman.<sup>44</sup> Even in a trade union with a large number of female members, men were considered to have a greater entitlement to jobs and to promotion than single women. It is also notable that this argument is not based on greater qualifications, but on men's absolute entitlement to take priority.

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<sup>42</sup>ibid.

<sup>43</sup>*The Sunday Review*, 20 Sept. 1959.

<sup>44</sup>National Archives, DT S 6231C, letter dated 27 Feb. 1958.

During the course of the 1960s only secondary school teachers had the marriage bar rescinded, although there was a strong lobby in favour of dropping the bar for nurses, VEC teachers and health service doctors.<sup>45</sup> It appears that the government's continued resistance to these demands, at least by the late 1960s, like their decision to employ married women as teachers, was motivated primarily by considerations of cost and the security that limiting married women's access to employment was still acceptable to a majority of the electorate.

### **State Elite Consensus**

At the end of the 1950s there was a consensus in attitudes to gender amongst the elites of the main political parties. The Labour Party did not provide a more liberal perspective on gender issues, opposing as it did the dropping of the marriage bar for national school teachers - a reflection of conservative trade union opinion. The political parties believed that there were fundamental differences between the sexes that were both physical and psychological, which seriously limited the public roles women were capable of performing.

Women's rights organisations also believed in sexual difference but they argued for recognition of women's special contribution to public life, and also for their potential contribution to political life. The state elites, on the other hand, believed that women, as mothers and carers, should be discouraged from seeking a role outside the home. The state's aim was to uphold the status quo which placed men in a privileged position, both with regard to domestic and public authority and with regard to the ownership and control of economic resources.

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<sup>45</sup>For example Dail Debates, Vol. 207, c. 674, 11 Feb. 1964; Vol. 215, c. 1954, 25 May 1965; Vol. 232, c. 1731, 22 Fe. 1968; Vol. 241, c. 1614, 23 Oct. 1969.



The second Inter Party administration and the Fianna Fáil government that followed it in 1957, were united in their attitudes to policy on family law and women's employment. The minor differences that occurred in the debates on the Married Women's Status Bill and the Garda Bill reflect the nature of parliamentary debate and do not indicate any divergence between the main parties in their attitudes to the social role and status of women. When Fianna Fáil returned to government in 1957, and began a major change in direction in economic policy, there was no sense in which this radical policy change was intended to extend to social issues and attitudes to gender. Yet in spite of this, the debates that took place at the end of the 1950s, for all the certainty of the opinions expressed, mark the end of an era. Within five years this consensus had begun to break down and a re-evaluation of the status of married women and the social meaning of motherhood began to take place.

## CHAPTER THREE

### BREAKING THE CONSENSUS

The early 1960s were years in which change became clearly discernible in Irish society. The literature frequently refers to the existence of a feeling of optimism and anticipation of change as characterising the period (Tobin, 1984; Farrell, 1983; Lee, 1979). Tangible changes also occurred in the slowing down of emigration and the improvement of the employment situation. In many ways the beginnings of more far-reaching changes were indicated in the early years of the decade; RTE television - an incalculable instrument of cultural change, began to broadcast on New Years Eve 1961 and in 1962 the second Vatican council embarked on a major liberalisation of Catholic thought and practice. Nonetheless despite this atmosphere of change, traditional gender values remained strongly rooted among state elites. James Dillon, leader of Fine Gael, speaking in the early 1960s for the 'ordinary man', outlined the concerns of middle class families, the focus of state policy

what matters to me is whether my daughter is going to finish her education with the nuns, whether my son is going to finish his education with the Brothers, or whether my wife will have the standard of living that I have worked to get for her, and that she helped me to work to get for her.<sup>1</sup>

Dillon is describing male responsibility, male public activity with a supportive wife working in the home, whose domestication and level of consumption is a symbol of the husband's success. During the 1960s this familial relationship would be increasingly challenged. Up to 1965 the challenge remained muted, with the first major indicator of change coming in the form of legal change on succession and

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<sup>1</sup> Dáil Debates, Vol. 198, c. 1349, 13 Dec. 1962.

women's guardianship rights that redefined to some extent the relationship between married couples.

At the level of the state, the broad consensus on gender that had existed in the 1950s began to breakdown and new definitions of gender began to emerge. These changes at the level of the state were manifested in the re-evaluation of the role of women as wives and mothers - contained in the Guardianship of Infants Act and the Succession Act. These acts significantly altered both the legal and the actual status of women in the family, redefining to some extent the nature of marriage.

The Guardianship of Infants Act and the Succession Act had both been under consideration for some time. The issue of the custody of children and the disinheritance of wives and dependent children, was recognised as an issue that needed tackling in the course of the debate on the married Women's Status Act, and was also subsequently raised in Dáil questions. Both pieces of legislation proved controversial when they were presented to the Dáil because they were more extensive in scope, and more fundamentally redefined family relationships than the majority of deputies had anticipated. As a result, the debate on these acts, especially the Succession Act revealed a much wider division on gender issues amongst the state elites than had been present just a few years earlier.

Unlike the debates on gender issues at the end of the 1950s, the arguments used in these debates are more pertinent to contemporary discussion. The Guardianship of Infants Bill produced a debate where the welfare of the child was posed against the welfare of the family unit - a debate still relevant in modern social policy. The debate on the highly controversial Succession Bill centred on the preservation of male control and ownership of productive property and the rights of economically dependent spouses. Many of the arguments made during this debate were similar to

those made during the divorce referenda in 1986 and 1995. The debate on these bills marked the beginnings of the renegotiation of gender values by the state elites, as it shifted through a period of social change from one position of equilibrium to another.

The entrenched view of women, as confined to the home under the authority of their husbands, was beginning to break down by the early 1960s. The Department of Justice from 1961, under the ministerial direction of Charles Haughey, who been appointed Parliamentary Secretary to the Minister for Justice Oscar Traynor in May 1961, and Minister for Justice in 1963,<sup>2</sup> initiated a series of legal reforms. A separate division was created to help Haughey work on a programme of reform, headed by assistant-secretary Roger Hayes<sup>3</sup>. Under the direction of Haughey, the Department of Justice produced two major pieces of family law reform, the Guardianship of Infants Act (1964) and the Succession Act (1965). The reform of family law was part of a package of reforms that included the initiation of a Commission on Itinerants, and introduced prison parole officers, welfare officers and juvenile liaison officers and the effective abolition of the death penalty. A reform of marriage law including the raising of the legal age of marriage for girls - a long-standing demand of women's groups - was effectively blocked until 1972 by Catholic church prevarication on the issue. Although a marriages bill was introduced in 1963 it ran in to drafting problems because of difficulty in securing the agreement of the Catholic hierarchy for elements of the bill, especially on the issue of underage marriage.<sup>4</sup>

In the debate on the Succession Act it is noticeable that the Fine Gael policy line was not influenced by the publication of 'Planning a Just Society' (Fine Gael, 1965) or the policy development programme that was taking place within Fine Gael in the mid 1960s. This arose from the fact that - as in Horgan's (1986: 83) assessment of policy-

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<sup>2</sup>*Irish Times*, Profile of Charles Haughey, 10 June 1969.

<sup>3</sup>Dáil Debates, Vol. 213, c. 426, 2 Dec. 1964, Deputy Dillon commenting on the role of the civil servants in the Department of Justice.

<sup>4</sup>National Archives, file 98/6/643.

development in the Labour Party - Fine Gael saw policy-making as a 'harmless enough activity' which kept young radicals busy, and also because the 'Just Society' programme in the 1960s did not address gender issues.

### **The Guardianship of Infants Act 1964**

The Guardianship of Infants Bill (1963) was intended to reform and consolidate the existing laws relating to the guardianship and welfare of children. The bill was a response to a widespread demand for reform that would automatically make mothers the guardians of their children, especially in the event of the death of the father. The published Bill went further than the basic demand. As the Minister for Justice explained

The Bill proposed to give statutory effect to two basic principles. These are, first, that in any proceedings affecting a child, the child's welfare must be of first and paramount importance and, secondly, that the mother and father of a child shall have equal rights to guardianship and custody. In addition, the bill provides for the guardianship and custody of illegitimate children.<sup>5</sup>

The Bill was more progressive than Dáil questions on the issue of guardianship would have indicated, in that it made the welfare of the child the most important consideration, and gave mothers the same guardianship rights as fathers. This marked a departure from seeing the family unit, with its implicit male authority, as the entity which was safeguarded by state policy, to seeing the individuals within the family as the object of state protection and regulation. In applying equally to both spouses, the legislation also marked a departure in public policy from gender specific legislation to

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<sup>5</sup>Dáil Debates, Vol. 207, c. 141, 29 Jan. 1964.

the assumption of legal equality between the sexes. By vesting the guardianship of 'illegitimate' children solely in the mother and not recognising the father in such cases, the state was indicating how completely its revaluation of women as mothers was grounded in the family based on marriage.

The Bill was attacked from two perspectives, firstly as a threat to the stability of the family - being a piece of legislation that was 'likely to give rise to family disputes rather than to settle them'<sup>6</sup> - and secondly as 'an infringement on parental rights'.<sup>7</sup> Speaking against the bill, Deputy M. J. O Higgins detailed on behalf of Fine Gael their opposition to the bill, based on its elevation of the rights of the child

Having regard to the provisions of the constitution ... it is difficult to see that we can unequivocally declare that the welfare of the child must be of first and paramount importance ... there are definite provisions in the Constitution which seem to me to provide that the family unit as a whole, not the individual component parts of that unit, must be regarded as of first and paramount importance. ... The article of the constitution quoted by the minister refers not only to the duty of parents but also to their inalienable rights.<sup>8</sup>

This fear, that seeing the family as composed of individuals rather than as an indivisible unit would weaken the concept of the family based on an indissoluble marriage contract, has remained a part of modern public discourse.

The fear of outside influence usurping the authority of the natural parents was also expressed over the issue of the appointment of testimonial guardians. Men had always had the right to appoint a testimonial guardian to take over their duties in the -

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<sup>6</sup>M.J. O'Higgins, Fine Gael, Dáil Debates, Vol. 207, c. 143, 29 Jan. 1964.

<sup>7</sup>Anthony Esmonde, Fine Gael, Dáil Debates, Vol. 207, c. 1162, 18 Feb. 1964.

<sup>8</sup>Dáil Debates, Vol. 207, c. 145, 29 Jan. 1964.

event of their death. This was of particular relevance when a child inherited property. Under the provisions of this bill, although a father could still appoint a testimonial guardian, they would in future share their guardianship, including the control of property, with the child's mother. What appeared even more threatening, to some deputies, was that the child's mother would now also be able to appoint a testimonial guardian.

Conservative opposition to the bill made use of the issue of the control of property, raising fears concerning the rights of a testimonial guardian appointed by one of the parents to go to court to have the surviving parent declared unfit either to have custody of the child or management of the child's property, and also the fact that where there was no testimonial guardian one could be appointed by the court. The minister pointed out that fathers had always had the right to appoint a testimonial guardian; the law was new in that this right was now being given to mothers as well.<sup>9</sup>

The debate on the bill became side-tracked on to a lengthy discussion on unmarried mothers, with the importance of giving support to unmarried mothers, or at least raising no obstacles to allowing them keep their children, being stressed. This was based on seeing mothering, rather than institutional care, as being essential for rearing well-balanced individuals.<sup>10</sup> This is interesting because it is the beginning of a public discussion on unmarried mothers that viewed them with more sympathy than had previously been the case.

The debate on the Guardianship of Infants Act indicates the division on issues of gender that emerged in the state elites during the 1960s. In the debate on the Married Women's Status Act (1958) opposition to the reform came from a conservative perspective and the government responded by arguing that the suggested reforms

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<sup>9</sup>Dáil Debates, Vol. 207, c. 1162, 18 Feb. 1964.

<sup>10</sup>Dr. Noel Browne, Dáil Debates, Vol. 207, c.1173-4, 18 Feb. 1964; Anthony Esmonde, Vol. 207, c. 1178, 18 Feb. 1964.

would not in practice threaten the status quo. The ideological position of the conservative opponents of change was accepted: the debate was on what the actual impact of the measures would be. In the debate on the Guardianship of Infants Bill, the Fianna Fáil government countered conservative opponents from a progressive position by insisting that the changes were necessary and that the welfare of children must be paramount. That the government elite rejected the ideological basis of, at least the most conservative aspects of, traditional gender relations was an indication that a new set of gender values were emerging in the state.

### **The Succession Bill 1964 and the Crisis for Fianna Fáil**

The need for change in the succession law had also been recognised for some time, as under the existing legislation it was possible for a husband to disinherit his wife and dependent children. A white paper in 1962 on legal reform had promised to deal with this problem of ‘inofficious’ wills, and following this opposition parties had called on the government to state when they would introduce legislation to compel married men to make adequate provision for their wives and infant children<sup>11</sup>. The way this question was phrased reflected the perception of the problem amongst the state elites, as one of ensuring that married men, through their wills, fulfilled their obligation to maintain their economically dependent wife and children. It was not seen, in any way, as an issue of women’s rights other than the right to maintenance.

The new Bill was launched by Minister Haughey at a major press conference on 10 July 1964 at the beginning of the Dáil summer recess, so that the first time it was seen by TDs and the general public alike was when a detailed account of its provisions was carried in the newspapers the following day. Haughey stated that the main purpose of the bill was to ‘ensure that the obligation of a man to provide for his wife and children

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<sup>11</sup> Dáil Debates, Vol. 184, cc. 1267-8, 12 July 1960.



continues after his death',<sup>12</sup> but it was clear that its implications went much further than this. It gave a minimum fixed proportion of the estate to the spouse and children of a testator, one third for the spouse and one third for the children where the testator was survived by both spouse and children and one half to the spouse or the children where the testator was survived by either their spouse or their children only. Any dispositions of property for the purposes of defeating or substantially diminishing the legal share of the spouse or any children within a ten year period before death would be considered by the courts as part of the estate and treated accordingly. As married women did not have freedom of testacy, this law effectively ended the complete freedom of testacy enjoyed by men. It was also reported that it was intended that the bill would go before the Dáil in November and that it would apply to the estates of all persons dying after 1 January, 1965, irrespective of when the will was made.<sup>13</sup> Like the Guardianship of Infants Act, this bill applied equally to men and women, continuing the trend to what would be the automatic assumption of equality in Irish law.

It appears that in launching this bill, the Department of Justice miscalculated the degree of progressive change the electorate would tolerate. This is evidenced by Haughey's introduction of the bill at the press conference in July, expressing his confidence that it was so comprehensive and well researched that it would be universally well received. Throughout the summer there is every indication that he continued to promote the Succession Bill as his department had drafted it. Reflecting genuine surprise at the response the bill received, he is reported later to have said 'I had no idea that the primitive instincts were so deep-rooted in this country'<sup>14</sup>.

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<sup>12</sup>*Irish Times*, 11 July 1964.

<sup>13</sup>*Irish Times*, 11 July 1964.

<sup>14</sup>*Irish Times*, 10 June 1969.

Obviously the bill went much further than the maintenance of wives and children, called for by the opposition, and the opposition parties took advantage of the intense public disquiet that the publication of the bill produced. During the summer following Minister Haughey's press conference public opposition to the bill mounted. Opposition was primarily based on the right of men to control of property and therefore also to have the freedom of testacy necessary to pass on the farm or business to a selected male heir. The Bill was criticised for imposing urban values on the state and ignoring the needs of the rural community.<sup>15</sup> Inheritance by the wife in an urban setting, when only the inheritance of the family home was in question, was considered to be a completely different situation from the inheritance of a family farm or business.

The depth of opposition generated by the publication of this Bill is graphically demonstrated by the political crisis it generated for the minority Fianna Fáil government. In the political literature, Haughey's move from Justice to Agriculture has been considered in the light of the problem created by the sudden resignation of the veteran Paddy Smith<sup>16</sup> because of his objections to the way in which Lemass was seeking to involve the unions in policy formation (Farrell, 1971:65) and what he perceived as the 'receptivity of Lemass to trade union demands' (Lee, 1989:367). Lemass is considered to have cleverly distracted 'media attention from the substantive issue involved', in Paddy Smith's resignation 'by instantly appointing C.J. Haughey, his distinctly urban son-in-law, to Agriculture' (ibid, based on Farrell, 1979:104). This analysis ignores the fact that in October 1964 Fianna Fáil were experiencing more serious difficulties than those presented by Smith's surprise resignation. Movements in public opinion were of vital importance to Fianna Fáil because as a minority government they could not determine the date of the next general election and could be forced into an election at an unfavourable time by the opposition. The

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<sup>15</sup>T.J. Fitzpatrick, *Fine Gael (Cavan)*, Dáil Debates, Vol. 215, c. 2067, 25 May 1965.

<sup>16</sup>Paddy Smith, *Fianna Fáil, TD for Cavan 1923-73*.

strength of public opposition to the proposed succession Bill was so strong that as J. A. Costello pointed out in the Dáil the level of dissatisfaction could prove to be 'a very vital factor in a general election'<sup>17</sup>.

The success of this Lemass administration was built on introducing change and dynamism into the Irish political system and facing down the excessive demands of interest groups to maintain this forward progression (Lee, 1989: 360). A u-turn on the succession Bill would damage the credibility of the administration as well as the Fianna Fáil party. It is also difficult to know to what extent Lemass felt his personal political prestige would be damaged by the controversy surrounding his son-in-law. The problems Fianna Fáil were experiencing in the wake of the publication of the Succession Bill (1964) were far greater and more far reaching than the probable fall out from the unexpected resignation of Paddy Smith and his attack on an aspect of Fianna Fáil policy. The opportunity which Paddy Smith's sudden resignation presented for an unavoidable limited cabinet reshuffle at the eleventh hour before the resumption of the Dáil was extremely fortunate for Fianna Fáil, a fact not lost on the opposition. T. F. O'Higgins clearly appreciated

that something had to go in relation to the Succession Bill. Perhaps it was fortuitous in the circumstances that a Ministerial resignation led to a Ministerial reshuffling; it made it possible to have some break in the stalemate likely to have arisen in relation to the bill<sup>18</sup>.

The opposition also noted that it was not coincidence that led to the convention for a by-election in East Galway being announced on the same day that the Department of Justice announced major changes in the Succession Bill.<sup>19</sup>

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<sup>17</sup>Dáil Debates, Vol. 213, c. 479, 3 Dec. 1964.

<sup>18</sup>Dáil Debates, Vol. 213, c. 1057, 15 Dec. 1964.

<sup>19</sup>Dáil Debates, Vol. 213, c. 362, 2 Dec. 1964.

Unlike later interpretations of the events, an *Irish Times* account (10 June 1969) of the appointment of Haughey to Agriculture notes that he was having 'a lot of trouble with the Succession Bill'. Although, as Minister for Agriculture, Haughey was in one of the top three ministries in the cabinet it was something of a poisoned chalice. In spite of being a champion of agricultural interests against urban incursions, Paddy Smith's and the Department of Agriculture's relationship with the farmers' organisations had not been good. Difficulties continued in the agricultural sector for the next few years and it has been argued that it was the fact that Haughey was forced to take on the unpopular role of facing down rival farming organisations, that cost him the leadership of Fianna Fáil in 1966 after the retirement of Sean Lemass.<sup>20</sup>

The way in which the issue of Haughey's transfer to Agriculture has been analysed in the literature indicates the gender bias in the paradigm of political research. The Succession Bill is defined as a 'social issue', whereas state-farmer relations are defined as a hard political issue. The latter is visible as one of the themes around which Irish political history and political science research on the state is built. Social issues, including gender, have been explored as a separate sub-set of the politics of the state and their influence has tended to be viewed as a marginal one. The controversy surrounding the Succession Bill and its political fall-out belies this assumed marginality of gender to the state and the national politics. The question of succession proposed changes that went to the heart of the gendered values and relationships on which the state was based and appeared to undermine the gendered nature of property relationships on which the family and economy were also based. In essence the debate on the bill was about the concrete issues of the gendered ownership and control of property.

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<sup>20</sup>*Irish Times*, 10 June 1969

The Succession Bill was introduced into the Dáil in the Autumn of 1965 by Brian Lenihan, appointed Minister for Justice after the cabinet reshuffle in 1964. He attempted to paint the events of the preceding months in the most positive light, but it was hard to mask the climb down implicit in proposing a draft bill while promising that the government would be introducing significant changes, at the committee stage. He described the bill and the nature of its introduction

The Bill ... is one of the most important measures of law reform ever to be brought before this House. Because of the important nature of the proposals which it contains, the text of the bill was circulated at the beginning of the summer recess so that everybody would have ample opportunity to study its provisions before it came to be discussed by the Oireachtas ... It has been gratifying to find that widespread public interest in the bill had been evoked and that a great deal of helpful and constructive criticism has been forthcoming.<sup>21</sup>

Fine Gael was highly critical of the government's handling of the issue both on technical and policy grounds. Added to their criticism of the provisions of the bill was their annoyance at Fianna Fáil's verbal bending of Dáil procedures in their attempt to make the fundamental amendment of a government Bill, by the government, appear to be a willingness to discuss the issues involved rather than changes forced on the government by public opinion.

Fine Gael argued on strong grounds, that procedurally, had Fianna Fáil wanted a discussion on succession policy, they should have introduced a white paper on which submissions could have been made. They believed that the Fianna Fáil amendments amounted to a change in the principles of the bill, and that this should have been

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<sup>21</sup>Dáil Debates, Vol. 213, c. 320, 2 Dec. 1964.

responded to either by the scrapping of the 1964 Bill and the introduction of a new Bill, or by the retention of the existing Bill, which contained long overdue reform as well as consolidating the inheritance law, and the deletion of the controversial sections. These sections could then be dealt with in a separate Bill at a later date. Fianna Fáil insisted on the bill going to committee stage for amendment, arguing that no fundamental principle of the proposed legislation had been altered. Before this position had been reached Lemass had called a general election following a by-election defeat in Cork. Fianna Fáil returned to government with an over-all majority and introduced the Succession Bill (1965) which was subsequently passed into law. The 1965 bill contained a further substantial retreat from the original 1964 Bill.

### **Gender and Property**

Haughey's original bill had proposed to give to the spouses and children of the testator a fixed proportion of the estate, one third for the spouse where there were children, one half where there were not. To prevent the spirit of the law from being contravened all bequests would be treated as suspect for a period of ten years prior to the death of the testator. The measures were criticised for interfering with the freedom of the owners of private property to dispose of it as they wished. But not even the most strident critics of the bill believed that the right of freedom of testacy should be completely unconditional. In decreeing a fixed proportion of an estate for the wife and children, combined with viewing as suspect all transfers from the estate for the ten years prior to death, the bill would make it difficult for a man to leave a farm or business to a chosen heir. The opposition parties objected to the idea of fixed shares for the spouse and dependent children, favouring the idea of a 'just' or 'appropriate' share leaving the courts to decide what was appropriate or just in the event of a will being challenged. It was envisaged by the opposition that a wife

would have the right to be maintained at a level which either her husband or the courts considered reasonable, and that the new succession law should not transfer any right of ownership of the husband's property to the wife.

The amendments to the 1964 bill proposed by Fianna Fáil reduced the period for which bequests would be considered suspect to three years and allowed for the transfer of property by family agreement. In effect this meant that a man could pass on his property to his chosen heir only with the consent of his wife, by legal deed, but not through a will. At this stage, Brian Lenihan, declared his intention of not forcing every Irish widow who has been unjustly treated into court to claim her legal rights. In the later stages of the debate he did express a willingness to find a compromise between leaving it to the discretion of the courts to decide on what was a just or proper bequest to a widow and the more rigid fixed share system proposed in the bill.<sup>22</sup> The 1965 bill contained this compromise, although a spouse was still entitled to a fixed share, she could choose between her legal right and her rights under the will. A will would not be illegal because it did not give to the spouse a third or a half of the estate (in the absence of a prior agreement), and it would be up to the spouse to challenge the will in the courts if she was unhappy with its provisions. It also narrowed the definition of personal chattels (on which the wife had the prior claim) to household chattels.

The original 1964 bill had not distinguished between dependent and non-dependent children. Neither had it allowed a spouse to leave all their estate to the surviving spouse, relying on the survivor to provide for the dependent children. Fianna Fáil proposed to change this in amendments to the 1964 bill, and in the 1965 bill the position was that a spouse could leave the entire estate to the surviving spouse even

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<sup>22</sup>Dáil Debates, Vol. 213, c. 1063, 15 Dec. 1964.

when there were dependent children, and that non-dependent children would have no automatic rights to inheritance.

Although the Succession Act (1965) was significantly different to the original 1964 Bill, the arguments for and against the principle of the Bills remained substantially the same and centred on the gendered nature of the property relationships inherent in the family and in society. The argument against the bill was conducted from an exclusively male perspective. Men are the people of Ireland, the owners of property, and the citizens of the state, demonstrated by the way in which in the majority of instances when such terms are used women are consciously excluded from their definition.

Those who opposed the bill described it as 'dangerous' and far reaching as it would affect in a 'very fundamental way the lives of ordinary people and the entire economy of the country',<sup>23</sup> because of the imposition of 'very severe limitations on the right of a person to dispose of his property by will'<sup>24</sup> and the interference it implied with the 'traditional' pattern of inheritance. This traditional pattern of inheritance was described in numerous anecdotal accounts in the course of the debate. Deputy J. A. Costello somewhat ironically described this idealised tradition where

provision is made for one particular son. He has to provide against very small fortunes for the sisters. The widow is relegated to the use of one room, the grass of a cow, wet or dry. She is to be given the use of the horse and car to bring her to mass on Sundays. She is to be maintained in the condition in which she was heretofore maintained. We have it all off by heart.<sup>25</sup>

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<sup>23</sup>T.F. O'Higgins, *Fine Gael, Dáil Debates*, Vol. 213, c. 1056, 15 Dec. 1964.

<sup>24</sup>M.J. O' Higgins, *Fine Gael, Dáil Debates*, Vol. 213, c. 363, 2 Dec. 1964

<sup>25</sup>*Dáil Debates*, Vol. 213, c. 483, 3 Dec. 1964



In spite of the condescension evident in this comment, Costello's opposition to the bill was based on support for the system of male control and ownership of property, tempered by the just treatment of dependants, that this 'traditional' pattern implied. He argued that the welfare of widows had to be reconciled with 'the claims and rights of those people who up to now have had full right of free testamentary capacity'[men]. While there was objections to a 'fixed share' of an estate 'no man should object to a provision of a statute of an Irish Parliament directing him that he is bound to give a proper and just share of his assets to his wife'.<sup>26</sup> Costello believed that a 'just and equitable' share would take into account 'her circumstances in life', 'the amount of the estate', 'the claims of her children and the conditions of the family in general'.<sup>27</sup> His universal definition of men as the owners and earners of property and women as dependants is emphasised by his objection to the use of the word 'spouse' in the bill, stating that if a man 'will not provide for himself and is depending on what his wife leaves him, the devil mend him and we ought not to legislate for that. We should confine the operations of this Bill to widows'.<sup>28</sup>

In the debate on both Succession Bills it is men's freedom of action and men's property that is being discussed, not a gender neutral concept of property rights. Deputies consistently refer to the property owner as male and the surviving spouse as female. Deputy M. J. O Higgins listed three propositions which he believed would command support on both sides of the house,

that a *man* is, as a matter of right, entitled to the ownership of private property.  
... that a married *man* has obligations and responsibilities towards his wife and children. ... that in this country the great majority of Irish testators do make

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<sup>26</sup>Dáil Debates, Vol. 215, c. 2057, 25 May 1965.

<sup>27</sup>Dáil Debates, Vol. 215, c. 2057, 25 May 1965.

<sup>28</sup>Dáil Debates, Vol. 215, c. 2053, 25 May 1965

proper wills which make proper and adequate provision for their dependants<sup>29</sup>.

(Author's italics).

On this basis he objected to this section of the bill because it was a law of general application rather than legislation that would just deal with the particular problem of disinheritance.<sup>30</sup> In this context disinheritance was being equated with a failure to maintain a wife or dependent children during the life time of a marriage.

Many deputies objected to the interference of the state in what was considered a private matter.<sup>31</sup> It was argued that men knew what was best for their families and could tailor wills to meet individual circumstances in a way that a law of general application could not.<sup>32</sup> The corollary to this statement was that women did not possess the abilities to either deal fairly with the competing needs and wishes of family members or to manage productive property. The main concern of the majority of property owners is described as a desire to 'create a situation in which the family farm or the family business will continue after his death'.<sup>33</sup> In the anecdotal accounts of inheritance women are portrayed as being likely, through being susceptible to the influence of others, to either go against the wishes of their husband or to lead to the break up of the family farm or business. Extracts from Deputy T. J. Fitzpatrick of Fine Gael, from Cavan, are worth quoting in some detail. He complains that the bill did not consider the 'general character or temperament of the surviving spouse': is 'she' likely to be

difficult with the son who is residing in the farm ... there might be a danger that this one third which is being left to the spouse might be given away to

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<sup>29</sup>Dáil Debates, Vol. 213, c. 399, 2 Dec. 1964.

<sup>30</sup>Dáil Debates, Vol. 213, c. 400, 2 Dec. 1964.

<sup>31</sup>For example, Dáil Debates, Vol. 213, c. 399, 2 Dec. 1964 and Vol. 213, c.1054, 15 Dec. 1964.

<sup>32</sup>Dáil Debates, Vol. 213, c. 584, 3 Dec. 1964.

<sup>33</sup>Dáil Debates, Vol. 215, c. 2068, 25 May 1965.

some son or daughter who is adequately provided for and has gone away from home. ... We should not encourage a state of affairs in which we would have sons and daughters visiting the homestead with an eye on the one-third the mother had, visiting the homestead and making trouble in the hope that they might encourage the surviving spouse to make over to one of them, although they had long left the homestead, her legal one-third.

Fitzpatrick feared that as a result of such action the homestead would be broken up. It is notable in this narrative that the father when alive would not be vulnerable to the same sort of pressures. Fitzpatrick describes the father as a 'considerate parent' who takes into account in an objective fashion the needs and situation of his children.<sup>34</sup>

Deputy M. E. Dockrell, of Fine Gael, also feared the 'splinterisation ... of farms and businesses, be they large or small'. He wanted to see 'families protected' from the situation where other members of the family (apart from the son who had been left the bulk of the farm or business) were 'trying to get around the old lady' to get her share of the estate'. In the past, he stated, the surviving spouse was left on the farm with perhaps the son

and not put out on the road. She certainly was given the right of shelter and she may actually have been left the farm or property, as the case may be. At any rate, she was usually left a life interest and that worked out very well.

He felt that by tying the property down to a fixed share it would be no longer possible to deal with the situation 'where the spouse is, perhaps not mentally unsound but not entirely capable of managing her affairs ... but where it would be very difficult to go into a court of law and prove it'.<sup>35</sup>

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<sup>34</sup>Dáil Debates, Vol. 215, cc. 2068-73, 25 May 1965

<sup>35</sup>Dáil Debates, Vol. 215, cc. 2076-7, 25 May 1965.

Although no absolute objection was raised to women inheriting property it was not considered to be the norm and should be subject to a male veto. Deputies on a number of occasions cited the permanency of marriage in Ireland as a reason why such legislation was unnecessary. Because there is no divorce, the rights of the wife are not threatened by the dissolution of the marriage. This only makes sense if one considers the dependant status of the wife in a permanent hierarchical marriage with the right to be provided for in the event of the husband's death, as an acceptable situation.

Those who promoted the bill, even in its amended form, were not only promoting a change in the succession laws but also a significant change in the nature of marriage and of the property relationships it involved. Lenihan, in introducing the second stage of the bill in 1965, described a subtly altered version of traditional Irish motherhood. He described the circumstances in Ireland where

the wife plays a particularly important part in the affairs of the family. More often than not she has to engage in hard physical labour. In rural Ireland she is the joint manager of the home and farm, and very often, where her husband takes to drink or neglects his duty, she is the sole manager. It may, perhaps, be a platitude to say that the wife and mother is the very foundation of family society, but it is nevertheless, true. She has moral rights above and superior to any mere rights to 'be maintained in the house, given what is called, the range of her teeth' and allowed to use the family conveyance to take her to Mass on Sundays<sup>36</sup>.

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<sup>36</sup> Dáil Debates, Vol. 215, c.2020, 25 May 1965.

Clearly the motivation of the bill was to ensure property rights for women within the context of the traditional family but based on a revaluation of the status of the mother within the family and of the relationship between the husband and wife. In the Dáil its strongest supporters were the 'new men' of Fianna Fáil, Haughey, Lenihan and Colley, indicating that the political generational change noted by other commentators also applied to questions of gender. What this younger generation of politicians expected from marriage and how they saw their relationships with their wives was significantly different to that of the older generation.

George Colley in his contribution to the debate emphasised that the Succession Bill was part of a programme of law reform 'in keeping with the needs of this country in the second half of the twentieth century' and that it was 'enlightened by an approach to social justice which did not exist at a time when many of our existing laws were passed'. He argued that the form of marriage on which the bill was based represented a 'very considerable social advance' because it recognised 'the wife as a partner who contributes to the marriage which is a partnership equally with the husband'.<sup>37</sup> This partnership was still based on a difference in social function, but it was no longer to be based on an hierarchy of authority that had the backing of law. The difficulties in tackling the unequal distribution of property between the sexes is demonstrated clearly by the Succession Act debate. Men proved not only unwilling to share the ownership of property with their wives, they were also unwilling to see them inherit their property after their death.

This reluctance to allow women to inherit land can be placed in the context of how much land women actually owned and how many women remained on the 'homestead', depending on the family farm for their living. In 1961 there were 29,138 (approximately 14% of all farmers) women farmers across the range of farm

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<sup>37</sup>Dáil Debates, Vol. 213, cc. 416-7, 2 Dec. 1964.

sizes, and 12,403 women working on farms as 'relatives assisting'.<sup>38</sup> In the second half of the 1960s the number of women farmers declined sharply, more sharply than the number of men who were farmers. A possible explanation is that the 1964 Succession Bill made succession and the making of a will a major topic of public debate and prompted this change in the same way that the 1983 amendment to the constitution, while it was designed to prevent any liberalisation of the state's attitudes to abortion, had the unintended side effect of heightening the general public's awareness of abortion as an issue. The Minister for Justice told the Dáil that 50% of estates were intestate<sup>39</sup>, which prior to the 1965 Act meant that widows on small farms were inheriting all or the bulk of the estate, and one third of the estate on large farms. It appears that the effect of the Succession Act was to make male land owners more aware of the need to either pass the farm on before death (a practice that was encouraged in the 1970s with the introduction of pensions for farmers who transferred their farms to a younger farmer) or to specify an heir in their will. This had the effect of substantially reducing the percentage of farmers who were women and of reducing the amount of land held by women. The number of women farmers fell more rapidly than the number of male farmers across the range of farm sizes. In 1961 13.9% of all farmers were women, but by 1971 this figure had fallen to 10.3% and by 1981 to 6.6%. This was not an even decline; the percentage of women farmers fell most rapidly in small farms of under 30 acres. Between 1971 and 1981 the number of farmers, farming 30 acres or less fell by nearly 50% and the percentage of small farmers who were women fell from 14% to 6.7%.<sup>40</sup>

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<sup>38</sup> Figures from the 1961 Census of Population, table 39.

<sup>39</sup> Dáil Debates, Vol. 213, c. 332, 2 Dec. 1964.

<sup>40</sup> Figures from 1961, 1971 and 1981 census of population, males and females classified by occupation tables.

## **The Division in the State Elites**

In the legal reforms of the mid-1960s public policy moved from supporting a hierarchical family structure based on male authority, towards a position of equal authority between the wife and husband. This equal authority was granted in respect of decision making regarding the upbringing of children in the Guardianship of Infants Act (1964) and with regard to the disposal of property in the Succession Act (1965). This developing legal equality in family law was based on a re-evaluation of the role of wife and mother as well as an increase in the general status of women.

The debate on gender in the early 1960s indicates less consensus on gender issues than existed at the end of the 1950s. There is a greater division between those promoting reform and those who wish to retain the status quo and who viewed women as mothers, rather than as individuals entitled to equal rights. This question of individuality was a key difference between the two sides in the debate. The early 1960s did not just see a higher status being placed on motherhood, but this increase in status took place within the context of a growing awareness of individual rights and that these took precedence over the family as a unit. The family law reforms of the mid 1960s weakened male authority in the family, and also therefore, the notional unity of the family based on the husband and father being the legal head of the family and its mediator with the public sphere. Conservatives tried to limit legal rights within the family for women, because they believed that the absence of an hierarchical family structure would encourage marital strife. Marriage based on two individuals with equal legal rights, is premised on the possibility of a conflict between those sets of rights and therefore at least acknowledges the possibility of marital difficulties and breakdown.

This division on gender issues had a party political dimension, with the Fianna Fáil elite supporting most strongly a revised view of women's status and marital relations that gave women a much stronger right to inherit family property. Fine Gael opposed this and argued for legislation that retained as fully as possible men's freedom of testimony within a judicially regulated framework for 'adequate' provision for dependent wives and children. The publication of 'Planning a Just Society' in 1965, as the debate on the Succession Act illustrates, did not impact on the attitudes to gender exhibited by the Fine Gael elite. The Labour Party, which at this stage had not begun its shift to the left, and with its electoral support coming primarily from rural communities, also opposed the bill. Labour's opposition came from a similar perspective to that of Fine Gael, but was far less forcefully, or coherently, made. Corish's contribution in particular seems very vague when compared to that of the Fine Gael leadership. Fianna Fáil in 1965 appeared the most progressive of the political parties in spite of its enforced partial climb down on the Succession Act. Horgan's (1997: 203) discussion of a 1963 assessment by Lemass, of the other two political parties, is revealing. Lemass accepts a policy divide between Fianna Fáil and Fine Gael which characterises Fine Gael as 'a right wing conservative party', even though he does not choose to attack them on this basis, as he had no wish to alienate conservative Fianna Fáil voters. Although he accepts a description of Labour as the 'party of protest and discontented elements' he sees their major weakness as being their political ineffectiveness. Fianna Fáil, on the other hand, is seen as 'the party which is planning the future, which has definite aims and a known policy'.

The debate on women's guardianship and succession rights indicated that the hegemonic position of the 1950s was beginning to break down and divisions on gender values were emerging among the state elites, and also that these divisions had a party political dimension. From 1965, these divisions grew in importance and there was a rapid increase in the frequency with which gender related topics were raised in



the Dáil and in the range of topics that were being discussed. With the passing of the Succession Act, Ireland embarked on a period of transition during which gender relations were significantly reassessed

## CHAPTER FOUR

### NEGOTIATING POLICY CHANGE - 1965-1972

The seven years from the passing of the Succession Act in 1965 to the publication of the Report of the Commission on the Status of Women in 1972 mark a period during which the gendered basis of public policy was substantially renegotiated. This renegotiation was part of a complex network of wider change in the role of the state, and the relationship of the individual to the state. The hierarchical patriarchal family structure and the refusal to recognise a public role for women which had dominated the state and its public policy at the end of the 1950s was replaced by a new contract negotiated by the government, the social partners and, to a lesser degree, women's interest groups. This new contract, which was set in place by the end of the 1970s, was strongly influenced by the prevailing political ideas of the 1960s - exemplified by the civil rights and new left movements in America and Europe - amongst the most influential of which were those of equal citizenship, equality of opportunity and social justice.

The swing towards a more left wing political ideology in the 1960s combined with changing economic conditions led to a redefined and expanded role for the state. The breakdown in the consensus on gender values in the state discussed in the previous chapter was part of the beginning of this reform of the state which from the mid-1960s continued at an accelerated pace. The increasing assertiveness of Irish women themselves in the face of this social and political change was part of a more general movement of social change that exploded across Europe in 1968 and 1969 in the form of violent strikes, student protests and second wave feminism. In Northern Ireland this international unrest was echoed in the civil rights movement. In the South the late

1960s was both a time of growing optimism in the economic capacity of the state and also of growing social upheaval that manifested itself in industrial unrest and in a number of politically focused campaigns such as the 'Dublin Housing Action Committee', formed in 1967 (Tobin, 1984:182). McCarthy comments: 'a large part of the impetus to industrial unrest seemed to spring from the very nature of the society at the time and to social movements which we shared with other countries ... [This period, the late sixties, and early seventies] ... marked a watershed in this country, no less than in countries elsewhere' (1980: 35).

Women's redefined relationship with the state that had emerged by the end of this period was renegotiated along two main axes - state support for motherhood and women's labour market position. The change in the way the state supported motherhood was demonstrated by the inclusion of deserted wives and unmarried mothers in the social welfare code. In the campaign to improve women's labour market position it was equal pay that dominated the public discussion and the attention of the trade union movement. Demands for the removal of the marriage bar and equal treatment in employment opportunities are more frequently expressed in the Dáil than in the debate within the Trade Union movement, especially before 1969. By 1972, with the publication of the Report of the Commission on the Status of Women and the imminent entry of Ireland to the European Economic Community, the framework had been laid for a public policy regime founded on a very different set of gender values to that which had existed in the state in the 1950s. This chapter will examine the negotiation of this new policy regime and discuss the interplay of different vested interests that redefined the dominant gender values on which this regime was based. It will look at the nature of the expanded Irish state and the impact of social and labour market changes in order to contextualise the discussion of the redefinition of the state's relationship to motherhood and the campaign for equal pay and equality of opportunity.

### **The expansion of the state.**

The key change in the role of the state in the 1960s was its 'acceptance of the tenets of Keynesian and neo-Keynesian economics', and 'the adoption of the policies that gave rise to the welfare state' (Morrissey, 1986:79). In the 1960s the state vigorously directed a strategy of industrialisation and offered the employers and the trade unions 'an integral part in the thinking that lay behind the government's economic and social programme' (McCarthy, 1980:32). The concept of economic planning had become a major topic of public discussion, academic writing and a focus of government activity. Basil Chubb and Patrick Lynch described the adoption of economic planning as an essential revolution in public policy and one that required a higher level of leadership from politicians and the leaders of major interests groups than had been necessary in the past (1969: 1). By this they meant that the leaders of interest groups must be able to control excessive sectional interest from their members and be able to co-operate with different opposing interests for the common good. Negotiations of this nature are far easier for elites when they take place in secret but the compromises they entail can present difficulties for those elites when they clash with the perceived interests of rank and file membership. Chubb and Lynch saw this as a particular political problem for the state in the late 1960s because it was a time when the population were 'increasingly inclined to demand the right to know and to participate in public affairs' (1969: 4).

By the mid-1960s the state was committed to expanding its role in the promotion of economic development and had created a number of institutions to provide an 'organisational infrastructure' to assist it in this role (Lee, 1989: 365). These institutions fulfilled a number of functions. They provided the government with information and a source of policy advice outside the civil service and they provided forums where employers and trade unionists could meet in negotiation at a national level and where they could influence the development of policy. The Economic

Research Institute was established in 1960. In 1961, the tripartite Committee on Industrial Organisation was set up to study the structural problems of Irish industry. In 1963 the National Industrial and Economic Council was established, also with a tripartite structure and with a more comprehensive remit. The setting up of the council created a body whose aim was to provide a forum where government, business and trade unions could explore policy issues and build a consensus. Its reports reflected this discussion and the consensus that had been arrived at and on this basis became an important agreement in policy development. In its 1965 report it stated that 'economic planning ... is essentially tripartite' but it recognised what was to be an ongoing problem, that involvement may be welcomed 'for the opportunities it offers to influence government decisions and that the responsibilities that go with it may be ignored.'<sup>1</sup> This development has been detailed by Hardiman's (1988) study of the development of tripartism in Ireland in the 1960s and 1970s and in Barrington's study of the development of health policy (1987). Barrington concludes that the effect of the Health Act of 1970 was 'to increase the role of those interest groups which had most at stake in the system and most power' (1987: 278).

With these developments it appeared that the Dáil was being increasingly by-passed and that the central aspects of policy discussion and decision making were happening in the new structures the Fianna Fáil government were creating. In 1965 a general election had returned a majority Fianna Fáil government, giving the party their ninth consecutive year in office. In the face of a dynamic programme of legislation on the part of the government and an apparently successful programme of industrial expansion the other parties in the Dáil had not provided an attractive alternative or an energetic opposition, underlining the seemingly hegemonic position of Fianna Fáil.

After 28 years of conservative leadership under William Norton, in 1960 the Labour Party selected a new leader, Brendan Corish of Wexford. Although he had previously

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<sup>1</sup>National Industrial Economic Council, 'Bridging the gap', Report No. 8, 1965.

given no sign of being a radical, under his leadership the 'party broadened its membership, professionalised its headquarters, radicalised its programme and succeeded in recruiting a new type of candidate, including a number of prominent left-wing intellectuals' (Sinnott, 1995: 55).

The ineffectiveness of Fine Gael and Labour in opposition was emphasised by the determination of both parties to avoid coalition. Labour, disillusioned with its experience of the inter-party governments, had decided against coalition prior to the 1961 general election. Although this reduced the number of inter-party transfers between Fine Gael and Labour, they continued with the policy in the 1965 general election. This time the party was buoyed by a historically good result, with the party winning 22 seats. Labour had fought that election on a socialist sounding programme, contained in the policy document 'The Next Four Years' which committed Labour to public enterprise, economic planning and an equitable distribution of the nation's wealth (Tobin, 1984: 135). Labour's election success of 1965 coincided with a political climate that facilitated a move to the left, and from 1967 permitted the Labour Party to identify with a socialist position (Gallagher, 1985: 78). Labour's policy development continued with a commitment to equal pay in 1967 and the production of a detailed policy document in 1969, which despite its overtly socialist ideology, failed to deal with women's rights. This omission was corrected in 1971 when a recently formed women's committee successfully submitted a women's policy document to the Party Conference. The 1969 election was a major disappointment to the Labour Party, resulting in a loss of four seats, especially so given the unrealistically high hopes entertained by the party membership. This result drew the party elite back to a reconsideration of coalition with Fine Gael and also allowed for the reassertion of less radical elements within the party who effectively withdrew their support for aspects of party policy.

In 1965 Fine Gael produced 'Planning a Just Society' assessed by Sinnott as a 'mildly social democratic policy document ... which a ginger reform group pushed through as the substance of the party's manifesto' for that year's election (Sinnott, 1995, 48) in the absence of any alternative. 'Planning a Just Society' was the first in a series of very detailed policy documents produced by a policy committee in Fine Gael. It was a long document -108 closely typed pages - dealing primarily with economic policy and written in a technical economic language which was not aimed at the general public. It contained a criticism of Fianna Fáil's policy of indicative planning, arguing for 'full scale economic planning' and that 'government intervention' was not necessarily a bad thing' (Fine Gael, 1965: 10) It contained a commitment to a reform of the social welfare and health system with the aim making them both more comprehensive and also insurance based. It discussed the need for investment in social capital to reduce poverty and inequality of opportunity, while firmly based on meritocratic ideas (Fine Gael, 1965: 6-9). As a manifesto it contained few specific statements of policy - being more a statement of macro policy direction. Not surprisingly, it also at this stage contained no reference to women's rights. What is noticeable is the specificity of its commitment to Catholic teaching. While all the main parties professed themselves catholic (Labour leader Brendan Corish described Labour policies as Christian socialism) the Fine Gael documents stand out for the strength of the commitment to Catholic social thought. After describing the social and economic ideas of Fine Gael as being 'informed and moulded' by the social doctrines contained in the papal encyclicals it declared 'it is our responsibility as laymen in politics to learn and appreciate these principles' (Fine Gael, 1965: 12). Although this policy was nominally adopted by the party it was immediately disowned by leading members of the party leadership. Tobin (1984: 136) quotes the *Irish Times* political correspondent on the Fine Gael launch of the 'Just Society'

The tragedy of the Costello plan is that it was launched by Fine Gael ... Its whole purpose was destroyed ... when James Dillon declared that the party was

still a party of “private enterprise” ...All who understand economic or political language know that there is no intention by Fine Gael of taking over the plan.

The adoption of the ‘Just Society’ appears to have had more to do with making overtures to Labour than it had to do with refocusing the programmatic approach of Fine Gael.

During the second half of the 1960s, Fianna Fáil remained in a strong position and not even the major industrial unrest in this period deflected it from its aim of involving the trade unions and the employers in policy and implementation. The government identified with trade union concerns to the extent that it was keen to promote the growth of employment but it also saw the control of wages and the promotion of industrial peace as necessary to its development objectives and this was one of the main reasons it courted trade union co-operation. The trade unions were prepared to go only so far during the 1960s. While they retained their belief in voluntarism, they fudged ‘their traditional commitment to free collective bargaining’ in the wage rounds because they were ‘prepared to trust the state to ensure that the future benefits of current co-operation and restraint would be delivered to them’ (Roche, 1982, 53). Not that the rank and file were always prepared to wait or to put their trust in the state as the large number of strikes illustrates. The future benefits the government enticed the union with were contained in the ‘social wage’, that is, the gains to individuals as a result of government taxation policy and public spending. The trade union elite were convinced and willing participants in policy formation and in the negotiation of the ‘social wage’ but there was a gulf between them and ordinary members. The assessment of the ICTU itself was that ‘the rank and file were not aware of the work of Congress which was to them a distant body’.<sup>2</sup> The leadership was frequently unable to assert control and individual unions became involved in bitter trade disputes

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<sup>2</sup> ICTU, Twelfth Annual Report, Report of Conference on Trade Union Structure, Organisation and Finance, 1970: 159.



triggered by an obsessive desire to maintain existing differentials and comparability in a rapidly changing labour market (Hillery, 1980: 47).

Equal pay became a strand in wage negotiations during the second half of the 1960s in part because Irish economic interests like those in other parts of Europe were negotiating the transition from a regime based on the 'family wage' to one based on 'the rate for the job'. The idea of a family wage dated from the nineteenth century. Its objective was to allow a male wage earner to be able to support a wife and children without forcing mothers and young children into the harsh conditions that prevailed in the labour market. Middle class married women did not go out to work and for a man to be able to support a wife and children was a sign of status and respectability. This idea of respectability was extended to the working classes. Given the labour intensive nature of housework and child-rearing it made a material difference to the well being of the family if the mother was able to work in the home. The reality of many working class women's lives meant that they had to work to help support their families and women of all classes were faced with the necessity of working in the absence of any other support. In spite of this, public policy was based on the assumption that families were supported by a male breadwinner and that only single women worked.

This framework began to break down in post-war Europe as conflict emerged between the desire of many people to preserve policy support for the pre-war family form, the growing dissatisfaction of women with the role into which they were being cast, and the interests of employers who in the changed economic circumstances found it increasingly desirable to use cheap, flexible female labour. Early recognition of the danger to male employment from cheaper female labour is found in the International Labour Organisation's convention on 'equal pay' adopted in 1951, with the Irish employers predictably voting against, the trade union for and the government

delegation abstaining because there was no official policy on the issue<sup>3</sup>. This convention advocated the adoption of the 'rate for the job', unhitching wage rates from the personal conditions of the employee. However, vested interests on all sides made its implementation slow. In Ireland it only became a serious issue from 1965 when a combination of growing liberal attitudes advocating equal citizenship and therefore equal pay for women coincided with the continuing fears of male trade unionists that they were being undercut by cheap female labour.

In the context of the extension of the state's social welfare provision, it was argued that the extra resources allocated to married men, especially those with children, should not come from the employer through wages but through the tax system and from other forms of social provision. Joan Fortune of the Irish Local Government Officials Union, while supporting an ICTU motion on equal pay, said in response to those who argued that married men needed more money

He should have more money, more take home pay, if you like. But the way this should come about is by the tax code and social welfare benefits. The employer should pay the rate for the job, the government should look after the redistribution of the money.<sup>4</sup>

At the same time fashionable 'psychological theories on the damage wrought by maternal deprivation on children' began to affect 'thinking and public policy in Ireland' (Fahey, 1995: 221), inducing the state to extend the social welfare provision for widows and deserted wives and to include unmarried mothers in the social welfare code for the first time.

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<sup>3</sup>National Archives, Department of Labour file, D/Labour W129, Notice of motion in the Dáil regarding equal pay 1951/53.

<sup>4</sup>ICTU, Twelfth Annual Report, 1970: 356.

By the early 1970s the state played a major role in economic management and industrial development, and it presided over a rapidly increasing public service and an increasingly interventionist and comprehensive social welfare system. This allowed it to play a major part in the renegotiation of women's position in the labour market, and their relationship, particularly as mother to the social welfare system. It is not surprising that both sides of this policy equation were related.

### **Social and Labour Market Change.**

In the second half of the 1960s the pace of social change was accelerating in a mood of optimism and rising expectations. Emigration, an indicator of confidence in the future, had slowed down to 11, 000 per annum between 1966 and 1971 from an average of 43, 000 per annum between 1956 and 1961 (Lee, 1989: 359). The marriage rate also rose, approaching the European average, while the average age at marriage fell as did fertility rates suggesting that 'throughout the 1960s that birth control within marriage, by whatever means was becoming increasingly widespread among the younger generation' (Lee, 1979: 174). The population gain that resulted from these changes was not just confined to the Dublin area: most counties gained population. Although these overall changes were fairly modest, emigration and fertility were still unusually high and the marriage rate low for a Western democratic State they are 'significant in that they reversed the trend of more than a century' (Lee, 1989: 360).

Real incomes rose substantially and economic opportunity increased but they did so at the price of major reorganisation in the labour market. Many established industrial skills were being made redundant by new machinery and production methods which meant that the structure of employment was changing. In addition, overall employment did not increase significantly and unemployment remained high by

international standards. The labour market experienced a major shift from agricultural employment to industrial and service sector employment. Between 1961 and 1971 agricultural employment fell by 25.7% while industrial employment rose by 27.5% and employment in the service sector by 10.9% (McCarthy, 1973: 248).

Men and women experienced the changing labour market differently: women lost out to men in the restructuring of industry and overall their share of the industrial labour force fell to 25%. This overall figure masks an even sharper drop in women's employment in the domestic industrial sector as their share of the industrial employment in the newly establishing multinationals, at 39%, was greater than their share of the labour market in total (Jackson and Barry, 1989: 50). The reality of the loss of women's traditional segments of the industrial jobs market is not reflected in trade union debates, where delegates at successive annual delegate conferences of the ICTU, highlight the replacement of male workers by cheaper female workers in the process of industrial restructuring. From the employer's perspective there seems to be a genuine concern with shortages of female labour, with the FUE complaining of shortages of female factory labour and trained female administrative staff.<sup>5</sup> It seems likely that the difficulty encountered in recruiting female industrial labour related to the 'social stigma attached to factory work' given its predominantly low paid and unskilled character. This meant that women tended to seek clerical positions and those that failed to find employment to match either their standard of education or their social aspirations still had the option of emigration (Wickham, 1982: 150). This is supported by the fact that 'labour shortages occur in surveys of the clothing, textile and show industries' sectors that were 'heavily dependent on young, unmarried female labour' (Cornu, 1974: 23). The shortage of 'trained' administrative staff is likely to be a product of the practice of retiring women from employment once they married, coupled with the rising marriage rate, which was reducing the number of older experienced single women in the labour market.

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<sup>5</sup>Federated Union of Employers, Annual Report, 1969/1970, p.21.

Women's share of the labour market and their labour force participation rates remained fairly constant during this period. However, this masked a number of internal changes, as an increasing number of women found employment in the public service, financial services and the service sector generally. There was also some decline in the number of widows and single women in employment and a compensating rise in the number of married women at work. This arose from a set of related changes. The reduction in the numbers of widows in the labour force is almost entirely a result of fewer widows remaining on the land or in agricultural employment. More than half of all employed widows in this period were farmers and it is the dramatic decline of women farmers in the 1960s that is responsible for the reduction in the labour force participation rates of widows and also helped to hold the overall participation rates for women down as increases in other forms of employment only led to a net break even situation. The percentage of widows in non agricultural employment in this period remained static (Report of the Commission on the Status of Women, 1972: 23). At the beginning of the decade even single women had low participation rates by international standards. During the 1960s their participation rates rose markedly, especially after 1966 when the introduction of 'free secondary education' meant that many more young women remained in full time education. In the second half of the 1960s this higher participation rate applied to a decreasing pool of single women, as the rising marriage rate and the reduction in the average age of marriage in this period curtailed the number of single women in the young age groups. A 1971 survey indicates that census measurements of female employment tends to underestimate the number of married women engaged in part-time work and put the participation rate of married women at 15.3% compared to 8% for the census. A high proportion of married women surveyed who were willing to work gave 'no suitable jobs available' as their main reason for not working and over 10% of married women who were working less than twenty-five hours a week would have been working full-time 'if work were available' (Cornu, 1974: 23).

Married women by the late 1960s were a growing group of potential workers and they were increasingly choosing, in cases where the option was open to them, to remain in employment for some time after marriage. Married women as a group contained a larger number of younger women than was the case a decade before and these women were less likely to give up work on marriage than their mothers had been. Being forced to give up work completely either through the operation of a marriage bar or the practical pressure that having children produced, must be a factor in growing dissatisfaction amongst women with the prevailing gender norms and values. The reduction in the participation rate of young single women was a result of their remaining longer at school while married women's participation rate increased partly because of changing attitudes and partly because there was now a demand for their labour that had not previously existed. The expanding service and public sectors demanded a different set of skills and a higher level of general education and while women may have been losing out to men in the restructuring of Irish industry they were gaining employment as 'white collar' and professional workers and were perceived at the time to have an advantage over men as women had traditionally remained longer at school (Cornu, 1974: 34). In 1967 NIEC accurately predicted this pattern of change in women's employment and its projections formed part of the government's policy calculations which from the late 1960s included a discussion of the female labour force which had been absent from previous economic development policies.<sup>6</sup>

Even with the changes in women's employment in the 1960s, Ireland compared with other OECD states had a low level of female economic participation and the very low level of married women's participation<sup>7</sup>. It is likely this position can be accounted for by Ireland's exceptionalism in other economic and demographic indicators. Ireland's

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<sup>6</sup>For example see *Third Programme: Economic and Social Development, 1969-72*. 1969: 255-6.

<sup>7</sup>See Tables 7.1, 7.2, 7.3 and 7.4 in chapter seven.

high unemployment and economic stagnation prior to the 1950s reduced the employment of all women. The importance of agriculture to the economy tends to understate the economic activity of married women<sup>8</sup> and 'the very low marriage rate, the late average age of marriage and the very high fertility of marriage characteristic of Ireland' militated against the employment of married women by ensuring a higher proportion of single women than other states and by making child-rearing more of a barrier than in other states (Cornu, 1974: 33).

Changes in women's employment patterns in the 1960s were bound to have an effect on the long standing lobby for equal pay and other employment reforms aimed at improving the position of women. One of the features of these changes was that married women who retained the strongest attachment to the labour market were, not surprisingly, the better educated and the better paid. After 1966 a new cohort of young well educated women was entering employment in the public service and other white collar occupations at a time when restructuring and trade union militancy in these areas were high. Demands for equal pay reflected both the ambitions of women and their desire for change, and the fears of men at their potential loss of status. These changes were unsettling for 'workers whose machismo was intimately linked with the status attached to their occupation' and for whom 'keeping the other fellow in his place, and not least keeping the women in her place, helped maintain a man's self respect' (Lee, 1980: 17-19).

By 1968 the cumulative impact of women's increasing dissatisfaction with their interaction with both the state and the labour market resulted in a lobby for a National Commission on the Status of Women. The idea for a Commission on the Status of Women had come from a United Nations initiative. The UN Commission on the Status of Women in 1967 had 'issued a directive to women's international non-governmental organisations to ask their affiliates to examine the status of women in

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<sup>8</sup>Women who are clearly economically active on farms are not listed as being 'economically active'.

their own countries' and to 'urge their governments to set up a national commission on the status of women'<sup>9</sup>. This directive came to the attention of two Irish women's organisations, the Irish House Wives Association and the Business and Professional Women's Clubs, which initiated a campaign to urge the government to set up an Irish Commission on the Status of Women (Tweedy, 1992: 35). At first these organisations concentrated on researching the need for such a commission but a motion at the ICTU in 1968 calling on the government to set up a permanent consultative committee 'on all matters affecting women workers'<sup>10</sup> prompted them to go public and a memorandum was sent to the Taoiseach Jack Lynch in October 1968 (Tweedy, 1992: 36-39).

The trade unions were seeking something significantly different from the widely focused commission of enquiry sought by the women's groups. The ICTU wanted an advisory committee which could cover a range of issues that they considered important to women workers

health, social welfare and education requirements and in particular, to make recommendations from time to time in respect of the standards of pay and working conditions, including job opportunities to be applied to them to ensure equitable treatment and to prevent unjust discrimination.<sup>11</sup>

This motion was sent to the Minister for Labour and raised with him at a meeting in April 1969 in the context of the Congress's belief in the 'need for government action to assist the lower paid workers including women workers'.<sup>12</sup> With its use of the phrases 'equitable treatment' and 'unjust discrimination' the motion from Congress was not aimed at setting up a committee the focus of which would be the achievement

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<sup>9</sup> According to the Council for the Status of Women the UN sent a similar directive to member states. Photocopied information sheet supplied by the Council for the Status of Women, n.d., c. 1996.

<sup>10</sup> ICTU, Tenth Annual Report, 1968: 264.

<sup>11</sup> ICTU, Tenth Annual Report, 1968: 264.

<sup>12</sup> ICTU, Eleventh Annual Report, 1969: 98.



of some form of equality in pay or in employment conditions. Congress was at this stage treating women workers as a special category to whom the general standards of male workers not only did not, but also should not, apply.

It was the proposal from the women's interest organisations that attracted political support and in April 1969 the lobby campaign was recognised in the Dáil when Liam Cosgrave, the leader of Fine Gael, asked the Taoiseach whether he had received a memorandum from a number of women's organisations recommending the setting up of a National Commission on the Status of Women and what action was proposed. The Taoiseach replied that the government was prepared to set up such a commission when departmental consideration was complete.<sup>13</sup> The intention to set up a Commission under the aegis of Charles Haughey, the Minister for Finance, was announced in October 1969 and the actual Commission was appointed in March 1970. From the time of the announcement of the intention to set up the Commission, the government's reply to all questions impacting on gender relations was to defer a definite statement on future policy direction until the commission had reported.

Between the decision to set up the Commission in 1969 and its final report at the end of 1972, Ireland had experienced a dramatic public phenomenon, in the form of the women's liberation movement. This added a new element to the development of Ireland's equality contract. There was a definite break in both generational and political terms between the women who campaigned for the first Commission on the Status of Women and the younger women who from 1970 introduced into Ireland the ideology of second wave feminism, with its emphasis on the political nature of sexual relationships and its fundamental critique of the family. The women's movement was not primarily concerned with employment issues although it did campaign against threats to delay the implementation of Equal Pay. Its focus was on issues directly

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<sup>13</sup> Dáil Debates, Vol. 239, c. 1403, 15 Apr. 1969.

related to sexual relationships - contraception, sexual violence, domestic violence and a more general assertion of women's sexual autonomy.

A group calling itself the Irish Women's Liberation Movement came together in 1970. Early in 1971 it published its manifesto, 'Chains or Change? The Civil Wrongs of Irish Women'. Following the publication of *Chains or Change* 'the IWLM became a public entity on 6 March 1971, when the controversial TV chat show, The Late Late Show, devoted an entire programme' to them. A few weeks later nearly 1000 women came to an IWLM meeting in the Mansion House, Dublin (Smyth, 1988: 334-5). The initial demands contained in 'Chains or Change?' were not particularly radical, the main ones being 'one family, one house'; 'equal rights in law'; 'equal pay now' and the removal of the marriage bar; 'justice for widows, deserted wives and unmarried mothers'; equal education opportunities, and contraception as a human right. The tone and language of the pamphlet and its dismissal of the nuclear family were far more radical, and appeared more subversive, than the actual demands that were being made of the state. It is also noticeable that no mention is made of the Commission on the Status of Women in spite of the fact that the Irish Women's Liberation Movement is listed as having made both a written and an oral submission (Commission on the Status of Women, 1972: 254).

In fact, the publication of the Commission's report does not seem to have attracted much media attention from any quarter. This may be because in the radical and heady days of the early 1970s a dry civil service produced report did not capture the public imagination. The report was influenced by the new language and ideas of second wave feminism. This influence is shown in the gender values that underlie the Commission's Report as they involve a smaller degree of 'difference' between men and women than previous reports or discussions in the Dáil or between the social partners and other women's lobby groups. This narrowing of difference is indicated by the 'assumption' that 'where the wife is working ... the husband will play his part

by relieving his wife of some of the burdens of home management'(1972: 222). The report, in a chapter entitled 'Women at Home', proposed the introduction of home management courses to assist the married women 'who undertakes additional responsibility of outside employment' (1972: 221). It stated that such programmes should be formulated on the basis that home duties will be carried out in a spirit of equality and mutual assistance between husband and wife' and they should work towards a situation where husbands also took the courses (1972: 222).

The increased emphasis on narrowing gender differences is also demonstrated in the report's analysis of the

underlying factors which limit women's participation even in the absence of formal discrimination, that is, the stereotyped role that is assigned to women, the inculcation of attitudes in both boys and girls in their formative years that there are definite and separate roles for the sexes and that a women's life pattern must be predominantly home-centred while a man's life pattern will be predominantly centred on employment (Commission on the Status of Women, 1972: 12).

This break with the idea that women and men of necessity had diverging life patterns based not only on the different social roles but on fundamental psychological differences was influenced by the ideas of second wave feminism.

The Commission report, as the subsequent sections of this chapter will show, was a mixture of the demands of interests groups campaigning on women's issues, the negotiated positions of the government's tripartite organisations and the views of the individual social partners seeking to maintain their vested interests in the face of a changing value system, spiked with the ideas of gender equality that were part of the early stages of second wave feminism. Many of its recommendations formed the

basis of legislative change in the 1970s representing a watershed in the articulation of the gender values that underpin the state. Two areas of public policy were the focus of particular debate, the attitude of the state towards motherhood and the negotiation of equal pay. They both show the clear shifts in the gender values which informed the state and are of such central importance as to merit detailed analysis.

### **Mothers and the state**

The impact of these new ideas on gender was to highlight points of tension in the state's attitude to women as wives and mothers. In the context of the late 1960s it became increasingly difficult not to treat married women as equal citizens. This meant the marriage bar, and the setting of married women's tax allowance considerably below that of a single women, became harder to justify. Concern with the welfare of children in the context of the state's expanded social welfare system, meant that women as mothers became a social welfare category. The state developed a direct relationship with women as mothers that no longer had to be mediated through a male head of household, although it was still wary of situations where it could be accused of interference in existing marriages. State income support for women was formalised through the social welfare system and recognised the needs of mothers outside the nuclear family including deserted wives, unmarried mothers and prisoners wives, in its programme. At the same time it tentatively tried to set in place legislation that would safeguard the economic position of women in marriage.

The needs of widows had been recognised since the introduction of the widows pensions in 1935. In 1964 the age qualification for the receipt of a pension was removed so that unlike state widows pensions in other jurisdictions there was no qualification requirements based on age or dependent children. This level of financial

support for widows was consistent with the hierarchical family structure enshrined in public policy until the 1960s. Through social insurance a husband could provide for his wife and children after his death. For those unwilling, or unable, to enter the social insurance scheme the state provided a non-contributory pension on less favourable terms than the contributory pension. State support for widows was state support for a family structure whose ideal was the economically dependent wife.

Comparatively widows on welfare fared as well as a couple with children receiving benefit for unemployment or illness, and comparatively better than either single men or single women receiving benefit. Between 1963 and 1965 the 'purchasing power' of benefits received by a couple with three children or a widow with three children increased by approximately 50% compared with the period 1953 to 1960. This meant that widows were amongst those who had 'benefited from increased national prosperity rather more than the worker receiving average wages' (Kaim-Caudle, 1967: 48). The non-contributory widow's pension in 1966 was 12% lower than that based on social insurance, but even the non-contributory pension was substantially higher than unemployment assistance (Kaim-Caudle, 1967: 65).

For widows on contributory widows pension there was no means test so they were free to supplement their income from employment and should they become ill or unemployed they could claim unemployment or disability benefit based on their own insurance contributions though at a lower rate than other claimants (but also in addition to their pension). In the early 1970s, of approximately 126, 000 widows in the state, 34, 000 were in receipt of old-age pensions (the majority non-contributory), 16, 000 were in receipt of a non-contributory pension, 55 000 in receipt of a contributory widows pension and 21 000 were not receiving any pension. Of widows in receipt of a non-contributory pension 75% of their husbands had been self employed, the majority at 58.5% of the total being farmers. Of the remainder 15% had been unskilled workers - mainly farm labourers. Widows on non-contributory

pensions tended to be older than those on contributory pensions and the majority had no child dependants at all resulting in a much smaller number of child dependants for this group than for those on contributory pensions (Commission on the Status of Women, 1972: 148).

In the 1960s, capitalising on the relatively high status and sympathy that widows enjoyed in Irish society the Association of Widows became an active self-help and lobby group. Socially conservative and not radical in their demands, they took the rhetoric of the Irish state on motherhood at face value and used it to try to gain material benefits and special treatment from the state. They argued that in the absence of the financial support of their husband the state should ensure that its policies allowed them, not only to bring up their children at some minimum subsistence level but also to enable them to retain their comparative class position. Widows because of their widowhood and adverse state policy should not be forced to descend into a position of comparative poverty. Their demands were not located in new ideas on equal citizenship and equal treatment but were grounded in the growing concern with child welfare and the obsession with 'relativities' that had become such a strong feature of pay negotiation and public policy at this time. The concern with child welfare and maternal deprivation allowed them to argue that as mothers they should not be forced by economic necessity to go out to work. Although they argued for equal treatment in public sector employment, and in this they used the language of equal treatment and social justice, its scope was limited to parity with widowers and was not part of a more general argument in favour of equal treatment in employment for women. This parity argument is also seen in their demands for improvement in social welfare allowances and other fringe benefits where they were not only seeking to maintain their comparatively privileged position in the social welfare system but also wanted the right, as far as possible, not to forfeit their class position.

The Association of Widows was able to have issues of concern to them raised in the Dáil at question time and from 1970 made strong representations to the Commission on the Status of Women which endorsed many of their demands. Widows on contributory pensions were critical of the fact that in spite of paying the same rate of social insurance as married women, if they claimed unemployment, disability or sickness benefit on the basis of these contributions they received only half of the married women's rate. The government's justification for this reduced rate of payment was that they were already receiving one form of benefit, and to receive another from the same insurance pool would be unfair to other insured persons.

For those widows employed in the public service they sought parity with widowers. While widows had the right to be reinstated in their civil service job in the event of their husband's death, in order to take up this employment they had to pay back the marriage gratuity that they had received when they retired on marriage. The repayment of the marriage gratuity was taken very seriously. In 1963, a widow nearly lost her job because of her failure to repay the gratuity fully, within the time limit. The civil service solution was to allow her to remain in employment but to charge her interest on the amount she owed.<sup>14</sup> This treatment appears punitive and petty compared to the treatment of widowers who after the death of their wives were entitled to keep their married allowance and also their allowance for any dependent children. It is not surprising that widows campaigned to be treated the same as widowers in the public service or at the very least to be given the children's allowance payable to married men.<sup>15</sup>

For widows on non-contributory payments, arguments were made for the raising of the payment rates and for the easing of the means test to allow these widows the possibility of working to supplement their income, or for those forced into

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<sup>14</sup>National Archives. DT, S10072 E/63.

<sup>15</sup>This question was raised repeatedly in the Dáil. For example see, Dáil Debates, Vol. 225, c.1419, 23 Nov. 1966; Vol. 234, c. 644, 1 May 1968; Vol. 235, c. 14, 28 May 1968; Vol. 239, c.1548, 16 May 1969.

employment by the low levels of payment the option of reducing the hours they had to work. This demand was not supported by the Commission on the Status of Women because of the need to maintain existing differentials. More general demands for widows included the raising of the widows' tax allowance and the introduction of rates relief for widows on the family home.

While the Commission report supported many of the demands made by the widows' lobby, their recommendations were not implemented by government during the major legislative programme of the 1970s. Widows certainly got less than they had hoped for as a result of their campaign and the support it received, both in the Dáil and in the Commission's report. As a lobby group they declined in significance, partly because demographic changes meant that as a social group they were no longer as large as they once were. Lower average age of marriage, and a convergence in the average age of marriage for men and women, meant that there were fewer young widows and therefore fewer widows with dependent children constituting an active and vocal social block. The interests of widows became subsumed either in the interests of pensioners or in the interests of other groups of mothers in the social welfare system.

Compared to widows, 'deserted wives' had fared very badly up to the 1970s. They were not entitled to any payment under the social welfare code on the grounds of their desertion and had to rely on discretionary home assistance payments. Home assistance was not administered centrally, it had the lowest rate of all social welfare payments, and was subject to various local conditions. Deserted wives comparative invisibility stemmed from the refusal of the state to undertake any policy initiative which could in any way be seen to undermine the authority position of husbands, and also from the social disgrace of marriage breakdown which precluded them from forming any self-help organisation at this stage to press for their better treatment. Social policy, even after the legislation reforming family law in 1960s, continued to ignore the issue of marriage breakdown, as is demonstrated by the fact that no official



statistics existed on the number of women in this category. In the changing climate of the late 1960s 'deserted wives' became a focus of concern for sympathetic politicians and voluntary organisations motivated by social justice and welfare issues.

As a result, from the mid-1960s a campaign on their behalf gathered momentum. The demand that they should be included in the social welfare system on the same basis as widows was raised in the Dáil in 1966 by Fine Gael's Brigid Hogan O'Higgins on the understanding that the cost would be comparatively low as very few women were in this category.<sup>16</sup> Over the next couple of years there were consistent calls for the improvement of the maintenance awards that the courts could make, especially in discussion around a proposed courts bill.<sup>17</sup> By 1969 the government was able to reply to renewed questioning on the absence of 'deserted wives' from the social welfare code by saying that the situation was under review and that legislation was pending.<sup>18</sup> Prior to this, the *Third Programme: Economic and Social Development, 1969-72*, published in March 1969 committed the Minister for Social Welfare to consider making special provision for 'deserted wives' (209) and in 1970 new legislation introduced 'deserted wives' allowances. This allowance was means tested and could only be claimed by a woman under the age of 40 if she had at least one dependent child resident with her. This scheme was improved in 1973 and brought more into line with the conditions applied to widows. It is interesting that in the Third Programme the position of deserted wives is equated with the position of 'husbands whose young children are left without care through death or incapacity of mothers' (1969: 209), clearly illustrating the basic division of responsibility and status in marriage that remained at the core of government policy. The payment of social welfare to deserted wives was essentially designed to allow them look after their children on a full time basis while providing a basic income: it was not motivated by a desire to increase women's economic autonomy.

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<sup>16</sup>Dáil Debates, Vol. 224, c.1707, 20 Oct. 1966.

<sup>17</sup>For example see Dáil Debates, Vol. 232, c.1788, 27 Feb. 1968.

<sup>18</sup>For example see Dáil Debates, Vol. 242, c. 975, 13 Nov. 1969.

The state's definition of a 'deserted wife' at this stage was very limited. A women had to have been deserted by her husband and not know where he was and therefore be unable to claim maintenance from him through the courts. This narrow definition meant that a women could not qualify for an allowance as a deserted wife if she left her husband for whatever reason. Domestic violence or any other form of abuse was not considered a sufficient reason for a women to leave her husband or claim state support. In the case of deserted wives the state was standing in the place of irresponsible and absent husbands, it was not directly intervening in the relationship of an existing marriage or even in a situation of marriage breakdown where the husband still had contact with his wife.

The situation of 'unmarried mothers' even more so than that of 'deserted wives' was slow to surface in public debate because of the issue of sexual morality that was obviously involved. But it was a situation in which the state, by the early 1970s, felt able to intervene motivated by the desire to ensure the welfare of children, as no marital relationship existed to cause it complications. In the late 1960s what had been unthinkable in the past, keeping the baby, was now becoming an option for an increasing number of young Irish women. Not that the problem had been completely ignored in the past. The Guardianship of Infants Act (1964) had dealt with the rights of single mothers in respect of the guardianship of their children and the issue of the value of affiliation orders was occasionally raised in the Dáil.<sup>19</sup> However, it was not until 1970 that the issue of state support for unmarried mothers was seriously addressed in the Dáil with a question on their possible inclusion in the social welfare system following the Kilkenny social services centre's conference on the problems of unmarried parents (Kennedy, 1981: 105). The validity of refusing unemployment benefit to single women on the grounds that they had a child was also questioned.

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<sup>19</sup>For example see Dáil Debates, Vol. 216, c.1304, 23 June 1965.

Changing social attitudes and campaigns run on behalf of unmarried mothers produced a change in policy. According to Jackson (1993) the policy change was also a product of fears by the Catholic hierarchy that abortion was beginning to replace adoption as the solution to unwanted pregnancies for single women; this began to outweigh the belief that financial support for single mothers involved the danger of encouraging or rewarding immorality. It is certainly true that fears about the number of Irish women travelling to England for abortions was raised in the Dáil on a number of occasions between 1970 and 1972. While this undoubtedly represents one strand of thinking on this topic it is also true that campaigners on this issue included members of religious orders who were motivated primarily by a concern for the welfare of single mothers and their babies and very often by a belief in the unique bond between mother and child. It was this thinking that was behind the recommendations of the Committee on Reformatory and Industrial Schools. These recommendations included a variety of measures to enable unmarried mothers to keep their children.<sup>20</sup> The report of the Commission on the Status of Women recommended that an unmarried mother who decided to keep her child should be entitled to a social welfare allowance for at least one year at the same rate and under similar conditions as that which applied to deserted wives (1972: 153). The Commission's report expressed the idea that some minimum period was necessary to support the mother until she was able to go back to work (1972: 153). In the event, when social welfare allowances for unmarried mothers were introduced in 1973 they allowed a women to remain at home to care for her children until they were 18 years of age. State support for motherhood sought to detach mothers from the labour market not drive them into it.

The problems experienced by the state in incorporating women as mothers into the social welfare code and the contradictions inherent in their resolution were also present in the state's treatment of married women at this time. The legislative programme discussed in chapter three, the Married Women's Status Act (1957), the

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<sup>20</sup>Dáil Debates, Vol. 250, c.1219, 16 Dec. 1970.

Guardianship of Infants Act (1964) and the Succession Act (1965) had removed the discrimination against married women in civil law which had been recognised and formed part of public debate in the 1960s, moving the legal definition of marriage towards a partnership of legal equals. Discrimination in civil law was, however, only part of the problem. Under common law the presumption remained that

where a husband and wife are living together, the wife has authority to contract on his behalf in all matters concerning the supply of necessaries ... according to the conditions in which the husband chooses his wife and family shall live.

He has the right to profit fully from the wife's work at home. She, in the eyes of the law, can claim from the profits of his work only necessaries plus such further additions to the family's standard of living as he - not she - may decide (Commission on the Status of Women, 1972: 174).

The Commission on the Status of Women recommended that this presumption be replaced, by placing the legal obligation to support the family on both husband and wife according to their 'means and capacity'. In the event of a dispute it would be up to the court, not the husband, to determine what was a reasonable arrangement. It also recommended that savings made by the wife from the housekeeping allowance should no longer be the property of the husband but belong to both husband and wife in equal shares (1972: 174-5).

The unequal power relationship that existed between husband and wife where the wife was financially dependent on the husband, and how this dependency increased the economic insecurity of the wife, also entered public debate through the Commission's report. Recognising the fact that 'most married women are still engaged for the greater part of their working lives in home duties' the Commission sought ways to give legal recognition to the fact that the role of the wife assisted the husband to

acquire property. Their recommendations in this respect are limited by their assertion that this recognition is given to the wife in the 1965 Succession Act (1972: 177). They recommended the investigation of a system of community of property in the event of marriage breakdown and that as a minimum the woman's right of residence in the family home should be protected. Their preferred method to give this protection was joint ownership conferred by the fact of marriage. If this were not possible, they recommended that the courts be given the power to forbid the sale of the family home. These recommendations were aimed at increasing the financial security of the dependent wife by enhancing her claims to her husband's property and income both during the life time of the marriage and in the event of its dissolution. The ideas contained in the Commission's report are a development of the idea of the partnership marriage. The dependent wife's entitlement to her husband's property was based on seeing her role in the home as facilitating his accumulation of property.

While the report recognises that most married women are without the 'same social and economic freedom' (1972: 222) as their husbands, it is implied that this situation arises from the exercise of a free choice on the part of women between employment and economic independence on one hand and 'home duties' on the other. The recommendations of the Report on employment and discrimination are designed to ensure that women are not prevented from exercising the choice to enter employment by direct discrimination. Given both the value of retaining women in 'home duties' to the state and the strength of the opposition that would arise if the state appeared to actively encourage married women to work, the privatisation of women's choices between employment and home duties was a convenient one.

The Report of the Commission on the Status of Women was unable to resolve the contradictions between viewing women as equal citizens and maintaining public policy positions that limited that citizenship. Throughout the report there is evidence that in spite of its claim that it is 'not our intention nor our wish that women with

family responsibilities should be forced into employment' (1972: 13-14), it does seek in various ways to encourage such women into the labour force. One is the suggestion that the unmarried mothers allowance could be limited to when the child is very young. Another is its suggestion that widows pension should be conditional on a women being over a certain age or having child dependants: younger widows with no dependants should be expected to work to support themselves, and the existing conditionality of the deserted wives allowance was not criticised (1972: 152). It also displayed a strong concern that the work of women in the home should give women an economic claim to the property of the marriage. It felt this was necessary to give expression in practical terms to the idea of a partnership marriage and to recognise the contribution of the home based wife, especially in her role as mother, both to the standard of living of the individual family and to the wider welfare of the state. The state, however, as the following chapter will show, did not adopt these positions. It legislated for a formal legal equality in employment; provided for, albeit limited, direct support for mothers through the social welfare system and gave married women substantial legal equality with their husbands, while leaving unequal economic relationships within marriage substantially intact.

### **The negotiation of equal pay and equality of opportunity.**

The renegotiation of women's relationship to the labour market and the nature of state policy that underpinned it was a significant issue of public debate. It involved not only the relationship of single women to employment but crucially also the relationship of married women and women as mothers. As chapter two has shown, a lobby for women's rights, including equal pay and the ending of the marriage bar, had existed since the foundation of the state. The nature of this lobby changed significantly from the mid-1960s in response to the different political climate which made overt discrimination against women in all aspects of employment a contentious issue. In a period where politics used the language of equality and social justice it

became difficult to preside over a system that was so blatantly unjust. The sense of injustice was increased by the inconsistency of the state's approach to the employment of married women in the public service. The numbers of married women employed by the state had increased during the 1960s due to shortages of women workers, especially nurses. As married women in this position were employed on a temporary basis only and paid entrance level rates irrespective of their experience, the ban on married women working increasingly came to be regarded as an anachronism which the government was using to keep wage costs down rather than a principled belief that the correct place for a married women was exclusively in the home.

The major difference in the dominant views of women's relationship to the labour market at the end of the 1960s and in the early 1970s compared to that of a decade earlier is summed up in the idea of the changing periodisation of women's lives. Young married women at this time expected to spend less time in child-rearing and expend less energy on housework than had been the case in the previous generation. Friedan (1963) chronicled the findings of American sociologists that the confining of married women to child-rearing and the home created problems of isolation, boredom, frustration and depression exemplified by the plight of middle class suburban American 'housewives'. The French sociologist Sullerot (1970, 1971) developed the idea of a changing life cycle for women and what this meant in terms of a changing relationship to the labour market, arguing that at the end of the decade this relationship was on the brink of fundamental change.

In Irish public discourse these ideas were being discussed in terms of exploring the issues of women in employment and the idea that women's employment experience would follow a different pattern to men's, with school and further education leading to employment being broken by child rearing which would be followed by re-training

and re-entry into the labour market when the children were older.<sup>21</sup> By the early 1970s the idea that women should not as a rule go out to work when they had young children was replacing the idea that married women should not work at all. In a survey conducted in 1971 of 5000 women, Walsh found that when questioned on their attitude to married women working the 'most common attitude is one of conditional approval' with the 'condition most frequently stipulated' being 'that there should be no (young) children in the household' (1973: 79). Significantly for their likely impact on elite thinking, Walsh found that approval of married women working was highest among those with high levels of formal education, and 'working women with young children gave the highest proportion of strong approval answers of any group' (1973: 79). Walsh also found that 28% of non-farm married women expressed a desire to return to work and that 17.4% of this group were already working in some capacity, and unexpectedly that a significant proportion of married women cited 'unavailability of jobs as the reason for not working' (1973: 33-4).

While this change in attitudes helps to explain the different political milieu in which the debate on women and employment was conducted, the real policy negotiation took place between the state and the social partners, and change was also negotiated in a piecemeal fashion through agreements between individual employers and trade unions. Central to the debate on employment as it took place in the trade union movement and between the employers and the trade unions was the issue of equal pay. The marriage bar and other issues of employment equality played a more minor role in trade union debates but were of importance to women's interest groups and were also a key part of discussion in the Oireachtas.

Although the principle of equal pay for work of equal value outlined in ILO convention 100 had been nominally accepted by the ICTU since its foundation, it was

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<sup>21</sup>*Women's Way*, 28 July 1972: 10, Tom Mc Sweeney, 'Captive Wives'. *Women's Way*, 19 Oct. 1973, 'Advice on going back to work at forty'.



only in 1965 that a serious debate on the issue surfaced at the annual delegate conference. What made this debate different was the focus on the impact on male employment of continuing to pay women doing the same jobs as men at lower rates. The initial debate was prompted by a motion calling attention to the lack of progress in establishing the principle of equal pay for work of equal value tabled by the Irish Bakers', Confectioners', and Allied Workers' Amalgamated Union. It is telling that the proposer and seconder of the motion were men and that the debate spelt out male fears - especially in an industry with a high number of women workers - that failure to deal with the problem of pay differentials coupled with the introduction of new machinery and work practices would result in the loss of male employment in favour of cheap female labour. It was claimed that due to increased mechanisation women 'over the past few decades are doing work where men would have been previously employed'.<sup>22</sup>

There was explicit criticism of the failure of the executive council to make a statement following the Labour Court guidelines for the 'tenth round' which gave a basic minimum increase of a pound for men and 15 shillings for women. Again the potential loss of male employment was referred to with a delegate from the Civil Service Clerical Association saying that

I am concerned about equal pay not alone because of the discrimination and exploitation of women workers in this country ... I am also very interested in this particular principle because it has a social meaning. No one here will deny that the employers are going to take the cheapest labour available ... while this lowly-paid labour is available they are not going to employ men. I don't think I need point out the social import of this situation.

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<sup>22</sup> ICTU, Sixth Annual Report, 1965, p.282.

By social meaning the speaker is referring to the potential to undermine existing social structures and gender relations of the increasing employment of women at the expense of men.

This perspective during the 1960s became a major source of trade union grass roots dissatisfaction with the slow progress towards equal pay in those sections of the labour market that felt threatened by female employment. During the equal pay debate in 1967 a male delegate from the Transport Salaried Staffs Association claimed that CIE had not recruited any permanent male clerical staff since 1961 because female labour was much cheaper<sup>23</sup>. As an argument it was even used by women delegates to drum up support within congress. Moving the motion on equal pay in 1969 C. Dunlea of the Civil Service Executive and Higher Officers Association pointed out that more women were being employed because they were cheaper and urged 'Fellow delegates' in their own interest to support this resolution.<sup>24</sup> It was slow in gathering momentum because major unionised industries such as building and engineering contained so few women workers that it was not an issue for them. As an indication of change, in 1970 the equal pay motion was seconded by the Amalgamated Union of Engineering and Foundry Workers.<sup>25</sup>

In 1969 and 1970 the equal pay motions reflected an increased militancy, clearer focus and more widespread support even if delegates complained about poor attendance at that particular debate. The arguments in favour of their adoption shifted to the need to enforce the trade union principle of the rate for the job and also the need to obtain social justice for women workers. In 1969 the equal pay motion called the existing situation a 'denial of civil rights to women' and called for the 'immediate introduction of equal pay'.<sup>26</sup> That year, in the context of the bitter maintenance workers strike, the

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<sup>23</sup> *ibid.*: 302.

<sup>24</sup> ICTU, Tenth Annual Report, 1969: 371-3.

<sup>25</sup> ICTU, Twelfth Annual Report, 1970: 356.

<sup>26</sup> ICTU, Tenth Annual Report, 1969: 371.

mood was militant, with delegates urging women workers to take 'action' on equal pay to 'fight to the bitter end until you get what you want': 'they should do as the maintenance men did, get out into the streets and fight for it because that is the only possible way that they will get it'. Speakers described the progress as 'painfully slow' and criticised the 'indifference' of many of the delegates and of the executive.<sup>27</sup> Those supporting equal pay again stressed that many women were employed because they were cheap labour and it was therefore in the self interest of male delegates to support the motion.

In the wake of the publication of a British equal pay bill in 1970, Congress's equal pay motion for that year was both lengthy and specific: it 'deplored the lack of progress' and called for the 'phasing in' of equal pay in the public service and the introduction of an 'equal pay' act as in Britain. It also called for industrial action to support equal pay and the rejection of settlements that did not make progress on equal pay. Proposing the motion the speaker congratulated Congress on their anti-discrimination stand over the Springboks<sup>28</sup> tour but linking the failure to take action on equal pay to discrimination against women, added that 'charity begins at home'.<sup>29</sup>

In 1965, Congress had established a committee on equal pay and passed a 'recommendation' that affiliated unions 'should in future negotiate higher increases for their female members than for their male members'.<sup>30</sup> This set the tone for executive and Congress inaction over the next few years. Movement towards equal pay happened because of the initiative of individual unions responding to particular cases, while the executive still did not seem to fully accept that equal pay was an issue on which it should act. The actions of the committee on equal pay illustrates the caution with which the executive were proceeding and the extent to which they had

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<sup>27</sup>ICTU, Eleventh Annual Report, 1969: 374-379.

<sup>28</sup>The Springboks were the white South African rugby team. Anti-apartheid campaigners objected to their inclusion in sporting fixtures.

<sup>29</sup>ICTU, Twelfth Annual Report, 1970: 355-6.

<sup>30</sup>ICTU, Sixth Annual Report, 1965: .287.

defined 'equal pay' as an issue of male concern, affecting purely male interests. The committee did not meet for more than twelve months after it was established, pressure of work relating to the National Wage Agreement being the reason given to the 1966 delegate conference.<sup>31</sup> Although it did meet on four occasions in the following twelve months, even by the conference in 1968 it was only able to indicate the areas which a report on equal pay would cover. Although the Equal Pay committee consulted the Women's Advisory Committee (WAC) of the ICTU on two occasions prior to the 1967 conference, no women had been appointed to the committee. By the congress of 1970 the equal pay report had still not been submitted to the executive but such was the militant tone of debate on equal pay that an apology was offered and the blame placed on the widening scope of the enquiry and the fact that 'unfortunately, this task was not given sufficient priority in the work programme of Congress'.<sup>32</sup> The ICTU's committee on equal pay was overtaken by circumstances and no report extensive or otherwise was ever published, though the executive did send a submission to the Commission on the Status of Women.

The relationship between the ICTU executive and the WAC on the issue of equal pay underlined how much an issue of male concern 'equal pay' had become by the end of the 1960s. The WAC, which had fully supported equal pay from its inception in 1958, was kept at arms length from the discussion and negotiations on the question of equal pay. The executive appears to have been reluctant to appoint women to any group that had a direct policy or negotiating role on pay issues affecting women. In spite of a request from the WAC the executive did not appoint a women trade unionist to the Pay Tribunal set up by the government to consider pay levels of the basic grades in the public service.<sup>33</sup> Neither was the WAC directly involved in the drafting of the ICTU submission to the Commission on the Status of Women,<sup>34</sup> in spite of the fact

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<sup>31</sup> ICTU, Seventh Annual Report, 1966: 84.

<sup>32</sup> ICTU, Twelfth Annual Report, 1970: 355.

<sup>33</sup> ICTU, Seventh Annual Report, 1966: 57.

<sup>34</sup> National Archives, ICTU files, Box 4 1091, Review of the Activities and functions of the Women's Advisory Committee, Apr. 1969: 1.

that WAC was beginning to take action of its own on equal pay and had made equal pay the topic of its annual seminar in 1970.<sup>35</sup> The submission made it clear that although it wanted equal pay for work of equal value and the ending of the formal marriage bar, it also wanted to see the retention of the restrictions contained in the 1936 Conditions of Employment Act.<sup>36</sup>

The National Wage Agreements from 1965 provided a focus for debate on the topic of equal pay at the delegate conferences of the ICTU. The 1964 wage agreement angered many women because it contained an exclusion clause that meant that the one pound basic increase did not apply to women workers (Jones, 1988: 242). Since 1959 the allocation of 'half for the women' had been unsuccessfully challenged and it was not until the 1967/68 pay round that the general increase for women was set at 75% of the men's increase (Jones, 1988: 95). Centralised pay bargaining helped the equal pay argument by quantifying and publicising male/female pay differentials and also emphasised the role of the government in pay determination - both its policy role and its role as an employer. The previous defence by ministers, that the principle of equal pay for work of equal value was a matter for free collective bargaining, began to ring decidedly hollow as the 1960s proceeded. As one trade unionist put it, 'some if not all of the Minister's tongue was in his cheek' when he made such a statement.<sup>37</sup> One of the points raised by trade unionists is the response of employers at this time to their suggestion, either that they equalised pay scales or that they move to eliminate the difference between men and women's wages. In what is described as a vicious circle employers refuse to concede equal pay or a reduction of differentials because there is no 'pattern' of this type of pay structure in the economy - they cite social reasons why women expected to be paid less than a man and pointed to the fact that the government had not ratified the ILO convention on equal pay. This was frustrating given that the government passed the buck back to free collective bargaining.

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<sup>35</sup>ICTU, Twelfth Annual Report, 1970: 94.

<sup>36</sup> *Trade Union Information*, Jan. 1971, reprint of submission to the Commission on the Status of Women.

<sup>37</sup> ICTU, Seventh Annual Report, 1966: 237.

During the 1960s individual unions, including the IWWU and those at Aer Lingus<sup>38</sup>, began negotiating equal pay agreements (Jones, 1988: 311). At the same time employment was being restructured so that work usually done by women was being categorised into female only grades. For example, the ESB with the agreement of the unions created a new grade of female clerical worker, to be paid a bottom of the scale rate, which would not apply to men. This was justified by claiming that social conditions were such that women expected to be paid less.<sup>39</sup> Ireland was not alone in increasing labour market segregation to maintain differences in pay between men and women. At an international trade union seminar, a Belgian speaker stated that equal pay would not encourage employers to employ women. In Belgium the elimination of sex from wage scales was accompanied in some cases by the grading of jobs usually held by women to the bottom of the scale.<sup>40</sup>

If the trade unions had, for conflicting reasons, decided to pursue equal pay with increased vigour, the changing face of the labour market meant that, although for cost reasons employers were reluctant to concede equal pay, they needed trade union co-operation for restructuring and some sectors of employment were consciously drawing on well educated female labour for office and administrative work. The Federated Union of Employers in 1970 reported some narrowing of the gap between male and female salaries and wages in the previous twelve months and saw this as an 'expression of the willingness of employers and unions to bring some narrowing of traditional relativities'. In its report to the Commission on the Status of Women the FUE pointed out the obstacles to the introduction of equal pay including a reference to it being an 'additional twist to [the] existing wages spiral.' They observed that women in the transitional phase would have to be given larger increases than men, and

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<sup>38</sup> ICTU, *Annual Report*, 1967: 300-301.

<sup>39</sup> *ibid.* 1968, pp. 300-301.

<sup>40</sup> ICTU report on the OECD Regional Trade Union Seminar on the employment of women, held in Paris in Nov. 1968. National Archives, ICTU files, Box 4 1091.

that this would lead to problems with the male work force. They considered it a possibility that the 'break with tradition' would produce an unfavourable reaction in male wage and salary earners to 'the change in relativities' and they might try to find ways of 'maintaining the usual differences'. This situation, they believed, could be offset if equal pay was introduced at the same time as changes in family allowances, taxation and social welfare benefits.<sup>41</sup>

The Commission on the Status of Women also recommended that changes be made in the social welfare system on the introduction of equal pay in order to maintain existing relativities. The report attempted to quantify which class of people would be made better off by equal pay and which classes will see their relative position eroded, concluding that

with the full implementation of equal pay , single women in positions where equal pay is applicable will join single men in the relatively better off class and the position of married couples without children, where the wife is working full-time , and that of working widows without dependent children becomes even more favourable. On the other hand there is a serious deterioration in the relative standard of living of married couples with a number of dependent children where the wife is not working, and in the position of non-working widows with three or more children (1972: 158).

To overcome this situation the Commission recommended a special allowance to be payable to families with at least one child under five where the mother did not go out to work. Although the government did not implement this recommendation it illustrates the mind set of the 1960s in which the negotiation of equal pay took place, and as an idea it is linked to later attempts to pay women choosing to work in the home a special allowance.

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<sup>41</sup>Federated Union of Employers Annual Reports for 1969/70 and 1970/71.

Although neither the Fianna Fáil government, or the Fine Gael/Labour coalition that replaced it in 1973, felt it necessary to implement all of the recommendations of the Commission on the Status of Women many of its core recommendations did form the blue print of legislation during the 1970s. The lack of public debate on the Commission's report after it was published in 1972 indicates the nature of the document, as a consultative tool of government rather than an exercise in public discussion or public relations. The Commission provided a survey of views on the status of women, and possible policy changes, of the various opinion forming elites; as such it was a source of legitimisation for potentially contentious actions that the government might decide to take. The Commission's report was able to discuss potential policy opinions in considerable detail, indicating that it was drawing on an on-going discussion in the various interest groups and in the government departments. As such its recommendations represent a negotiated consensus amongst its members.

The Commission was desirable from the government's perspective because from 1965, the government was facing conflicting pressure on issues relating to the status of women in society. The pressure of shifting public opinion and changing perspectives, and demands from the trade union movement and the employers has already been discussed. In addition to this, it faced a revitalised and more effective opposition, that gave expression to the shift in public opinion and represented an increasingly effective challenge in the Dáil, and it also felt the pressure of changes in the European Community in the context of Ireland's hopes of membership. Although the original Treaty of Rome had committed the six member states to give effect to 'the principle that men and women should receive equal pay for equal work', and 1964 had been set as the target for the elimination of this form of direct discrimination, its implementation had been patchy and ineffective. It had been most successful in the public sector 'but loopholes were found which seemed to exempt the private sector' (Barrington et al., 1984: 155). The ongoing debate on equal pay and equality of



opportunity in the EEC became increasingly relevant to Ireland as with the resignation of General De Gaulle in 1968, it seemed that the last major obstacle to Ireland's membership of the European Community had been removed. Official negotiations were reopened in 1970, with a high degree of certainty about their success. Equal pay as well as other equality issues for women were being discussed by the Community during the late 1960s and early 1970s in tandem with the discussion on the nature of future developments of the community as a whole, including the adoption of a social dimension. While the eventual outcome of the discussion on women and employment in the EEC was not clear in the late 1960s, even at this stage it appeared that stronger measures to enforce equal pay would be taken. This meant that while coping with its own domestic pressures for equal pay and other labour market changes for women, the Irish government also had to take account of developments in Europe.

As would be expected, the debate on gender and employment in the legislative state, unlike that in the trade union congress, was more broadly based, including issues of equality of opportunity and equality of treatment as well as equal pay. From 1965 onwards, the government faced, both from the opposition and its own back benches, an increased intensity of questioning on gender issues, indicating that women's rights generally were becoming a political issue. The issue of equal pay became linked to the question of 'sex discrimination' and there was a sharpening of the focus on the direct role of the government in determining pay and conditions in the public sector.<sup>42</sup> This debate on the government's role as an employer, as well as its role in determining the parameters of employment policy, switched the focus away from advancing equal pay through free collective bargaining towards emphasising the role of the state in ensuring equal treatment for all its citizens, or criticism of its role in maintaining inequality.

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<sup>42</sup> Dáil Debates, Vol. 222, cc. 1979-80, 18 May 1966.

The increasing assertiveness of the public sector unions, and specifically their increased commitment to equal pay, highlighted the role of the state as an employer. Also female public service employees as individuals and groups seem increasingly to have enlisted the support of TDs who raised their grievances through parliamentary questions. Although women in the public sector were concerned with equal pay they were also lobbying against the continued operation of the marriage bar. While it was feasible that equal pay could come through negotiation, the marriage bar for civil servants was a legal requirement and needed legislative action on the part of the government to change it. Only national and secondary school teachers were exempt from it. In the late 1960s female public servants, vocational teachers, doctors and nurses, in particular, became a consistent subject of parliamentary questions.

One way in which the marriage bar was discussed was with a focus on the shortages of trained female staff, in the context of the expanding public sector and in particular in the health services. The refusal to employ married women on reasonable terms was seen to be a major cause of staff shortages and also of reduced services. Married women had to resign from the public service on marriage and if they were reappointed it was on a temporary basis and on a basic salary without increments. They also faced the added financial disincentive of the low level of the married women's tax allowance which meant that nearly all their income was taxable and left a married couple in a less favourable tax position than two single people living together. Parliamentary questions lobbied for the end to the marriage bar and for re-employed married women to be put on an incremental scale and given credits for their previous experience<sup>43</sup>.

The strength with which the government could deflect questioning on this issue rested on its Dáil majority. In 1965 it had already been in office for seven years and could then expect at least another four years of government. In a practical sense its defence

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<sup>43</sup>Dáil Debates, Vol. 241, c. 1614-15, 22 Oct. 1969.

of its employment practices in the public sector was undermined by the re-employment of married women throughout the public service and the fact that the marriage bar did not apply to primary and secondary teachers. Given that the government had based its removal of the marriage bar for primary and secondary teachers on the suitability of this type of employment for women and the possibility of combining it with their duties in the home, not extending the concession to vocational teachers and nurses, also perceived to be suitable employment for women, was seen as exploitation of a source of cheap labour.

Although the intensity of questioning on these issues increased up to 1968, ministers continued to 'stonewall' on the issue or to field the questions, refusing in most cases to give any indication of possible future action. When the question of support for the UN declaration against discrimination in relation to women was raised, Frank Aiken, the Minister for External Affairs, replied that the draft text of the declaration had not yet been received by his department and that the 'final text ... will have to be carefully examined before any decision can be taken in the matter'.<sup>44</sup> In the face of a strong attack from Frank Cluskey of the Labour Party, who asked Patrick Hillery, the Minister for Labour, if it was 'the policy of the Government to perpetuate wage and salary discrimination against women', not even a reference to the Government's hopes of joining the EEC shook the Minister from his adamant insistence that 'if the change in the wage structure is brought about through free collective bargaining in which the trade unions take part we will follow that trend .... Free collective bargaining is free collective bargaining. It is not a function of the government.'<sup>45</sup> A year later when asked 'having regard to the practices in EEC countries ..... what steps are being taken by the Government to give practical application to the principle of equal pay for equal work', Hillery's reply that the 'country was prepared to accept the aims of the community' and 'practical application of the equal pay principle does not, therefore,

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<sup>44</sup>Dáil Debates, Vol. 221, c. 1901, 22 Mar. 1966. Reply to a question from Michael O Leary TD, Labour Party.

<sup>45</sup>Dáil Debates, Vol. 225, cc. 1415-6, 23 Nov. 1966.

arise at the present stage' was equally uncompromising.<sup>46</sup> Although by 1967 the Labour Party was supporting equal pay, this support did not arise solely from a desire to advocate equal citizenship for women. Frank Cluskey, as late as 1969, asked the Minister for Labour 'to what extent the disparity in wages paid to women and men is responsible for the inordinately high number of men who are unemployed', indicating a belief that equal pay would reduce the number of women working and boost male employment.<sup>47</sup>

The tone of the Government's replies to questions on equal pay changed significantly during 1968 under the influence of the radicalisation of opinion in key sections of civil society, and perhaps more significantly as a general election came closer. In January 1968 the Minister of Education, Donogh O Malley, was asked would he relax the regulations in his department imposing a marriage bar on vocational teachers. His reply, that he was having the matter re-examined in consultation with the various associations<sup>48</sup> involved, contrasts sharply with a previous reply from the previous minister George Colley that

there is no demand for such an action on my part from any of the bodies directly associated with the vocational schools. I do not feel called upon to take the initiative in the matter.<sup>49</sup>

A question on equal pay in June 1968 saw a minister, Patrick Hillery, for the first time sounding flustered and unconvincing in his replies as he was harried by the opposition. On this occasion opposition deputies focused on the action of a junior minister who refused to sanction an 'equal pay' deal which had been negotiated by trade unions, and repeatedly asked the minister if he agreed with equal pay for equal

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<sup>46</sup>Dáil Debates, Vol. 230, c. 440, 20 July 1967.

<sup>47</sup>Dáil Debates, Vol. 242, c. 2140, 27 Nov. 1969.

<sup>48</sup>Dáil Debates, Vol. 232, c. 1731, 21 Jan. 1968.

<sup>49</sup>Dáil Debates, Vol. 215, c. 1954, 25 May 1965.

work. It was noticeable that not only did Hillery feel unable to answer this question directly, presumably because it would lead to specific examples of his failure to sanction equal pay settlements if he replied 'yes', and to the alienation of potential voters if he answered 'no'; he was also unable to produce a convincing prevarication.<sup>50</sup> Although the Fianna Fáil government recovered its poise after its 1969 general election victory it was, in the changed conditions, unable to return with conviction to the idea that the implementation of equal pay was primarily an issue for free collective bargaining.

Questions raised in the Dáil relating to women and employment in the late 1960s increasingly used the language and ideas of equal citizenship and discrimination of the civil rights movements, and began to develop the idea that discrimination against women in employment was part of a wider discrimination faced by women in civil society and in public life. In a contribution calling for an increase in the married women's tax allowance Fine Gael's Brigid Hogan O'Higgins stated that a discriminatory attitude towards women

is right through this country in every walk of life. While we are sophisticated enough to say: "Let women work by all means", the male population believe they should be treated as less equal than they. I see it even in this house. Deputies will say: "Yes, we want women deputies" but they are barely tolerated.<sup>51</sup>

From 1969 the issue of 'equal job opportunities'<sup>52</sup> was raised at question time and the term 'discrimination' became commonly used when discussing women's labour market experience. For example, while discussing the situation of re-employed

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<sup>50</sup>Dáil Debates, Vol. 235, cc. 1680-2, 26 June 1968.

<sup>51</sup>Dáil Debates, Vol. 227, c. 1643, 13 Apr. 1967.

<sup>52</sup>Dáil Debates, Vol. 241, c. 1742, 23 Oct. 1969.

married nurses Labour TD Barry Desmond exclaimed: 'talk about discrimination in the North. If you get married here you lose your service.'<sup>53</sup>

From 1969 the government response to issues related to women in employment took on a more serious tone and one that implied impending action. Although questions on public service pay were, without comment, referred to the deliberation of the Civil Service Scheme of Conciliation and Arbitration which was at the time considering an equal pay claim, the revised attitude to discrimination in employment is demonstrated by comments that indicate a more serious approach to the question of women's status. Health minister Erskine Childers believed that the removal of the marriage bar for nurses was a 'major policy decision with widespread implications'<sup>54</sup> and Finance minister Charles Haughey stated that equal pay in the civil service was of 'fundamental importance for the economy generally' and the whole question was under consideration by government.<sup>55</sup> The government chose as its vehicle to consider the whole question of women's status in Irish society a commission along the lines of that proposed by the United Nations. From 1969, when the decision to set up the commission was made, answers to questions relating to women's status were deferred until the commission reported.

Even before it had the benefit of the report of the Commission on the Status of Women two major commissions set up by Sean Lemass in 1966 had published their conclusions. The all party Committee on the Constitution reported in 1967 and the Public Service Organisational Review Group (the Devlin Group) reported in 1969. These committees took different approaches to the question of equal pay, reflecting the different approaches to issues of gender that existed in the state at this time. The Committee on the Constitution's report was liberal on a number of key issues including the special position of the Catholic Church and divorce. It also

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<sup>53</sup>Dáil Debates, Vol. 248, c. 1901, 23 July 1970.

<sup>54</sup>Dáil Debates, Vol. 241, c. 1614, 23 Oct. 1969.

<sup>55</sup>Dáil Debates, Vol. 242, c. 2126, 27 Nov. 1969.

recommended the inclusion in the constitution of an article guaranteeing equal pay for work of equal value. On the other hand the Devlin Report took a more conservative approach to the issue, perhaps in keeping with the rigorous and far reaching, but essentially unradical nature of the report (Chubb and Lynch, 1969: 359).

The Devlin Group was concerned with the pay and conditions of the higher grades of the civil service - an extremely complex system with different pay scales applying to different sections - and with the overall structure of the public service. The report identified discrepancies in pay for apparently comparable work even by men in the state sponsored bodies.<sup>56</sup> The professional, and some of the departmental scales, were differentiated on the basis of sex, while the general service and the majority of the departmental scales were differentiated on a marriage basis with women and single men being paid at a lower rate than married men. Where the differentiation was on the basis of marriage, at higher executive officer level married men received 20% more than women and single men. The differentiation decreases at the higher levels, for example at secretary level the differential was 10%. The system was further complicated by the fact that married men were also paid an allowance for dependent children. The report deliberately side-stepped the need to take a position on the issue of equal pay for women, by describing the women's case as one of a number of competing groups looking for economic advantage:

We have had representations against both marriage differentiation and sex differentiation. Women consider sex differentiation iniquitous, bachelors are opposed to marriage differentiation and married men on sex differentiated scales want marriage differentiation with children's allowances.<sup>57</sup>

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<sup>56</sup> Report of the Public Services Organisation Review Group, Dublin: Government Publications. 1969: 45.

<sup>57</sup> *ibid*: 106.

In its recommendations the Report gave only grudging support for action on equal pay stating that it had 'noted' the practise of sex and marriage differentiation in pay and that sex-differentiation at least would have to end on entry to the EEC, reflecting the uncertainty that existed as to the extent of the changes in employment practices that would be necessary when membership became a reality. They recommended that an 'appropriate body...should make a full examination of the problem'.<sup>58</sup>

The Commission on the Status of Women, at the request of the government, produced an interim report on equal pay in 1971. It interpreted the terms of reference given to it by the government 'as clearly implying that the government already accept the principle of equal pay and we do not, accordingly, consider that it is part of our mandate to make a case for the acceptance of that principle' (1972: 16). It was also able to report that it had received no submission opposing equal pay for equal work (1972: 36). The Commission advocated legislation to 'ensure the effective implementation of equal pay', and they recommended equal pay for work of equal value to be phased in over a period of five years ending in December 1977. They also suggested that the Labour Court should appoint Equal Pay Commissioners to deal with disputes and problems of 'job evaluation' (1972: 227-9). Their recommendations dealing with the promotion of equality of opportunity in employment for women, contained in the full report published in 1972, were comprehensive, advocating the ending of the marriage bar, the creation of a permanent machinery for action against sex-discrimination in employment, maternity leave, child care and equal treatment in recruitment and promotion procedures (1972: 229-33). In line with concerns expressed by the trade union movement, if somewhat inconsistent with the equal treatment of equals that dominated the reports recommendations, the Commission did not recommend the removal of the restrictions on women's employment contained in the 1936 Conditions of Employment Act.

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<sup>58</sup> Ibid: 177.



Once the interim report on equal pay had been released, the government confirmed its broad support for the proposals it contained, effectively bringing to the end the debate on the principle of equal pay. This support was expressed by the Minister for Finance, George Colley, in the budget statement where he affirmed the government's acceptance of the principle of equal pay for work of equal value and affirmed equal pay as a 'national aim'. He also cautioned that progress depended on the will of the entire community and expressed the hope that 'all non-statutory restrictions on the employment of women will be ended as soon as possible'.<sup>59</sup> In addition to this verbal commitment the Minister for Labour announced the appointment of an Equal Pay Commissioner attached to the Labour Court and when the Employer-Labour Conference met in January 1972 it included in its agreement a commitment to begin the phasing in of equal pay (Commission on the Status of Women, 1972: 59).

## **Conclusion.**

The publication of the Report of the Commission on the Status of Women in 1972 marks a watershed in the gendered basis of Irish public policy. After a number of substantial reforms in legislation dealing with women's status in the family and their property rights between 1957 and 1965 there was no substantial legislation affecting the status of women until 1973 when the coalition government embarked upon a major programme of legislative reform. During this seven year interregnum the gender values which underpinned the public policy of the Irish state were renegotiated under the pressure of fundamental social change.

This social change led to a revaluing of women as individuals and as mothers and to the generation of ideas of equal citizenship and gender equality. The impetus to social

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<sup>59</sup>Dáil Debates, Vol. 260, cc. 575-6, 19 Apr. 1972.

change modified but did not entirely displace the previously existing gender values that informed the state; the sum of the changes was, however, the emergence of a significantly different gender regime, that replaced the gender regime as it had existed at the end of the 1950s. By the late 1960s a greater divergence in the gender values expressed by elites within the state and the interest groups was evident. The emerging dominant view on gender retained strong ideas of fundamental physiological and psychological sexual difference as a basis for different social roles for men and women. It did however allow that in certain areas of public life gender difference was relatively insignificant. Ideas of equal citizenship were so strong in this period that no opposing view based on fundamental inequality could present itself as an alternative argument. This did not mean that actual inequalities of wealth, income or power were eliminated but that formal legal barriers were not considered appropriate for the maintenance of privilege.

The shift in gender attitudes did not effect all political parties in the same way. Fianna Fáil, as the party in government, had responded to the pressure for change by setting up the Commission on the Status of Women and accepting the principle of equal pay. It had introduced a deserted wives allowance and in the terms of reference given to the Commission on the Status of Women indicated that the direction of policy change it envisaged went beyond the implementation of equal pay. It is also noticeable that Fianna Fáil TDs question the government from a mildly progressive position on the question of women's rights

Of the two opposition parties, the strongest attacks on the government on the issue of equal pay were made by the Labour Party. Labour Party TDs also express support for the introduction of family planning. Fine Gael on the other hand, expressed and raised issues impacting on women's rights less frequently and less forcefully than Labour TDs. It is perhaps significant that in the 1969 general election it was the

Labour Party that Fianna Fáil chose to target as the party most likely to eat in to sections of its urban support base.

In practical terms what the change in attitude of the Fianna Fáil government and other state elites, meant for women was that the state moved further towards providing the legal frame work to ensure equality between spouses. The concern with child-rearing and child welfare that became a feature of the 1960s, combined with the extension of the state's social welfare provision, allowed the state to have a direct relationship with women as mothers and resulted in the introduction of the payment of social welfare benefits to deserted wives, unmarried mothers and prisoners wives, as well as improved conditions for widows. The state moved from a position of discouraging any married women from working to actively encouraging some mothers to remain at home to care for their children while removing the formal barriers to married women entering employment. The state increasingly defined the choice for women between child-rearing and employment as a private one rather than one to be imposed by legislation. Women would have the formal barrier to their labour market entry removed, formally sex differentiated pay scales were prohibited and working for married women became more socially acceptable. What was emerging in the attitudes held by state and social partner elites, was the acceptance of a secondary employment role for women. Secondary for all women, because it was still considered likely that employment would be interrupted by child-rearing. The secondary nature of women's employment was particularly pronounced in the context of family relationships because for married women it was seen as providing a supplementary income in addition to the husband's main income.

The 1960s were a crucial period in the renegotiation of Ireland's gender contract. During the period up to the publication of the report of the Commission on the Status of Women, many of the key components in the equality contract had already been the subject of renegotiation and reappraisal within the state. That this reappraisal took

place during the 1960s and took place under a Fianna Fáil government is to some extent outside the main trends of the literature which describes the 1970s - post second wave feminism - and not the 1960s as the period in which there is a major change in gender values. It is significant for the shape of Ireland's equality contract that its final form should be so substantially in place by the beginning of the 1970s. Fianna Fáil's role too is interesting, even if not welcoming the changes with open arms, they at least facilitated discussion on reform. Finally it is clear that the major parliamentary challenge to Fianna Fáil on the need for reform came from the Labour Party and not Fine Gael.

The seven year period covered by this chapter saw few actual political decisions or legislation but it did mark a very significant shift in gender values at the level of political elites and the elites of interest groups. The Report of the Commission on the Status of Women in many ways marked the end of this period and the beginning of a new era of legislative reform.

## CHAPTER FIVE

### THE EQUALITY CONTRACT

Between 1973 and 1977 the Irish state introduced major policy changes in the area of employment law, family law and changes to the social welfare code. These changes created a procedural equality between men and women in job recruitment, pay and access to promotions, increased protection for the financially dependent wife and extended the social welfare rights of women, especially women as mothers. These legislative changes were premised on the general application of ideas of gender equality and an improved status for women as wives and mothers. In this four year period women made substantial gains in legal equality but these developments took place in the absence of any progress on issues of sexual morality. In 1974 the Dáil voted down a conservative family planning bill in spite of a supreme court decision which ruled that the ban on contraceptives was illegal. In Ireland the 'equality contract' was put in place without the sexual liberalisation that was a feature of the changing gender regimes of other European states.

This phase of legislation took place in the context of two significant political events. In 1973 Ireland joined the EEC and the general election of that February produced the first change of government in 16 years as the Fianna Fáil single party government was replaced by a Fine Gael-Labour coalition. Ireland's EEC membership meant that, as anticipated by the previous Fianna Fáil administration, the enactment of any future employment legislation would take place in the legal frame work of the European Community.

The coalition government which came to power in 1973 faced increasingly difficult economic circumstances due to the impact of a world wide economic recession and its

new status as a member of the EEC, which brought major financial benefits and major challenges. The oil crisis of 1973 precipitated a world wide recession with the result that during the 1970s Ireland experienced rising unemployment rates and spiralling inflation (Kennedy et. al., 1988: 76). For domestic industry the impact of recession was magnified by being exposed to international competition in the free market of the EEC. While at the same time the EEC's Common Agricultural Policy produced major financial gains for farmers, which impacted on the economy generally, the increase in food prices that went with this, added to inflationary pressures (Kennedy et. al., 1988: 83). The fact that a women's rights legislative programme continued in spite of the sudden and unexpected economic difficulties arising from the oil crisis, was a product of the extent to which the political cultural climate had been transformed by the social change of the 1960s and 1970s which made it difficult for the government to back track on commitments to reform that had already been made.

Between 1965 and 1972 the ground was prepared for a major revision in the way in which public policy treated women. As the previous chapters have indicated the impetus for change in this direction was strengthened by the impact of the new women's movement on public opinion. Between 1973 and 1977, the years of the coalition government, the public policy renegotiation of the earlier years took legislative shape. The conflicts between different sets of gender values evident in the state elites during the debate on the 1965 bill were still evident in a modified form among state elites. The way in which the Oireachtas dealt with legislation in the areas of employment, family law, social welfare and family planning demonstrate both the gender values that motivated the party elites and also the gender structures on which the new policy regime was based.

## **Removing the Marriage Bar**

The first piece of legislation dealing with women and employment, the Civil Service (Employment of Married Women) Bill, 1973, passed through the Dáil with the support of Fianna Fáil. This Bill proposed to end the compulsory retirement on marriage of women in the civil service. In the private sector the compulsory retirement of married women only became illegal when the Employment Equality Act, 1977, became law. The marriage bar, by the 1970s, was on the wane, it had never been applied uniformly to working class occupations, and at this time was most consistently applied in the public sector, professional occupations, clerical and administrative posts, and in the banks (CSW, 1972: 107). It was being phased out in many areas of private enterprise without noticeably upsetting the basic existing gender divisions in employment. Aer Lingus removed its marriage bar in 1970 in respect of air hostesses and other female employees but traditional patterns of employment for women remained well into the 1980s (Share, 1986: 249). The dropping of the marriage bar accelerated an already existing trend in women's employment in which the number of married women in employment was increasing while the numbers of young single women and widows decreased.

The Civil Service Bill was welcomed by the front benches on both sides of the House as a progressive step towards women's equal citizenship. Conservative elements of the leadership of Fine Gael, while recognising that in the context of EEC membership ending the marriage bar was inevitable, did not believe that it would have a significant impact on the pattern of women's employment. This attitude is exemplified by Minister for Finance Richie Ryan who was responsible for the introduction of the Bill into the House. He pointed to the example of the private sector 'where no such bar exists' and where there was not 'any substantial number of married women working'. He therefore did not think there was any 'need to fear that the employment

opportunities for young people will be in any significant way jeopardised or minimised as a consequence of married women being entitled to remain in the public service'. In this argument he was being a little disingenuous because although no legal bar existed in either the private sector or the wider public sector, which included local government and the semi-states, retirement on marriage remained the norm for many women.

He did however comfort deputies who thought allowing married women to work was too socially radical by voicing his belief that most women would give up work when they had children, obliquely arguing that 'Mother nature will probable dictate a pattern' and 'God is good and one can usually project other interests ... as time passes'. The Minister also warned that the dropping of the marriage bar would adversely effect the promotional opportunities for women 'because if a large number of married women stay on , obviously the area of competition will be increased' indicating a limited view of women's potential labour market role. Ryan saw women as working in a restricted segment of the labour market competing with other women, not men, for the limited number of promotional opportunities available to them. That it was envisaged that employment equality legislation would not alter the highly segregated nature of the labour market, is also demonstrated by the repeatedly expressed concern that more married women working would deprive young single *women* of employment opportunities.

In their style of opposition in the debates on the Civil Service (1973) bill, it is noticeable that the members of the Fianna Fáil front bench overwhelmingly criticised the bill from a comparatively progressive perspective. It is also evident that they deeply resented the fact that the coalition was potentially gaining political kudos for completing a legislative process that they felt they had not only set in motion, but on which they also claimed to have completed most of the ground work. When the Civil



Service Bill (1973) to drop the 'marriage bar', was introduced into the House, Fianna Fáil's spokesman on Finance declared that

the Minister may rest assured of the full co-operation and support of this side of the House in bringing about the achievement of that national aim which the previous Government had accepted and adopted.<sup>1</sup>

The indignation of Fianna Fáil is particularly evident in David Andrew's declaration, while speaking in support of the Bill, that '[we], on this side of the House, recognise this as Fianna Fáil legislation ..... we would have introduced this Bill'.<sup>2</sup> In the debate on the marriage bar George Colley raised the question of including a provision for maternity leave in the legislation as a necessary step once it is accepted that married women can remain in employment<sup>3</sup>. This contrasts with the mode of opposition to progressive legislation on gender relations which had been adopted by the Fine Gael front bench in the past when they had consistently criticised or opposed legislation from a conservative perspective. While this indicates some ideological and policy differences between the parties it is also an eloquent testimony to the changed social circumstances of the 1970s, in which Fianna Fáil were operating as the parliamentary opposition. Opposition from the conservative perspective adopted by Fine Gael in the 1960s would not at this time have been in tune with a significant section of the electorate. The leadership of Fianna Fáil, during the course of the debates on employment, appeared to be more pragmatic and 'modern' in their outlook than the then leadership of Fine Gael, even though Fine Gael were the senior party in the government that was proposing the legislation.

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<sup>1</sup>Dáil Debates, Vol. 267, c. 1095, 17 July 1973.

<sup>2</sup>Dáil Debates, Vol. 267, c. 1098, 17 July 1973.

<sup>3</sup>Dáil Debates, Vol. 267, c. 1112, 17 July 1973. A call for the introduction of maternity leave was to be repeated by Joe Dowling in the debate on the Anti-discrimination (Pay) Bill, Dáil Debates, Vol. 270, c. 2039, 5 Mar. 1974.

In Fianna Fáil there was a division between the party elite and some of the backbench TDs. In the debates on the marriage bar, back bench Fianna Fáil TDs could not blatantly disagree with a Bill which their front bench had declared to be party policy, but after formal expressions of support, as the opposition they were freer than the backbenchers of Fine Gael and Labour to voice their concern about its likely impact. The views of the backbench Fianna Fáil TDs give an insight in to conservative opinion on women and employment as their concern with the impact of the bill, however expressed, amounted to a fundamental disagreement with the idea that married women should work. After welcoming the Bill, Fianna Fáil TD John Callanan (Clare-Galway South), warned that '[we] should be careful that we do not send out youth on the emigrant ships'<sup>4</sup>. Ruairi Brugha after declaring 'I am sure we are all in favour of this Bill' noted the potential inequality between married couples where both partners were working and those where both partners were unemployed and he urged women in the civil service to take this into consideration, implicitly advocating using the voluntary resignation of married women as a job rationing mechanism to create employment for men and for single women<sup>5</sup>. The muted nature of the opposition to the bill from conservative deputies underlines the fact that by the time the Bill reached the Dáil it was already widely accepted and relatively non contentious.

### **Equal Pay.**

The issue of equal pay, although it also had been thoroughly debated, and among the political elites was either supported, or accepted as inevitable, proved more difficult to deal with because of the costs involved. The costs also implied an element of redistribution for the government from other possible expenditure to women's pay- and for both the government and private sector from increased pay for male workers

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<sup>4</sup>Dáil Debates, Vol. 267, c. 1101, 17 July 1973.

<sup>5</sup>Dáil Debates, Vol. 267, c. 1102, 17 July 1973.

to larger increases for some female workers. It was this redistributive element that provided the common interest for employer and male employees to negotiate new working arrangements that minimised the impact of equal pay and increased the gender segregation of the Irish labour market.

The failure of the equal pay legislation of 1974, the Anti-Discrimination (equal pay) Act, to prevent this adverse impact on labour force segregation or to significantly effect the general levels of women's wages compared to those of men had been criticised in many forums since the passing of the Act. These limitations were clearly recognised and debated as the Bill was passing through the Dáil. It is also clear from the debate on the Bill that the legislation was only intended to have a very limited affect. Fianna Fáil, acting with the greater freedom and moral superiority usually assumed by parties in opposition, strongly criticised the Bill for its limitations and potential adverse effect on women's employment. Although Fianna Fáil were acting as a comparatively progressive opposition, they were neither a radical or a feminist party, therefore the problems they were pointing to must have been widely recognised at the time. This is not to say that in government they would not have produced a similar bill, as they would have been under the same set of pressures from the male leaders of the trade unions and from the FUE as the coalition parties. Parties in opposition can clearly afford to take a more principled stand on such issues. In the event a combination of the conservatism of Fine Gael as the senior partner in the coalition and the personal influence of Labour TD Michael O'Leary as Minister of Labour, who had close links with conservative and 'chauvinist' elements in the trade union movement (Horgan, 1986: 136-7), facilitated the production of a limited Bill and impeded its implementation.

In 1973 in a contribution to a Seanad debate on the report of the Commission on the Status of Women, prior to the publication of an equal pay Bill, the Taoiseach Liam

Cosgrave outlined his view of how equal pay should be implemented. He drew a clear distinction between the civil service, where the government could make regulations and the private sector where 'the power to carry some of the recommendations [of the Commission] into effect lies with individuals or groups in the community'. He also stressed the fact that the Commission's report recommended that equal pay be introduced gradually, and that in the EEC 'with a few exceptions, and then only in limited areas, have any member countries implemented in full - or indeed in a few cases even partially' Article 119 of the Treaty<sup>6</sup>. His desire to limit equal pay stemmed from his support for the gender role models of the 1950s. The Taoiseach stated his belief that the 'vast majority of the people want to see the institution of family life preserved and assisted'. He argued:

[t]he fact is that the basis of our society is geared in a particular way. What we want to do and I believe what the report has set out to do, is to ensure that wherever there is unfair discrimination, where opportunities are denied, where laws or other restriction prevent women getting their full and equal share of similar treatment to men, they should be removed ....[the state] has an obligation to encourage private employers and the trade unions to move in that direction<sup>7</sup>.

In the course of this speech the Taoiseach demonstrated that he was infinitely more comfortable with 'traditional' gender values than with the ideas of equal treatment that were beginning to be embedded in the new legislation. The weakness of his commitment to equal treatment is demonstrated by his use of the fairly meaningless phrase 'equal share of similar treatment', his view that only certain categories of work were suitable for married women,<sup>8</sup> and his reluctance to directly enforce equal-

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<sup>6</sup>Seanad Debates, Vol. 75, c. 655, 25 July 1973.

<sup>7</sup>Seanad Debates, Vol. 75, c. 662, 25 July 1973.

<sup>8</sup>Seanad Debates, Vol 75, c. 661, 25 July 1973.

treatment in the private sector. This conservative attitude is also to be found in his limited interpretation of the recommendations of the Commission's report, which he believed were not intended to change the institution of the family fundamentally, but were designed to ensure people were 'made to accept their responsibilities; and if this is not possible the State ... will come to the assistance of those in need'<sup>9</sup>. Another indication of the future problems for the implementation of equal pay is the emphasis which Cosgrave placed on the costs to the state, particularly since the estimated cost of £32 million was based on 1971 figures and had to be revised upwards given the changes in wage and salary structures.<sup>10</sup>

This apparent lack of commitment to the fundamental aims of the proposed equal pay legislation by the Taoiseach was reflected in its progress through the House, although some of the blame for the slow progress and for the unsatisfactory drafting of the equal treatment Bill has to rest with Micheal O'Leary's ministerial style. Equal pay legislation was first introduced in October 1973 under the generic Fianna Fáil title Conditions of Employment (Equal Pay) Bill. It was discharged without a second reading in February 1974 and a Bill under the new title of the Anti-discrimination (Pay) Bill was introduced. An incensed Fianna Fáil opposition declared the title of the Bill had been changed simply because the 'Conditions of Employment' series was associated with Sean Lemass and Fianna Fáil. O'Leary explained that the name had been changed to indicate that the Bill was the first in a series that would deal with discrimination (subsequently no further legislation was enacted with this title). When the Anti-Discrimination (Pay) Bill, 1974 (the 'equal pay' legislation) was introduced the Minister for Labour remarked in response to repeated Fianna Fáil statements that the Bill was 'largely prepared before the Minister came to office'<sup>11</sup>, that he had 'never seen such annoyance on the faces of an Opposition at seeing a Government doing its -

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<sup>9</sup>Seanad Debates, Vol. 75, c. 661, 25 July 1973.

<sup>10</sup>Seanad Debates, Vol. 75, cc. 665-6, 25 July 1973.

<sup>11</sup>Dáil Debates, Vol. 270, c. 1485, 26 Feb. 1974. Comment made by Jack Lynch.

work<sup>12</sup>. The Bill was passed by the Oireachtas in 1974 and was due to come into effect in January of 1976 in line with the deadline for the implementation of the EEC directive on equal pay.

In late 1975 the government announced that the implementation of equal pay was being postponed in certain sectors. To give legal effect to this postponement a bill was introduced to amend the Equal Pay Act, and it was also announced that the government was to seek a derogation from the EEC Commission. The government had indicated as early as October 1973 that it considered the date for the implementation of equal pay (December 1975), as stated in the EEC directive, would be likely to be unacceptable to them<sup>13</sup>. The decision to seek a derogation, while it had the support of the employers' organisations, was opposed by the ICTU executive who submitted a detailed objection to the proposed derogation to the EEC commission, Fianna Fáil, and various women's organisations including the Council for the Status of Women.

Criticism of the equal pay Bill when it was introduced in the Dáil, in March 1974, focused primarily on the absence of supporting legislation and its restrictive nature. Joe Dowling<sup>14</sup> pointed to the experience in other European countries where 'it has been the practice to downgrade women in the period between the introduction of a Bill and its final implementation'. He hinted at the need for supporting legislation so that the equal pay legislation would be bolstered by other measures that would prevent the evasion of equal pay by employers<sup>15</sup>. This point was taken up more forcefully by the Labour TD, Eileen Desmond who argued that the Irish state should learn from the lessons of the European countries who had already implemented equal

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<sup>12</sup>Dáil Debates, Vol. 270, c. 1488, 26 Feb. 1974.

<sup>13</sup>Irish Congress of Trade Unions, 16th Annual Report, 1974: 143.

<sup>14</sup>Joe Dowling, Fianna Fáil TD for Dublin South West, held the Labour brief on the shadow front bench and was a former trade unionist.

<sup>15</sup>Dáil Debates, Vol.270, c. 2041, 5 Mar. 1974.

pay and where the 'progress anticipated has not been made'. One of the problems that she felt had to be overcome was the attitude of 'skilled male workers' who 'vehemently oppose the admission of women into their areas of occupation', a point that was raised by a number of other speakers. She queried the vague type of 'job evaluation' that was envisaged under the Bill and also the ability of equal pay officers of the labour court to be able to assess the comparability of different job skills without detailed guidance, given the strong sexual stereo-typing of job demarcation.

Fianna Fáil's most effective critique of the limited nature of the equal pay Bill came from George Colley who claimed that the Bill was 'not exactly the most earth-shattering legislation that has come before this house' and was 'a piece of window dressing' which was 'running the risk, unless this Bill is very quickly supplemented with other legislation, of disimproving the position of women.'<sup>16</sup> To illustrate the limited nature of the Bill he quoted from the explanatory memorandum: 'This section provides that where a women is employed by the same employer on like work with that of a men in the same place of employment she will be entitled to equal pay', pointing out that the definition could hardly be more restrictive.<sup>17</sup> He believed that the Bill had so many loop holes that the result of getting it out early would not just give employers more time to adjust, as O'Leary argued, but was also likely to result in a deterioration of women's labour market position as employers and male workers discovered ways to circumvent the legislation. This point of view was supported by Evlyn Owens in the Seanad debate. She pointed out that the vast majority of women workers were not effected by the Bill and that women's only employment grades were being brought in, to frustrate the intention of the legislation.<sup>18</sup> Senator Mary Robinson argued in favour of complementary provisions that would bolster the effectiveness of the Bill by making it harder for employers to avoid its implications,-

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<sup>16</sup>Dáil Debates, Vol. 270, c. 2056, 5 Mar. 1974.

<sup>17</sup>Dáil Debates, Vol. 270, c. 2052, 5 Mar. 1974.

<sup>18</sup>Seanad Debates, Vol. 78, cc. 322-4, 29 May 1974.

by outlawing discrimination on the basis of sex in other employment practices particularly in the areas of recruitment and job allocation.<sup>19</sup> The content of the critique of the government's equal pay Bill indicated the growing coherence of the demand for legislation that would tackle the issue of discrimination against women in employment, expanding beyond the narrow focus on equal pay, to combat the widely recognised collusion between employers and trade unions in the redefinition of job structures in order to avoid equal pay and equal treatment legislation.

Counter attitudes were expressed in the Oireachtas primarily by members of the Fianna Fáil backbenchers and also by individual senators. The strongest opposition was grounded in the idea that mothers should not work but should stay at home to look after their children, with the veteran Sean Moore arguing that the state should pay women to stay at home. Providing for equal pay even in the limited terms of the Bill under discussion was seen as encouraging women to work and also to see themselves as having a right to work and to equal treatment - ideas that were regarded by conservative opinion as threatening 'traditional' family structures. This view was supplemented with the argument that equal pay would reduce the number of jobs available for women because, as Deputy Callanan argued, 'a hard headed businessman' would not 'employ a female if a male would do the same work for the same pay'<sup>20</sup>. Noel Lemass, asserting that he had been 'persistent in promoting the interest of non-discrimination against women and against anybody', felt that 'in certain trades and employments women would be the sufferers instead of the beneficiaries under this Bill'.<sup>21</sup> The disinterested tone of his argument fell apart as he cited the case of bar staff where the unions maintained a men only rule:

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<sup>19</sup> Seanad Eireann, Vol.78, c. 326, 29 May 1974.

<sup>20</sup> Dáil Debates, Vol. 270, c. 2141, 5 Mar. 1974.

<sup>21</sup> Dáil Debates, Vol. 270, c. 2134, 5 Mar. 1974



the fact that our licensed premises are staffed entirely by males has resulted in our public houses being the most efficient and the most well-run in the world. If this trade union rule is found to be discriminatory when we go to our local lounges we will find long-legged girls in mini-skirts and we will also pay an extra 5p for the drink just to have a look at them<sup>22</sup>.

Even those who had doubts about the principle of the Bill rather than its potential effectiveness seemed to view it as a politically popular measure. This is demonstrated by the way in which all contributions to the debate tended to begin and end with verbal support for the Bill. Deputy Callanan, while openly disagreeing with the principle of the measure, typically opened his contribution with the statement that 'every one welcomes this Bill' but also expressed the opinion that it was being passed primarily because 'it is a popular thing to do.'<sup>23</sup> Lemass, who was the only Fianna Fáil front bench spokesperson to disagree with the aims of the Bill from a conservative perspective, argued that in some of those trades where women are now employed, if 'the equal pay concept is fully operated these women will find themselves replaced by men'.<sup>24</sup> He also asserted that he was 'most anxious not to be misinterpreted in any way in what I am saying - I welcome the Bill.'<sup>25</sup>

The Anti-Discrimination (Pay) Act, 1974, was passed with Fianna Fáil support. The government did not immediately tackle its implementation in the civil service or work with the social partners to ensure an unproblematic application to the private sector as might have been expected. A week before the date for the implementation of equal pay the government announced that sex differentiated pay scales were being abolished in the civil service but would be replaced by pay scales differentiated by marital status. Single women and single men were put on the same rate of pay, all -

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<sup>22</sup>Dáil Debates, Vol. 270, c. 2133, 5 Mar. 1974.

<sup>23</sup>Dáil Debates, Vol. 270, c. 2140, 5 Mar. 1974.

<sup>24</sup>Dáil Debates, Vol. 270, c. 2138, 5 Mar. 1974.

<sup>25</sup>Dáil Debates, Vol. 270, c. 2134, 5 Mar. 1974.

married women were to be paid the same as married men and a widow was paid the same as a widower. The government believed that this 'decision abolishing discrimination on the grounds of sex completely fulfils EEC obligations',<sup>26</sup> an argument that had been made by the Devlin Report (1969: 177). From the coalition perspective it also had the major advantage of minimising the initial cost of introducing equal pay in the civil service from £12 million to £2 million<sup>27</sup> as there were very few married women employed in the civil service compared to the numbers of single women employed in the old sex differentiated pay scales. This action provoked serious criticism from Fianna Fáil, the civil service trade unions, women's organisations and the ICTU. The ICTU sent a submission to the European Commission opposing the government's plans to postpone equal pay which claimed that the government had retained sex discrimination in another form.<sup>28</sup>

The coalition also decided to seek a derogation from the EEC commission to delay the application of the Equal Pay Directive to the private sector. The government appeared to have been easily persuaded to postpone equal pay in the worsening conditions of the Irish economy. The FUE were unhappy with an implementation date of January 1976 rather than the end of 1977, which was the date originally suggested by the Commission on the Status of Women. The government's decision to seek the derogation was explained as being prompted by the action of the joint industrial council of the footwear industry, which in September 1975 agreed to defer discussions on equal pay until July of the following year because it was feared that the implementation of equal pay would lead to serious job losses in the industry. They requested the government to 'amend the legislation if necessary in order to permit the industry to take this action'. At the request of the Minister for Labour, the Labour Court hastily prepared a report that indicated 500 - 700 jobs could be lost in the

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<sup>26</sup>Government press statement quoted in ICTU, 18th Annual Report, 1976: 185.

<sup>27</sup>*Irish Times*, 19 May 1977.

<sup>28</sup>ICTU 18th Annual Report, 1976: 341.

footwear industry if equal pay was implemented.<sup>29</sup> The ICTU was dismissive of the assumption on which the report was based and therefore of its accuracy.<sup>30</sup> The government argued strongly, in order to gain support for its amendment, that it would only apply to the private sector and would not effect the public sector in any way. The implication of their argument seemed to be a return to the idea that the role of government was simply to enforce equal pay in the public sector and that change in the private sector should come about primarily through negotiation. In the private sector the government intended that the derogation should apply to any industrial sector where employers and unions could unanimously make the case for serious job losses. Given the inefficiency of indigenous Irish industry, which was faced with direct competition from the EEC and a world wide recession, it was likely that this derogation could be widely applied. With this in mind the trade union congress warned individual trade unions 'against the false propaganda being disseminated by employers and others about the consequences for employment of implementing equal pay'. The executive feared the impact of attempts to 'persuade workers that equal pay is not in their interests'<sup>31</sup> indicating the distance that still existed between trade union elites and trade union rank and file on the issue of equal pay.

In the event the Commission refused the government's request and the Amendment Bill, which was having its second reading on the day the government's case was being heard, was abandoned. As Ireland's EEC Commissioner, Patrick Hillery, a former Fianna Fáil minister, voted against the granting of the derogation, the government reacted angrily, with Richie Ryan voicing the opinion that Hillery had acted on a party political basis and not as an independent commissioner - referring to him as the Fianna Fáil Commissioner. It is an open question whether or not Fianna Fáil would have taken a similar line if they had have been in office, and if they would have had

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<sup>29</sup>Dáil Debates, 287, c. 1645-6, 11 Feb. 1976.

<sup>30</sup>ICTU, 18th Annual Report, 1976: 187.

<sup>31</sup>ICTU, 18th Annual Report, 1976: 189.

more success. It is possible that Fine Gael felt the pressures to resist equal pay more strongly than Fianna Fáil in similar circumstances would have done. In the mid 1970s Fine Gael, in spite of the public gloss of the 'Just Society' programme, was a strongly conservative party in terms of its economic policy, as well as on social issues. Because it lacked the commitment of Fianna Fáil to developing the idea of social partnership it therefore felt less need to take on board the views of the ICTU and had a stronger ideological connection to Irish business. Both parties in the coalition invested less effort and had less belief in the social partnership structures espoused by Lemass. This was demonstrated by the experience of the equal pay review committee established by the Department of Labour in July 1974, which did not meet until July 1975 and which prior to February 1976 had only met twice. From the trade union perspective this failure to meet stemmed from FUE reluctance to participate. Congress representatives complained that while the FUE predicted job losses as a result of the implementation of equal pay, it would not provide concrete figures to back up their assertions<sup>32</sup>. Fianna Fáil may have found it more difficult to delay equal pay not only because of their commitment to negotiated policy positions between the social partners, but also because it was Fianna Fáil that had established the Commission on the Status of Women while the coalition had only inherited its recommendations.

It might have been expected that the presence of the Labour party in government and especially a Labour party Minister for Labour would have acted as a stronger brake on the conservatism of Fine Gael. The government had taken its decision to seek a derogation without consulting the ICTU, in spite of the existence of a Labour - Trade Union liaison committee consisting of members of the ICTU executive and members of the Labour Party in government.<sup>33</sup> Congress were obviously very unhappy with the performance of Michael O'Leary on the question of equal pay. They rejected his

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<sup>32</sup>ICTU, 18th Annual Report, 1976: 189.

<sup>33</sup>ICTU, 18th Annual Report, 1976: 183-4.

statement that the 'Commission's decision implied a conflict between the right to work and the right to equal pay' and were unimpressed by his attempts to undermine the integrity of the Commission by unfavourably contrasting the speed with which it acted on equal pay with the 'leisurely approach' that was taken to instating the EEC Social Fund and improving the Regional Fund.<sup>34</sup> In spite of the personal links of O'Leary with leading members of the trade union movement, his presence in government does not appear to have enhanced government trade union relations or facilitated the introduction of equal pay.

When the bill came into operation the mechanism for implementing equal pay proved slow and cumbersome and the instances in which equal pay was applicable were limited. As predicted, the women who benefited most were white collar and professional workers, those who worked along side men in identical jobs. In the immediate aftermath of the passing of equal pay the Irish labour market became more segregated along gender lines. The pattern had that been established at the end of the 1960s where conceding equal pay went hand in hand with job redefinition to make the application of equal pay more difficult, continued and its impact can be seen in the pattern of women's employment by the late 1970s and into the 1980s.

### **Equal Treatment in Employment.**

The Employment Equality Act 1977, began its journey through the Dáil as the Anti-discrimination (Employment) Bill 1975. In its final form the Act outlawed discrimination on the grounds of sex or marital status in employment in the areas of recruitment, training, conditions of employment and opportunities for promotion. It meant the end of the marriage bar where it still remained in the private sector, and ended marriage differentiated pay rates in the public sector. In introducing the Bill

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<sup>34</sup>ICTU, 18th Annual Report, 1976: 190.

Michael O'Leary claimed, inaccurately, that it would mean that it 'will no longer be possible to segregate jobs, managerial or otherwise into men's jobs and women's jobs'.<sup>35</sup> This statement was a direct response to the widespread criticism of the equal pay legislation - that it had led to greater sex segregation in the labour market and had failed to improve the position of the majority of women.

Like the Anti-discrimination (Pay) Act 1974 the issues contained in the Bill had received an airing in the report of the Commission on the Status of Women. The Commission's report had not dealt with the issue of employment equality in the same detail that it had dealt with the issue of equal pay, but it had made recommendations on discriminatory promotions practices in the public service, discriminatory advertising, and discrimination in access to training. The report had not dealt with these issues in a more detailed way, because at that point these issues had not emerged as coherent demands from either the trade union movement or from women's lobby groups. In fact one of the demands of the trade union movement that found expression in the Commission's report was the desire to retain 'protective' legislation that prevented women from engaging in night work, certain types of shift work and Sunday work. With the ending of this major debate on equal pay in the mid-1970s, the Irish trade union movement focused on the need to retain protective legislation coupling it with the demand for paid maternity leave and the provision of childcare facilities, two issues that were beginning to feature strongly in working women's political demands.

The Employment Equality Act, like the equal pay legislation, mirrored an EEC directive. The form of the directive was the product of negotiation at EEC level especially during the years 1974 and 1975. Hoskyns (1996: 99) describes the directive as having its roots in the changing labour market situation and the need to

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<sup>35</sup> Dáil Debates, Vol. 294, c. 1026, 1 Dec. 1976.

expand and maintain the participation of women workers. As early as 1967 the Medium Term Economic Programme advocated encouraging women workers as the best way of increasing the labour supply and suggested measures to encourage women to remain in or to enter employment. But by the mid 1970s the form of the directive was also greatly influenced by the changing, and increasingly coherent, demands of women's lobby organisations. A consultative group, the majority of whom were women, was established in 1974 to draft an equal treatment directive. The trade union movement was hostile to the creation of this consultative group as it appeared to remove the ability to shape a directive that would have a direct impact on employment from their hands. The influence of the trade unions can however be seen in the final shape of the directive which preserved for a considerable period the protective legislation of the individual member states. Although the contents of the directive emerged considerably altered by the Council of Ministers, which approved it in December 1975, the very existence of such a directive resulted from the social changes that had taken place in the previous decade. Education and social welfare were excluded from the scope of the directive but with the promise of separate measures to deal with social welfare, which were produced in 1978. The directive was designed to promote equality of practise in the areas of job allocation, recruitment, promotion and training. But exemptions from the directive were allowed in key areas for sex specific jobs and maternity provisions.

The Irish bill was introduced into the Dáil in October 1975, international women's year, before the final form of the EEC directive was known, but a number of other countries, including Britain, had also introduced some form of equality legislation under domestic pressures for change. The coalition government had made the elimination of sexual discrimination one of the planks of its election platform. But as with the equal pay legislation, the government combined the apparent belief that anti-discrimination measures were an election issue with a marked reluctance to take

positive action. The importance attached to the employment equality bill as an electorally 'popular thing to do' is demonstrated by the haste with which an inadequately prepared Bill was given its first reading in October 1975 a matter of weeks before the Galway by-election. The second stage was not taken until nearly a year later in December 1976. This was followed by another gap with the complex final stages being rushed through so that the Bill could pass into law before the general election in June 1977.

The haste with which the Bill was introduced is indicated by the large number of government amendments made to it after its publication, including a very significant one that allowed for the setting up of an Employment Equality Agency to oversee the implementation of the Act. The Irish bill allowed various exemptions including the army, the Gardai, the civil service commission and the local appointments commission. In its initial form it also allowed for married people to be treated more favourably than single people and for religious orders as employers to be exempt from the conditions of the legislation. Both of these points were amended during the committee stage. There was a general provision, which was retained, that employers could discriminate on grounds other than sex, which was widely perceived to be a major potential loophole. The Bill preserved the Conditions of Employment Act 1936 which restricted the ability of women to do shift work and Sunday work, and placed the onus on the Minister for Labour to consult with the trade unions and employers before making any changes in protective legislation.

The decision to retain 'protective legislation' in the bill was influenced by the demands of the trade union movement. The trade unions at this time were responding to women's rising expectations with a degree of ambivalence and with a marked division between trade union elites and rank and file members. This failure to respond more positively to women's rights was shared by trade unions at European



level (Hoskyns, 1996: 102) and is exemplified by the stand taken by trade unions across Europe on the issue of protective legislation which was contained in the Employment Equality Act. The issue of protective legislation was of such importance to the ICTU that it set up a special committee to deal with it. When the Employment Equality Act became law in 1977 the executive gave the task of reviewing its operation to the Protective Legislation Committee and it was this committee that met the officials from the department of Labour in June 1977 on the issue of paid maternity leave<sup>36</sup>. The two ICTU nominees to the Employment Equality Agency were May O'Brien, secretary WAC, and Peter Cassells, the Protective Legislation Officer of the ICTU.<sup>37</sup> When Congress decided to draw up a charter for working women both the WAC and the Protective Legislation Committee were asked to produce a draft.<sup>38</sup> However it was the WAC that drafted the Women's Charter and it contained no reference to the retention of protective legislation. In fact, under the heading 'Health and Safety' it stated that 'working conditions should be the same for all workers'. The only protective legislation it advocated was for pregnant women.<sup>39</sup> In the Congress reports it is noticeable that while women trade unionists are not openly critical of the stand being taken by the trade union movement as a whole on the issue of protective legislation, they do not generally advocate support for it.

In the first major debate on equal treatment in employment in the trade union movement at the congress in 1974 there was division on both the issue of protective legislation and the nature of equality. An anti-discrimination motion produced a debate of a type that had not been a feature of the debates on equal pay. This could well be explained by the fact that many of those supporting 'equal pay', did so to prevent cheap female labour from undermining male employment. Equal pay was

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<sup>36</sup> ICTU, 20th Annual Report, 1978: 176-7.

<sup>37</sup> ICTU, 20th Annual Report, 1978: 141.

<sup>38</sup> ICTU, 18th Annual Report, 1976: 463.

<sup>39</sup> ICTU, 18th Annual Report, 1976: 193.

not, therefore, seen as a threat. Employment equality legislation was more threatening and did, at least have the potential to alter patterns of employment. On the question of equal pay no real dissent was heard - equal pay was argued for from different perspectives but no real opposing voices were raised. Opposition to the idea of equal pay was expressed by non-attendance at the debate and lack of action in negotiations. During debates on equal treatment in the ICTU, opposition to women working was vented in the course of opposition to the call for the provision of childcare facilities with the delegate from the Medical Union asserting that policy should ensure that 'our wives in their homes should not be compelled to go to work' and give their children 'to the care of some home or semi-orphanage.'<sup>40</sup> In 1974, in a lengthy motion outlining the essential ingredients of equal treatment legislation, the delegate from the Association of Scientific, Technical and Managerial Staffs advocated that proposed legislation should 'under no circumstances be allowed to bring in its wake or be accompanied by any relaxation of protective legislation pertaining to women'. Protective legislation should be extended to include paid maternity leave and 'state-controlled' creches 'with a view to adequately reconciling the double role of women as mothers and workers'.<sup>41</sup>

In this concern with the double role of women as workers and mothers trade unionists were following the line of the European Trade Union Organisation and helped to generate a formula of words that would become a catch phrase to the Joint Oireachtas Committee on Women's Rights. The proposer of the motion argued that 'equality of treatment must not be misconceived as the same treatment. We cannot be reactionary, and ask for women the worst features of men's working lives. ... we should start looking towards and thinking in terms of an extension of present protective legislation to cover not only women but to cover men.'<sup>42</sup> The seconder of the motion from the

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<sup>40</sup>ICTU, 17th Annual Report, 1975: 482.

<sup>41</sup> ICTU, 17th Annual Report, 1975: 470-1.

<sup>42</sup> ICTU, 17th Annual Report, 1975: 475.

Post Office Workers' Union with less chivalry and more honesty condemned the government for refusing equal pay to women telephonists on the grounds that they could not work night shifts arguing for the separation of these two issues and saying that 'if employers want people to work at night, they will get plenty of men to do it if they pay them the proper rate for it.'<sup>43</sup> The retention of protective legislation was opposed strongly by the Civil Service Executive Union who objected on the grounds that 'some of the protective legislation regarding overtime working, night working and shift working has a direct effect on depressing the potential income of women by comparison with men'<sup>44</sup> and in particular that it put women in 'a class apart' and perpetuated the 'all female grades' which was a major bar to the introduction of equal pay<sup>45</sup>.

The Fianna Fáil front bench broadly welcomed and supported the Bill but they were critical of its tardy progress through the Dáil, the scrappy nature of its first draft and some of its detail. This included the relatively late date for the implementation of the proposed Act and for the setting up of the Employment equality Agency: they claimed that they would have had the Agency operating in the shortest possible time<sup>46</sup>. Fianna Fáil were also critical of what they saw as the exclusion of the public service, in the form of the Gardai, civil service commission and local appointments commission from the terms of the bill, claiming that this was in line with the coalition's failure to implement equal pay in the public service. Fianna Fáil took an active part in amending the Bill, although they were unsuccessful in many key areas including the public service exemptions which remained intact. Fianna Fáil criticism of the Bill is noticeably less fundamental than its criticism of the Equal Pay Act. The Employment Equality Act represents the distance that Fianna Fáil, like the coalition parties, were prepared to go on equal treatment in employment at this stage.

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<sup>43</sup> ICTU, 17th Annual Report, 1975: 476.

<sup>44</sup> ICTU, 17th Annual Report, 1975: 476.

<sup>45</sup> ICTU, 17th Annual Report, 1975: 482.

<sup>46</sup> Dáil Debates, Vol. 294, c. 1031, 1 Dec. 1976.

As with the equal pay legislation, conservative backbench Fianna Fáil TDs used the greater freedom afforded to opposition backbenchers to criticise the basic principles of the Bill. Sean Moore claimed that he supported the principles of the bill while at the same time saying that he would welcome legislation that would ensure mothers were not forced out of the home to work.<sup>47</sup> As with the equal pay bill, conservative deputies' fundamental objection to the bill was that women, especially married women, should not be encouraged to work and to pursue careers. Ruairi Brugha, while welcoming the Bill, demonstrated his belief that married women should work only after rearing their families, if at all, and also that their talents could just as usefully be expressed in community work as in paid employment. His limited assessment of the potential talents that women can bring to employment was expressed without irony in the statement that 'women can make a very significant contribution to the designing of homes in a way that no man really can' and that architects should consult them.<sup>48</sup>

In the criticism of the bill from a progressive perspective there was also a qualitative difference in the contribution of women TDs and Senators, notably Eileen Desmond and Maire Geoghan-Quinn. Eileen Desmond, although her contribution was constrained by being a member of the Labour party, was still critical of key aspects of the Bill and demonstrated how personally she felt the discriminatory public perception of the role of working women<sup>49</sup>. She also looked to necessary changes in the school curriculum, in subject choices for girls and in women's access to training in non-typical employment, regretting that they were outside the scope of the bill<sup>50</sup>. In a reply to a Fianna Fáil TD's amendment calling for an exemption to be made for

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<sup>47</sup> Dáil Debates, Vol. 294, c. 1073-4, 1 Dec. 1976.

<sup>48</sup> Dáil Debates, Vol. 294, c. 1063, 1 Dec. 1976.

<sup>49</sup> Dáil Debates, Vol. 294, c. 1042, 1 Dec. 1976.

<sup>50</sup> Dáil Debates, Vol. 294, c. 1047, 1 Dec. 1976.

lighthouse keepers she was able to vent her anger. Arguing that there was no clause in the Bill to prevent men doing jobs for which they were not suited, she stated that

For far too long discrimination has been preserved under the guise of protection. That should be finished with and let women who are rational, intelligent, adult, human beings decide for themselves.<sup>51</sup>

Maire Geoghan-Quinn went further than other Fianna Fáil speakers in stressing the need to provide childcare for working mothers<sup>52</sup> and in a way that showed she was perhaps more sensitive to the issue, listed instances of the government parties' failure to take women's rights seriously, including the Minister for Labour's failure to mention the question of employment equality at the Annual Conference of the Labour Party.<sup>53</sup>

The limitation of the Employment Equality Bill was accurately assessed in the *Irish Independent* which described it as being 'in danger of earning political kudos while leaving the problem untouched'<sup>54</sup>. Fianna Fáil certainly feared that the electorate would be impressed and raised the issue of the coalition's political opportunism many times during the debate on the Bill. Gene Fitzgerald described it as a political tool designed to convince the electorate that something was being done and that the minister was playing to women's organisations<sup>55</sup>. In a qualitatively different comment in the later stages of the debate Maire Geoghan-Quinn accused the minister of wooing women's votes on the eve of a general election<sup>56</sup>.

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<sup>51</sup>Dáil Debates, Vol. 294, c. 1614-5, 31 Dec. 1976.

<sup>52</sup>Dáil Debates, Vol. 294, c. 1055, 1 Dec. 1976.

<sup>53</sup>Dáil Debates, Vol. 294, c. 1058, 1 Dec. 1976.

<sup>54</sup>*Irish Independent*, 29 Oct. 1975.

<sup>55</sup>Dáil Debates, Vol. 294, c. 1125, 1 Dec. 1976.

<sup>56</sup>Dáil Debates, Vol. 299, c. 1056, 18 May 1977.

## Social Welfare and Family Law

The absence of divorce, or even a coherent policy on family breakdown, meant that the policy changes in social welfare and family law were contained within the moral framework of the family based on marriage. The difference from earlier periods was that this framework had now become flexible enough to accept or accommodate exceptions. The status given to the welfare of children and the state's new redistributive role with regard to social inequality allowed it to forge a new relationship with mothers through the social welfare system, even if its attachment to the family based on marriage led it to classify women by the nature of their divergence from this norm, as unmarried, deserted or the wife of a prisoner. In family law, the strong assumptions about equal citizenship and individual rights in public discourse translated into some protection for married women. Many of the changes in these policy areas had been flagged in the report of the Commission on the Status of Women, but they were developed further by demands arising primarily in the growing network of women's lobby groups. It is noticeable that the changes in employment law and the social welfare reforms were introduced by Labour Party ministers. Patrick Cooney, the Fine Gael minister for justice introduced the family law reforms, which were more compatible with the conservatism of Fine Gael, as they interpreted them as strengthening and supporting the family.

In 1973, the social welfare bill introduced payments for unmarried mothers and prisoners' wives, and improved the conditions under which the allowance for deserted wives was administered, as were the conditions for unemployed single women and for married women in relation to social welfare credits. Fianna Fáil's Joseph Brennan stated that he was 'very pleased to support the improvements which this bill envisages'.<sup>57</sup> One important aspect of the introduction of a social welfare allowance

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<sup>57</sup>Dáil Debates, Vol. 260, c. 516, 14 June 1973.

for unmarried mothers was its class basis. It was introduced in the context of improving conditions for children, not of improving the economic independence of women. In reply to a Fianna Fáil question on the proposed arrangements for the 'care of unmarried mothers and their babies', Richard Barry (Fine Gael), Parliamentary Secretary to the minister for Health replied that he had the problem in mind in the context of community services in particular services for 'deprived children'.<sup>58</sup>

The Social Welfare Bill 1974 proposed that the entitlement to children's allowances should be vested in the mother of the child rather than the father. The bill also ensured that while children's allowances would be paid only to the mother, other allowances payable in respect of children under social insurance and social assistance would continue to be paid to the father. Again the bill was supported by Fianna Fáil, Brian Lenihan welcoming the bill as 'very desirable' and completely non-controversial'.<sup>59</sup> By 1974 85% of fathers had already nominated the mother to receive the allowance<sup>60</sup> indicating that although it represented a change of title, it did represent a transfer of resources. These measures were the product of well articulated policy demands. It seems certain that in government Fianna Fáil would have introduced a similar package. With Labour Party and Fianna Fáil support and the acquiescence at least of the Fine Gael leadership the reforms were accepted as inevitable and the Oireachtas debate on them was very low-key.

In 1976 two pieces of legislation were introduced primarily to protect the position of the financially dependent wife. The Family Law (Maintenance of Spouses and Children) Act 1976 allowed the courts to set a level of maintenance for a dependent spouse and children in an existing marriage as well as in cases of marriage break down. It also provided the machinery for the enforcement of maintenance orders by

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<sup>58</sup>Dáil Debates, Vol. 268, c. 1628, 7 Nov. 1973.

<sup>59</sup>Seanad Éireann, Vol. 78, c. 499, 6 June 1974.

<sup>60</sup>Seanad Éireann, Vol. 78, c. 494, 6 June 1974.

attachment of earnings and also gave the courts the power to exclude a violent spouse from the family home for a period of up to three months. This legislation was an initial acknowledgement by the state of the problem of domestic violence and of the need for action by the state to protect the victim. The Family Home Protection Act 1976 gave protection against the 'vindictive sale' of the family home or the removal of household goods, protecting the position of the non-earning spouse. It also facilitated placing the family home in the married couples joint names.

Both of these pieces of legislation were supported by Fianna Fáil who merely queried technical details. While there was very little criticism of the bill and a high degree of consensus, it is notable that the issue of legal aid in family law cases was raised by both Fianna Fáil and Labour, with Ray Burke claiming that this 'is one area where free legal aid and advice is essential'.<sup>61</sup> The provision of free legal aid in family law cases later became one of the promises made in Fianna Fáil's 1977 manifesto.

The willingness of conservative opinion to embrace the increased status of married women contained in this reform of family law was articulated by Fine Gael's Anthony Esmonde. He argued that such legislation strengthened the family unit:

There was some mention of divorce and contraception in the House, but my view is that if we spent more time in public debate in strengthening the family unit, instead of finding easy ways out for those who are not prepared to make a go of family life, we would be a bit more constructive and would achieve something. There is an undue amount of talk in all the media on these problems.<sup>62</sup>

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<sup>61</sup>Dáil Debates, Vol. 291, c. 104, 25 May 1976.

<sup>62</sup>Dáil Debate, Vol. 291, c. 99, 25 May 1976.



The changes in family law and social welfare were part of the twin pronged approach to dealing with the vexed question of women's social roles, that had been raised by social change and the evident dissatisfaction of women themselves with the status quo. Ireland's public policy regime, with the enactment of this legislation, included improved status and state support for mothers irrespective of their family status and a greater degree of equality and legal redress for married women. The failure of a Seanad bill introduced by Mary Robinson and John Horgan in 1975, to give legal rights to children born outside marriage that would have effectively ended the concept of illegitimacy indicates how central the idea of the family based on marriage remained to public policy and the extent to which reform in the 1970s was improving women's status within this construct, rather than challenging it. This position was strengthened by the degree to which the view that full time mothering was essential for the balanced development of children, and that its absence led to delinquency, appeared in public debate. This was not only at a much greater level than was the case in the 1960s, but the way in which these arguments were presented was also much more coherent.<sup>63</sup>

One of the issues raised in the debate on social welfare was discrimination against female school leavers. While male school leavers were entitled to unemployment assistance female school leavers were not. In 1977 Fianna Fáil, during private members business in the Dáil, introduced a 'women's social welfare entitlements' motion, which called on the 'minister for social welfare to eliminate discrimination against women in the area of eligibility for social welfare entitlements'.<sup>64</sup> This debate occurred only weeks before the announcement of the general election. It was a blatant piece of electioneering on the part of Fianna Fáil. David Andrews introducing the motion, directly addresses women's organisations who had been campaigning on social welfare - the Widow's Association, members of the Women's Representative

<sup>63</sup>For example see contribution by Senator Halligan, Labour Party, Seanad Eireann, Vol. 75, c. 671-2, 25 July 1973.

<sup>64</sup>Dáil Debates, Vol. 299, cc. 972-3, 17 May 1977.

Committee and the newly formed Women's Political Association. Along with the promise of free legal aid in family law cases, unemployment assistance for female school leavers became one of the commitments in the 1977 Fianna Fáil manifesto. Fianna Fáil has at this stage, identified women's rights as a potential vote winner and were building a part of their election appeal on the basis of support for at least some of the demands of the women's rights agenda. The policy positions adopted by Fianna Fáil were similar to those adopted by Labour. The major differences in the two parties being Labour's greater willingness to support action on divorce and to advocate state funded services.

For women's organisations the legislative changes achieved during the period of the coalition government, and even the political parties' promises in the 1977 election, only marked the beginning of a series of lobby campaigns to alter the way in which public policy treated women, particularly how it dealt with issues of sexual and physical abuse, married women's rights, economic autonomy and reproductive rights.

### **Contraception.**

Contraception was a major issue of the 1970s and one on which liberals, feminist and non-feminist could find common ground. From the liberal perspective, contraception was a civil right that allowed individuals the right to determine their own sexual practise and married couples had the right to control the number and spacing of their family. Although it was illegal to advertise or sell contraceptives in Ireland the first family planning clinic opened in Dublin in 1969, supplying contraceptives for a voluntary donation, marking the beginning of a strong lobby campaign for the law to be changed. The issue of family planning was raised in the Dáil between 1970 and 1972 but the Fianna Fáil government attempted as far as possible to ignore the entire

situation. In 1971 they refused to allow time for a Family Planning Bill, proposed by independent senators, to be discussed, and in they 1972 side-stepped questions on the growing number of Irish women having abortions in England. This issue was raised both from the perspective of using the figures to support the introduction of family planning and by those who wished to see any agencies helping women to have abortions prosecuted.<sup>65</sup> On the question of prosecuting those providing family planning services, the Minister for Health, Erskine Childers, in spite of his obvious personal opposition to both contraception and abortion, refused to consider taking any action. The first indication that Fianna Fáil was considering legislation on contraception came from the Minister for Justice, in a reply to a question about the initial rejection of the McGee case by the High Court. The Minister for Justice replied, that the government were 'considering whether or not to bring in amending legislation.'<sup>66</sup>

The Labour Party voted in favour of legalising contraception at its 1971 conference in Galway. Even in this relatively liberal environment, contraception was such a divisive and emotive issue that 'delegates actually spat at each other as they left the conference hall' (Horgan, 1986: 157). Contraception was part of the politically contested area of the family and motherhood, and produced a strong debate on sexual morality in the Oireachtas. From the perspective of the right, the centrality of the 'traditional' family with the mother in the role of carer in the home, a father providing financially for his family and sexuality confined to marriage was the mainstay of a stable and moral social order. During the debate TDs and Senators opposed to 'artificial contraception' demonstrated that they recognised that this social structure needed to be encoded into public policy to be able to resist the challenge presented to it by the new social movements and the social change of the 1960s and 1970s. But this socially and morally conservative strain in Irish political life was not untouched

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<sup>65</sup>Dáil Debates, Vol. 261, cc. 1319-20, 13 June 1972 and Vol. 263, cc. 513-6, 2 Nov. 1972.

<sup>66</sup>Dáil Debates, Vol. 263, c. 1949, 16 Nov. 1972.

by the general cultural climate in which it existed and as discussed in earlier chapters the response of conservative political opinion was to support the increased status of women as wives and mothers within the family. Although this line of thinking was willing to tolerate a limited procedural equality for women - acknowledging that not all women chose to marry and to be mothers - they did not support measures that would encourage women to work or to have careers. They also stridently opposed any dilution of Catholic teaching on sexual morality, including any measures to make artificial contraception more readily available, but under pressure for social change they became willing to promote 'natural' family planning methods.

The issue of contraception had been taken up strongly by the women's movement, centring on women's right to control their own fertility. In 1971 they dominated the headlines with the 'contraceptive train', a high profile group trip to Northern Ireland for the purchase of contraceptives. The increased support amongst influential sections of civil society for the legalisation of contraception and the taking of the McGee case appeal in the Supreme Court meant that the political parties had to deal more seriously with the issue. The situation was further highlighted by the introduction of the Family Planning Bill 1973 in the Seanad, sponsored by the independent senators Mary Robinson, Trevor West and John Horgan, to coincide with the resumption of the McGee case. The main discussion on this bill took place in February 1974, after the court ruling in the McGee case. This ruling declared unconstitutional the ban on the importation of contraceptives because it interfered with the right to marital privacy of Mrs. McGee.

The debate on the Family Planning Bill provoked strong reaction from senators opposed to the liberalisation of contraception. The arguments they made foreshadowed the ideas that would form the basis for the resurgence of the Catholic right as a pressure group in the 1980s. While some of the fears expressed now appear

extreme, they illustrate the extent to which the availability of contraceptives was judged to undermine the social order, doing 'considerable damage to the moral fabric' of the state<sup>67</sup> and the extent to which liberal views were seen as an alien and outside influence. M. J. O'Higgins, Fine Gael leader of the Seanad, expressed the fear that major international drug companies were poised for a marketing assault on Ireland, and

that thousands of mail order forms for contraceptives are to be put into Dublin homes. Squads of women in Dublin are reported to have been hired, through newspaper advertisements, to distribute order forms in plain brown paper envelopes. All this is merely following a decision of the Supreme Court.<sup>68</sup>

As well as the threat to the moral order, fears were raised that not only might some contraceptives be abortifacient but that the liberalisation of contraception would lead to the introduction of abortion. Professor Quinlan, defending the view that 'Irish citizenship is the proud heritage of every baby from the moment of its conception',<sup>69</sup> stated that it was

fundamental that the unborn baby ... from the moment of its conception has a right to life; that the State, as a Christian State, acknowledges that right to life, and that we write that into our Constitution by a quick referendum.<sup>70</sup>

It is also notable that those senators speaking against the motion felt that while they were voicing the opinions of a silent Catholic majority and 'the common good', in doing this they were going against the trend of the more vocal and influential sectors

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<sup>67</sup>Seanad Eireann, Vol. 77, c. 254, 21 Feb. 1974.

<sup>68</sup>Seanad Eireann, Vol. 77, c. 256, 21 Feb. 1974.

<sup>69</sup>Seanad Eireann, Vol. 77, c. 275, 21 Feb. 1974.

<sup>70</sup>Seanad Eireann, Vol. 77, c. 264, 21 Feb. 1974.

of society and feared they would be 'ridiculed, attacked and scorned ' for opposing the Bill<sup>71</sup>.

The progress of this particular Bill was halted by the government's decision to introduce a measure of its own following the Supreme Court ruling in the McGee case. The Minister for Justice, Patrick Cooney, while announcing the government's intentions indicated the extent to which the government felt trapped by the Supreme Court's decision saying that it is now

a matter of constitutional law that contraceptives are to be available to married couples. There is nothing any of us or indeed the Oireachtas can do to change that position. There is no law we can pass to remove that right.<sup>72</sup>.

The government's unease, and the depths of its problems in getting some form of contraceptive legislation through the Dáil, was apparent from a very early stage. The decision to have a free vote was disclosed on 13 February as an addendum to the press release that announced the government's intention to introduce a Bill to amend the existing legislation<sup>73</sup>. At this early stage it was recognised that defections from the government side would mean the loss of the Bill if Fianna Fáil imposed a whip. It was hoped that if Fianna Fáil could be persuaded that it would do them a disservice with voters to vote against the Bill they might also allow a free vote, and that the addition of pro-family planning Fianna Fáil TDs would save the bill. To this end, the government encouraged the publication of an academic survey on attitudes to contraception, that showed a slight majority of all voters and a larger majority of young voters in favour of the legalisation of contraceptives.<sup>74</sup> During the debate, John Kelly the Parliamentary Secretary to the Taoiseach, said he was 'not overly-

<sup>71</sup>Seanad Eireann, Vol. 77, c. 259, 21 Feb. 1974.

<sup>72</sup>Seanad Eireann, Vol. 77, c. 382, 21 Feb. 1974.

<sup>73</sup>Dáil Debates, Vol. 274, c. 367-8, 4 July 1974.

<sup>74</sup>Dáil Debates, Vol. 274, c. 296-300, 4 July 1974.

confident ... that this Bill will pass'.<sup>75</sup> He was proved right. The defeat of the Bill because of government defections seemed the most likely outcome to both sides. Taoiseach Liam Cosgrave created a sensation - when with his Ministerial colleague Dick Burke and other Fine Gael and Labour deputies he voted with the opposition against the government's own bill.

In the event, the content of the governments Control of Importation, Sale and Manufacture of Contraceptives Bill, 1974, made Fianna Fáil's decision to oppose it easy to justify. The Bill was restrictive and very convoluted. Under its terms contraceptives could only be imported and sold under a licence issued by the Minister for Justice. In any geographical area, the first preference would be to give the licence to a pharmacist. In the event of no pharmacist being willing to import and sell contraceptives, a license could be granted to some other reputable trader. If no commercial outlet was willing to import and stock contraceptives, a married couple could apply to the Minister for a license to import contraceptives for their personal use. The bill also made it a criminal offence for an unmarried person to buy contraceptives.

In describing the Bill as 'silly' and 'not capable of amendment'<sup>76</sup> Fianna Fáil were on relatively strong ground. Des O'Malley, who led the opposition's attack, claimed it would make 'the country into a total laughing stock', as he described a number of likely scenarios if the Bill was passed, which included arresting tourists for having contraceptives in their luggage, and the Gardai investigating married couples who applied to the Minister for Justice for an importation licence<sup>77</sup>. There was also an awareness of international opinion, as O'Malley argued that the

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<sup>75</sup>Dáil Debates, Vol. 274, c. 334, 4 July 1974.

<sup>76</sup>Dáil Debates, Vol. 274, c. 314, 4 July 1974.

<sup>77</sup>Dáil Debates, Vol. 274, c. 309, 4 July 1974.

pre-McGee contraception laws were a cause of some amusement it appears to some liberal thinkers abroad but the amusement must be very mild compared with the total circus that this Bill ... would be regarded by people abroad<sup>78</sup>.

While the debate on the Bill produced fervent opposition to contraception from conservative deputies on both sides of the House, it also demonstrated that amongst the Fianna Fáil front bench it was accepted that some sort of family planning legislation was necessary.

The issue of the government's decision on the free vote, and Fianna Fáil's decision to impose a whip, produced as much heat as the topic under discussion. From Fianna Fáil's response in the debate, it is obvious that the whole issue of contraception was still seen as highly polarised, and one on which it would be difficult for any government to legislate without offending a substantial proportion of the electorate. This view comes through in response to the suggestion that Fianna Fáil should work with the government and table amendments to the Bill. George Colley heatedly replied: '[w]hat kind of an exhibition do they think this is and what kind of fools do they think we are to do their dirty work for them?'<sup>79</sup> The Bill was defeated in the second stage vote because members of the Fine Gael party including the Taoiseach and the Minister for Education, Dick Burke, voted against the Bill. After this disaster, there was understandably no further attempt to legislate on contraception during the term of the coalition government.

Although in many respects the fact that the government Bill on contraception was defeated meant the continuance of a more liberal or permissive legal situation governing contraception, the experience of the debate left the impression of a strong, conservative core in Irish public life. It is one of the ironies of political commentary

<sup>78</sup>Dáil Debates, Vol. 274, c. 310, 4 July 1974.

<sup>79</sup>Dáil Debates, Vol. 274, c. 351, 4 July 1974.



that Fianna Fáil, who managed to resolve the debate temporarily by passing legislation in 1979 are the party whose image was most damaged, retrospectively by the failure of the Irish state elite to deal more positively with the issue of contraception in 1974.

### **The Parameters of the Equality Contract**

By 1977 the legal position of Irish women had changed radically from that which had existed in 1957. The changes enacted, when taken together, amount to a substantial shift in the gender regime of the Irish state, moving the public policy paradigm from one based on the hierarchical family and the authority of the husband to one based on formal legal equality. This 'equality contract' is described by Hirdmann (cited in Duncan 1994: 1186-9) as hollow, as it gave women a form of equal citizenship but did not, initially at least, lead to a significant redistribution of resources or decision-making. In employment law the state had conceded that some women would have the right to formal, if male defined, procedural equality in the regulation of the conditions for employment and promotion and that all women, even married women, had the right to employment of a secondary or supplementary nature. This type of employment included part-time employment and returning to employment after child rearing. The state also recognised that some types of employment were particularly suitable for women, teaching and nursing being the two primary examples. The state still primarily defined women as mothers but now with a possible, additional, secondary role as worker. In addition the state was, by the end of the 1970s, willing to offer married women some protection from abusive or violent husbands and to guarantee a limited amount of economic security. The state extended a measure of economic and physical protection to dependent wives by preventing the sale of the family home and instituting barring orders in cases of domestic violence. It also

through the social welfare system, directly supported women as mothers, in various categories of need.

This equality contract had a class distinction, with middle class, well educated women more likely to benefit from the employment equality provisions than the majority of women workers. The state's support for women as mothers, through the social welfare system, was primarily designed to allow mothers to remain in the home and was introduced in the context of supporting 'deprived children'. This assessment would have been offensive to many single parents at the time, but it was the ideology that motivated the state. Ireland's new policy regime was conceived in the context of the primacy of the family based on marriage. Although the state was willing to recognise and support 'unmarried mothers' in the social welfare system, it did not recognise an unmarried couple as a family unit. On this basis none of the laws that extended protection to married women applied to women who were cohabiting.

It is the moral conservatism of the Irish state that distinguishes the shape of the gender regime that emerged in Ireland in the 1970s, from similar regimes which emerged in other European states. The strength of Irish Catholicism has been described as inhibiting the development of women's rights because it encouraged anti-feminist values in civil society and bolstered a conservative state (Mahon, 1987; Galligan 1998). In effect the impact of Catholicism and Ireland's low level of secularisation did not inhibit the development of a women's rights agenda in employment, social welfare or family law; but it did ensure that these reforms took place in a public policy context that still gave a high priority, but not an absolutely dominant position, to the family based on marriage and to the sexual morality of the Catholic church. The extent to which the development of the Irish 'equality contract' closely followed the pattern in other European states will be further examined in chapter seven.

During the period of National Coalition government, the relative policy positions of the political parties were similar to the relative positions in the late 1960s and early 1970s. Labour, although less radical than in 1968-69 was still the party with the most consistently liberal attitude to women's issues. Their record was tarnished primarily by their trade union links which gave an anti-feminist dimension to the way in which they tackled employment policy in practice. Fianna Fáil, although more conservative than Labour on issues of sexual morality, as the parliamentary opposition supported the progressive aspects of the government's legislative programme. It continued to take a moderately modernising attitude to the women's rights agenda. Fine Gael remained during this period of government noticeably more conservative on gender issues than either of the other two parties. During the coalition government, the most significant pieces of legislation that collectively made up the 'equality contract' were introduced by members of the Labour Party. Those elements of the 'equality contract' in the area of family law reform, introduced by Fine Gael's Patrick Cooney, as Minister for Justice, had been long standing demands of the women's movement and the Commission on the Status of Women which were difficult to resist. More importantly they could be supported as measures to strengthen the family unit, in addition to being of benefit to women. The Coalition's failure to enact family planning legislation, and the strongly conservative nature of the rejected bill are both attributable to attitudes prevailing within Fine Gael. The following chapter will now look in more detail at these differences in attitude and policy between the three main political parties.

## CHAPTER SIX

### THE POLITICAL PARTIES AND WOMEN'S RIGHTS

During the 1970s for the first time 'women's rights' became a question of electoral and party political competition. The inclusion of a debate on women's rights during the general elections of 1973 and 1977 coincides with a major change in the way parties presented themselves to the public and also the way in which the parties were interrogated by the media and by interest groups. This means that during the 1970s there is a record of party political policy on women's rights issues which does not exist in previous decades. Also, for the general elections of 1973 and 1977, there are privately conducted attitude surveys covering the major political parties on a range of questions of interest to women's rights lobbyists, which were published in the *Irish Times*. Concurrent with these developments there was a push from new women's lobby organisations, the Women's Political Association and Women Elect, to have more women elected to the Dáil. This made the issue of the very low number of women in the Dáil and Seanad another topic of public debate on which political party attitudes divided.

The major party policy statements of the 1960s - Fine Gael's 'Planning a Just Society' (1965), the Labour Party's 'New Republic' (1968), and the programmes for economic development published by Fianna Fáil, as the party in government (1958; 1964; 1969) - did not contain statements of policy that could be interpreted as firm support for women's rights. Although gender values were being substantially renegotiated within the state and civil society during the 1960s, policy formulations based on this renegotiation were either not clarified or were not widely accepted amongst the party elites until the end of the decade, with the Commission of the Status of Women playing an essential role in the clarification process. The comparative position of the political parties as demonstrated in the Dáil debates has been discussed in earlier

chapters . This chapter will look in more detail at the policy positions of the political parties in the 1970s when the new public policy regime was been written into legislation.

## **Party Divisions**

The literature dealing with the location of Irish political parties on an ideological or policy spectrum has not been clear cut or conclusive. This is especially true of the two main political parties, generally identified as occupying a centre position on a right/left political spectrum, though the nature of the actual programmatic or policy differences between them continues to be a contested area. The Irish political system has been considered an oddity because of the absence of the clear right/left divide that exists in British politics or a religious secular divide which along with class based political divisions has shaped many European political systems (Rose, 1974: 18; Carty, 1981: 85). Studies of Irish party political positions, especially those constructed by academics or institutions based outside the country, have resulted in widely different interpretations of the meaning of the perceived differences, but the general trend appears to describe Fine Gael as the more conservative party, in the period prior to the early 1980s (Gallagher, 1985:140).

Two substantive studies, one by Sinnott (1986, 1995) and the other by Mair (1987), are of particular relevance to this discussion of party political differences on the issue of women's rights as they, uniquely, deal with attitude of party elites in the 1970s. Although neither deal with gender or women's rights, they provide the only party political framework with which the party positions on women's rights can be compared. These studies, like other work on parties and their policies, are concerned with determining the parties position within 'a spatial metaphor' which involved locating the political parties within a spatial framework of one or more dimensions

and assessing their relationship to each other within this framework (Sinnott, 1995: 67). They also contradict international assessments in placing Fianna Fáil decidedly to the right of Fine Gael, on economic policy at least.

Sinnott's study is based on the attitudes of party elites elicited through interviews with 75 members of the Twentieth Dáil (1973-77). The material gathered in these interviews was used to map the political parties along three different dimensions: a right/left divide based on responses to questions on economic policy; a more nationalist/less nationalist divide based on questions on Northern Ireland; and a confessional/non-confessional divide.

Sinnott's approach to the degree of confessionalism exhibited by the political parties requires some explanation. The divide on confessionalism did not emerge in the interviews with the 75 TDs, but arose when the respondents were asked to rank 12 prominent politicians by the degree of proximity to the respondent's own political views. The results of this ranking were used to place those twelve politicians in the three dimensional spatial map. As Sinnott (1995: 79) explains the interpretation of the meaning of the distribution of the politicians contained an element of subjectivity as well as a reliance on 'a considerable contextual knowledge of the political situation at the time' including the stance taken by individuals on the contraception debate of 1974. A subsequent mapping of general political party opinion on a confessional/non-confessional dimension used this material to place the individual respondents on a confessional/non-confessional scale using their own stated ranking of one of the 12 prominent politicians whose views were known.

Sinnott (1995: 80) found that the parties were clearly divided on the national question with Labour on the less nationalist end of the spectrum and Fianna Fáil on the more nationalist end. The bulk of Fine Gael deputies interviewed lie slightly to the less nationalist side of the centre, 'in a position that is distinguishable from both Fianna

Fáil on the one side and Labour on the other' (Sinnott, 1995: 80). The bulk of both Fianna Fáil and Fine Gael deputies are right of centre on the economic dimension with Fianna Fáil deputies being further to the right than Fine Gael. It may be that the differences on economic policy are misleadingly identified as a right/left divide, with all the value laden and subjective connotations that such labelling contains. Sinnott's depiction of the distance that existed between Fianna Fáil and the other two main political parties on economic issues may be accurate but attaching the labels conservative and liberal democratic could be misleading, because it relies on a value judgement that places social partnership based policy on the right of the political spectrum. On the confessional issue there is a clear division between Fianna Fáil and Labour on the one hand and the more confessional Fine Gael. There is also evidence of a division within Fine Gael on this issue, with one group of deputies closer to the Fianna Fáil/Labour position in contrast to another group occupying an extremely confessional position.

Mair's (1987: 31) study involved an analysis of party election programmes issued between 1961 and 1982 and the identification of commonly mentioned themes. On the basis of this Mair argues that the most salient party difference to emerge was between the corporatist values exhibited by Fianna Fáil and the social democratic values exhibited by Fine Gael and Labour. This, he equates with a right/left political division with corporatism considered to be on the right and the Fine Gael/Labour version of social democracy on the left. He supports this analysis with reference to party attitudes towards redistribution arguing that 'the Fianna Fáil commitment to welfarism was essentially contingent' on economic growth and did not have a redistributive element (1987: 33-4). Fine Gael and Labour according to Mair 'linked their commitment to welfarism to a further commitment to social justice', calling for a degree of redistribution of national resources (1987: 34).

A number of problems are immediately evident in Mair's study. Firstly, it requires an acceptance that the 'Just Society' documents were in fact an accurate representation of the collective, or even party elite, position of Fine Gael. This they were evidently not. 'Planning a Just Society' discusses increased social spending as part of an investment in social capital, which will not only lead to greater social justice but also enhance economic growth. Not only was this not widely accepted as a valid position even in the Fine Gael elite but it has to be balanced against the actions of Fianna Fáil in government from 1965. The introduction of 'free education' in particular was an example of social investment which was not necessarily justified by either the lure of economic growth or the resources available to the government. It was part of a shift in Fianna Fáil policy towards more commitment to social, as distinct from capital, spending.

Mair's study (and Sinnott's division on the economic question, to some extent) also implies that Fianna Fáil economic policy, because of its deliberate involvement of interest groups, is less democratic - and subjectively less desirable - than retaining all such policy development and decision making in the hands of government. Mair's study results in a left/right - corporatist/social democratic divide that has the effect of placing Fine Gael much closer to Labour, and much further away from Fianna Fáil than Sinnott's survey. This is primarily because of his exclusive reliance on manifestos, with no use of supporting evidence, such as how closely they approximated to the opinions of party elites or the actions of the parties in government. It also reflects the relatively narrow area of policy on which he has chosen to base his comparison.

Galligan (1998) builds on the division found in Mair between the corporatist tending Fianna Fáil and the more social democratic Fine Gael and Labour as part of her thesis that women's rights issues were advanced further in the conditions of pluralism in



policy development favoured by Fine Gael and Labour than under the corporatist structures favoured by Fianna Fáil. Galligan (1998: 165) concludes that:

‘women’s groups can press demands with greater facility in an open, pluralist context than in a policy arena characterised by a closed, corporatist pattern of interest representation .... women campaigning for equal pay faced resistance from a corporatist policy network, where employers, unions and government were slow to acknowledge the presence of WAC and the demand for equal pay. In contrast, it was seen that members of the AIM, NWCI, and RCC groups had easier access to policy-makers and a greater scope for representation of their agenda’.

Galligan’s (1995: 64) claim that ‘the period of greatest acceptance of women’s agendas within the political structures are linked with the dominance of a centre-left coalition government’ is unsubstantiated in her policy case studies. This is clearly illustrated by her description of the election of the Fine Gael/Labour coalition in 1973 as promising ‘a very different approach to the issue of the implementation of equal pay. Instead of the incremental approach favoured by the participants of the tripartite pay talks of 1972 [Fianna Fáil, the ICTU and the employers organisations], the new Fine Gael-Labour coalition government was committed to legislating for equal pay in fulfilment of an election promise’ (1998: 76-7). This ignores Fianna Fáil’s pre-election commitment to equal pay and the Coalition’s poor performance once in government. Galligan’s description of the decision by the Coalition to seek a derogation which would postpone the implementation of equal pay as a ‘bureaucratic error on the part of the Irish government’ (1998: 79) indicates a degree of making the facts fit, or at least not contradict the theory, despite compelling evidence to the contrary.

As discussed in chapter five, the Fine Gael-Labour government delayed and diluted the employment equality legislation. They had largely ignored the proto corporatist structures which Fianna Fáil had set in place, thereby arguably by-passing the trade union movement with its habitual antagonism towards women's rights, but this did not benefit women or make the legislation stronger. This was primarily because of the gulf that existed between the trade union elite and the rank and file. The elite of the trade union movement were in fact more progressive than the rank and file membership and women's rights activists had more influence at this level of the organisation. The elite also recognised the usefulness of equal pay as a bargaining tool. Thus the executive of the ICTU campaigned strongly against the Fine Gael-Labour coalition's decision to seek a derogation from the EEC to delay the implementation of equal pay. On an international level, furthermore, a corporatist-pluralist divide does not explain women's employment equality experience in other countries (see chapter seven), or why internationally the legislation established in the 1970s has proved to be so resilient and resistant to amendment, in spite of its deficiencies being clearly established in a wide range of forums.

Richard Sinnott's study offers a picture of Fianna Fáil in the 1970s as more right wing on economic issues than either Labour or Fine Gael but on a par with Labour in terms of its relative non-confessionalism, relative that is to the high level of confessionalism displayed by the Fine Gael elite. In terms of what the international literature tells us of the receptivity of political elites to ideas on women's rights, it would be expected that the more left wing and the more secular parties would be the most progressive on this issue (e.g. Bashevkin 1985). The conclusion of Sinnott's analysis leaves both Fianna Fáil and Fine Gael in an ambiguous position as their relative positions on both the right/left and confessional/non-confessional spectrum would leave them open to conflicting influences.

As the tenor of Galligan's (1998) argument indicates, there is a perception that the programmatic issues which divide Fianna Fáil on the one hand, from Fine Gael and Labour on the other, in the broad economic areas identified by Sinnott (1986) and Mair (1987) also impact on women's rights. It is noticeable that Galligan bases her argument on the coalition as an entity and does not disaggregate it into its constituent parties. This chapter will examine the attitudes of the three main political parties, as indicated by the publicity material they released and their responses to surveys, during the 1973 and 1977 elections and assess the findings with reference to Sinnott's and Mair's studies.

## **The 1973 General Election**

### *The impact of the women's movement*

One of the factors that produced the distinctive shape of the 1973 general election was the fact that it was the first to be held in the climate of social change, including the challenge of second wave feminism, that characterised the early 1970s. By 1973 this process of change had already produced a number of feminist lobby groups dealing with specific issues, as well as a network of loosely connected women's groups initially joined by the acceptance of an agenda of six demands: 'one family, one house'; 'equal rights in law'; 'equal pay now' and the removal of the marriage bar; 'justice for widows, deserted wives and unmarried mothers'; 'equal education opportunities'; and 'contraception as a human right' (Smyth, 1988: 335; Connolly, 1996:57). Of these six demands, 'one family, one house' met with most internal dissent (Connolly, 1996:57) and subsequently did not feature as a significant demand of either the women's movement or the various groups that developed from it. Among the most active of these specific issue women's groups in 1973 were AIM (Action, Initiative, Motivation), set up by Nuala Fennell and concerned primarily with family law reform, and Cherish, an organisation of and for unmarried mothers.

Employment equality issues did not lead to the creation of a specific lobbying organisation because the debate on them was contained within the trade union movement between pro-feminist and conservative elements. Contraception was another area of focused activity from a number of groups.

During the 1973 election campaign women's issues achieved a reasonable media profile through the efforts of feminist minded women journalists writing for a sympathetic female constituency. Politicians at this time were obviously aware of a growing demand for change that would introduce a greater degree of gender equality into public policy and improve the position of women generally. This influenced the content of their election promises. However, apart from this, women's rights were not an issue in the general election outside of the women's pages of the newspapers. Politicians were feeling some pressure, but not to the extent, that they felt it necessary to actively engage with the women's movement's demands. Established politicians appeared at this stage impatient with the rapid expansion of women's policy demands, illustrated by a letter to the *Irish Times*, from a member of AIM who complained that at a public meeting organised by AIM, politicians of all parties acted as though the demands of the group indicated that women would use any excuse to get their hands on their husband's wage packets.<sup>1</sup> All the political parties now envisaged reform along the path dictated by the discussion that had already taken place at the level of the state during the 1960s - primarily equal pay and some improvement in the way mothers were supported through the social welfare system. The parties' election promises and their reaction to the demands of the women's' movement reflect this political position.

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<sup>1</sup>*Irish Times*, 5 Feb. 1973.

## *Party Manifestos*

In the 1973 general election Fianna Fáil as usual did not produce a manifesto. It ran on its political record and on its ability to provide strong, stable government compared to the alleged instability of coalitions, and it launched its campaign prior to the announcement of a coalition agreement between the two main opposition parties Fine Gael and Labour. Fianna Fáil had in government begun to develop the outline of a moderate women's rights agenda. They had received the completed report of the Commission on the Status of Women in December 1972 only a couple of months before the election was called but on the basis of the interim report had given a firm commitment to progressively introduce equal pay with full implementation by 1977 as recommended in the Commission's Report. They had also introduced an allowance for deserted wives and indicated that the absence of social welfare provision for single mothers and prisoners wives was under review. At this stage Fianna Fáil did not consider these developments of sufficient significance to make them an election issue. Neither, did they see any advantage in involving women's groups in the political process.

Although the election pact that produced the National Coalition appeared sudden, the policy development that produced the National Coalition manifesto, between Fine Gael and Labour, had begun in 1965. Between 1965 and 1973 a policy committee in Fine Gael initially headed by Declan Costello attempted to produce a detailed, coherent and modernised policy position for Fine Gael. Its motivation primarily seems to have been to chart a path of electoral growth for Fine Gael that would bring them back into government. This involved the need to fight back against the success of Fianna Fáil's 'economic development programmes' and to encourage Labour towards coalition. This is indicated by the content of 'Planning a Just Society' which focuses on the indicative planning policy of Fianna Fáil, and by the fact that post-1965 Fine Gael discussed the possibility of some electoral arrangement with Labour

or even a merger - a step that was initiated by FitzGerald who had been part of the creation of the 'Just Society' idea (FitzGerald, 1991: 78-9). Prior to his actual membership of Fine Gael, Garret FitzGerald played an influential role in the production of the policy documents adopted first by the Policy Committee and then by Fine Gael (FitzGerald, 1991: 68-9). The first document in the 'Just Society' series was published in 1965 under the title 'Planning a Just Society' and was adopted as the manifesto for the general election that year. It was not however for consumption by the general public. It was very long, detailed and written in technical terms. In addition to being primarily a critique of Fianna Fáil's economic planning, it also contained a discussion of the reorganisation of the social welfare system, but it did not contain any reference to women's rights or any specific gender issue. 'Planning a Just Society' and the area specific policy documents that followed became the acknowledged Fine Gael election position, but these policies were not endorsed with any enthusiasm by the party as a whole. FitzGerald states that in 1965 they were 'adopted by a party that at the time had nothing else to offer the electorate' and that after the election the party elite continued to manifest an 'inadequate commitment' to the 'Just Society' policy (1991: 69 & 73).

FitzGerald continued to be an influential voice in policy formation and in 1971 Fine Gael's policy was published in booklet form as 'Winning Through to a Just Society' in preparation for the next general election. Like 'Planning for a Just Society' it contained a very explicit commitment to Catholic social teaching

The social and economic thought of the Fine Gael party has been informed and moulded by the social doctrines contained in the papal encyclicals (1971: 3)

This policy document also contained a commitment to 'equal pay for equal work' and equal job opportunity to be implemented in a 'definite' but unspecified period.

Other policy statements of interest to women were the promises that 'children's allowances will be extended to illegitimate children' and that 'widow's pensions will be payable to deserted wives and orphans pensions to children deserted by their father' (Fine Gael, 1971: 16). The way in which this policy commitment is phrased is out of tune with the growing consensus of how women as mothers should be dealt with in the social welfare system. It extends no significant help to single mothers that would allow them to keep their children. Why the reference to deserted wives should take the legalistic and unsympathetic form it does is difficult to understand. Fianna Fáil had introduced a deserted wives allowance in 1970 following a commitment to make 'special provisions' for deserted wives in 1969. Presumably Fine Gael intended to bring this allowance into line with the existing provisions for widows but the actual wording makes the policy sound both grudging and condescending.

In the late 1960s the Labour party had moved to the left and attracted new members. This followed its relatively successful election result in 1965 which produced hopes of an electoral break-through in the following general election, given what were perceived to be fundamental changes in social values in Irish society. Both Fine Gael and Labour experienced a degree of political rejuvenation from 1965 but initially it produced a difference in attitude between them to coalition. While a section of the Fine Gael elite favoured coalition with Labour and saw the development of policy as facilitating this outcome, within Labour, on the other hand, until the disappointment of the 1969 election, the general membership, at least, were disenchanted with the idea of coalition and the public position of the party leadership remained firmly anti-coalition. Even during the late 1960s the radicalism of labour was constrained, Brendan Corish's speech to the annual delegate conference printed as 'the New Republic' in 1968 quoted papal endorsement for the type of socialism being espoused by Labour (Labour Party, 1968: 15). The 1969 general election was a severe disappointment to the Labour Party, who had hoped to build on the 1965 election

result (Gallagher, 1985: 78). Post 1969, with some of Labour's revolutionary fervour abated, the idea of coalition was again discussed within the party.

After the 1973 general election was announced Fine Gael and Labour were able to rapidly produce a 14 point agreement for coalition government. One of the points of the brief manifesto was the open-ended promise that legislation would be introduced 'to end all forms of existing discrimination against women'. This was assessed, in the media, as coming 'from a grouping of radical moderates' and was 'far in advance of any previous Fine Gael programme and in some respects more radical than the [Labour Party's] socialist Programme of 1969, which was radical in form but moderate in content'. The Irish Times political correspondent Michael McInerney continued that the

potentially most radical proposal of all, certainly for Fine Gael, is the unequivocal declaration that 'legislation will be introduced to end all forms of existing discrimination against women'. This could easily be the most expensive of all the decisions particularly in the field of equal pay for equal work. It raises all forms of constitutional and civil rights questions.<sup>2</sup>

The grafting of a moderately progressive position onto an essentially conservative Fine Gael party and front bench produced tensions in the course of the government - the debacle on the contraception issue being one example. Whether accurate or not, Fianna Fáil identified the conservatism of Fine Gael as a reason for the slow progress through the Dáil of the legislation on equal pay and equal opportunities in employment. Gene FitzGerald referred to the Minister for Labour being 'shackled and tied down by colleagues'<sup>3</sup> who were not so committed to social reform and Maire Geoghan Quinn blamed the delays on the Minister's 'conservative colleagues'<sup>4</sup>. The

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<sup>2</sup>'Fine Gael and Labour endorse manifesto pledging widespread social reform', *Irish Times*, 8 Feb. 1973.

<sup>3</sup>Dáil Debates, Vol. 294, c. 1033, 1 Dec. 1976.

<sup>4</sup>Dáil Debates, Vol. 294, c. 1052, 1 Dec. 1976.



way in which 'women's rights' was dealt with in the election programmes of all three parties indicates that while they had identified some limited reform as popular, Fine Gael had not yet come to terms with the extent of the value changes in key sections of the Irish electorate.

### *Party Attitudes*

All three parties in 1973 offered the prospect of some reform for women. An in depth examination of their policy positions and attitudes to gender is provided by a survey conducted independently by women journalists working for *The Irish Times*. The 'Women First' column of *The Irish Times*, in 1973, circulated the head offices of all the political parties with a wide ranging questionnaire on women's rights and published the results. Fianna Fáil and Labour both replied directly to the questionnaire. Fine Gael did not reply to the questions but instead sent a copy of a speech by Garret FitzGerald and a copy of the National Coalition manifesto which together they indicated represented the party's position. Table 6.1 contains a summarised and paraphrased version of the decisive nine questions issued to the parties by 'Women First'. The discursive party replies have also been reduced to a bare statement of intent, where this was possible. A blank space indicates that the party either ignored the question or did not make a sufficiently clear reply to the questionnaire for a policy position to be extracted.

The way in which the parties responded to the questions on employment equality - should equal pay be enforced by law? - should there be equal opportunities legislation? - set the tone for the way in which the Dáil tackled these women's rights issues from 1973-77. Fianna Fáil gave their most direct answer to the employment equality question, stating their commitment to equal pay by 1977, and also more cautiously agreeing to the need for some form of equality of opportunity legislation 'in the context of the report of the Commission on the Status of Women'. This

reflected a clearly worked out and accepted position, amongst the party leadership at least.

The Labour party's response to the questionnaire is most notable for the emphasis that they gave to the need for trade union support for any move towards gender equality in employment. This was significant in the context of the 1970s because the trade unions at this time were not very responsive to women's issues. Labour supported in principle the phasing in of equal pay and equality of opportunity, but only with trade union agreement, and not essentially as a women's rights - equal citizenship issue.

**Table 6.1. Irish Times 'Women First' survey, 1973.**

<b>Question.</b>	<b>Replies. Fianna Fáil</b>	<b>Labour</b>	<b>Fine Gael.</b>
1. Should legislation enforce equal pay.	yes - by 1977	yes - with TU agreement.	In civil service and by negotiation in private sector.
2. Should legislation enforce equality of opportunity in employment.	Considering in context of Commission Report.	Yes - with TU agreement.	Would end marriage bar.
3. Should minimum wage be introduced to improve women's wages.	Equal pay will improve women's pay.	Minimum wage should apply to women and men.	-
4. Does party approve of legalisation of contraception.	Considering position in light of Mc Gee case.	Yes.	-
5. Would party reform law on divorce and separation.	Divorce no answer to problems.	-	-
6. Does party agree with need to alter rules on maintenance and Children's Allowances.	-	Only commented on need for improved payments of children's allowance to de facto guardian.	Married women should be entitled to specific share of husbands income.
7. Proposed legislation to help unmarried mothers.	This was already under review	Would introduce needed changes in social welfare.	-
8. Would party provide more money for widows and deserted wives with children.	Will continue to improve as national resources grow.	The present payments are deplorable.	-
9. Will party legislate so that women do jury service on same terms as men.	Non-committal answer.	Yes.	Yes

Source: Irish Times, 7 February 1973. Most relevant questions chosen. Questions have been summarised.

Fine Gael, through FitzGerald's written text, asserted the party's commitment to introducing equal pay in those areas in which the government had power - the civil service - and to co-operate with the trade unions to achieve it other sectors. This reflects the obvious distaste that Fine Gael had for regulating the private sector, coupled with an acknowledgement of the Labour party's desire to allow the trade unions to dictate the pace and configuration of moves towards equal pay. FitzGerald's support for the ideal of equal citizenship was for an equality based on difference, he did not personally believe that married women should work, demonstrated by his statement that while the law could not be changed back to bar married women from working, there should be 'gentle discouragement'<sup>5</sup>.

The questionnaire also covered the other major issues for Irish feminists, asking: did the political parties approve of the use of contraception; would they change the existing divorce and separation law; would they deal with rights to maintenance and children's allowance; what legislation would they introduce to help unmarried mothers; would they allocate more money to widows and deserted wives with children; and were they proposing to address the question of women and jury service?<sup>6</sup>

Fianna Fáil in their replies were defensive of the government's record and adopted a lecturing tone which was not prudent for a political party responding to a section of the electorate. They would not be drawn on the question of contraception and family planning except to say that they were considering it in the light of the Supreme Court case. On the question of divorce and maintenance for women, both in the context of existing marriage and in cases of marriage breakdown, while they stated that divorce was not the answer and discussed the complexity of the issues involved, they had no definite policy to propose. They were defensive on the issue of unmarried mothers,

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<sup>5</sup>Dáil Debates, Vol. 294, c. 1058, 1 Dec. 1976.

<sup>6</sup>*Irish Times*, 7 Feb. 1973.

disputing that they got no help, and saying that the situation was under review, and that payments to widows and deserted wives would continue to improve, especially as national resources grew. The needless prevarication of their approach comes through clearly in their reply to the question of women and jury service. As a issue it was one that annoyed women, at least women who were active in public life, but would not place a financial cost on a government to have the law changed, neither was it central to any other policy area. While not saying that they would not introduce change, even in this area Fianna Fáil, as the party of government, felt compelled to defend the status quo and hint at possible obstacles.

Labour produced a positive response to most of the questions. Unmarried mothers, they said, should be included in the social welfare system, payments to widows and deserted wives were 'deplorable', contraception should be available and women should do jury service on the same basis as men. However they side-stepped the issue of divorce and maintenance for married women by the simple expedient of ignoring the questions. The speech of Garret FitzGerald's supplied by Fine Gael, by way of answering the questionnaire, gives an indication of the approach to policy that would be taken by Fine Gael in coalition. It reiterated the Coalition promise to change the law on jury service, and on the question of maintenance for dependent wives he expressed the opinion that married women should be entitled to a specific share of their husband's income, which would be enforced through attachment of earnings if necessary<sup>7</sup>. This foreshadows a very strong aspect of Fine Gael's approach to gender relations under FitzGerald's leadership. It was to combine a strong commitment to formal equality with an equally strong level of support for the role of women as full-time carers in the home. Fine Gael, through FitzGerald, did not however comment on the question of contraception, in spite of its prominence in public debate, an indication of how difficult this issue would be for them to deal with.

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<sup>7</sup>*Irish Times*, 27 Feb. 1973.

As the party of government, Fianna Fáil's attitude to the emerging women's rights agenda was also illustrated, in January 1973, on the eve of the election, when AIM presented a comprehensive list of policy demands to the Minister for Social Welfare Joseph Brennan. These demands included the payment of children's allowances to the mother rather than the father; the exclusion of high income families from receiving social welfare; separate payments for wives who were not being supported by husbands who were on social assistance; the inclusion of prisoners wives in the social welfare system; and a more liberal means test for deserted wives. On the issue of deserted wives, their main criticism was the number and intrusiveness of the questions asked in the means test, which included the question 'Have you made an attempt to get your husband back?'. The minister's reply was unnecessarily combative in tone. In his opinion, it would be too expensive to means test children's allowance. He retaliated to the arguments being raised to support the payment of children's allowance to the mother by suggesting that there were some alcoholic wives, and stated that the Fianna Fáil government favoured a situation of equality where the payment could be made to either spouse. Minister Brennan promised to consider the position of the dependent wives of social assistance claimants and of deserted wives, but saw the solution to the problem of prisoners wives in a nationalised system of home assistance which Fianna Fáil had been considering.<sup>8</sup>

The combative and unconciliatory approach taken by the Minister on this occasion reflected the attitude that had developed in the Fianna Fáil parliamentary party, following an uninterrupted 16 years of government. It was an attitude that was to dominate their approach to the election campaign across all issues and not just on the topic of women's rights. It was not that Fianna Fáil in government would not make any policy changes, but they did not at that stage think it was either desirable or necessary to seriously engage with the women's lobby groups on the detail of that policy change.

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<sup>8</sup>*Irish Times*, 1 Feb. 1973.

Fianna Fáil, as indicated by their response to AIM and the Women's First questionnaire, were in 1973 committed to equal pay and possibly to some form of equality legislation. They were also considering further social welfare reform, in particular in the position of deserted wives, prisoners wives and unmarried mothers. While they were aware that some action on contraception was going to be necessary, they had clearly not decided at this stage, what that action should be. They also quite definitely were not considering any action on divorce, nor does it appear that they had given any attention to the issue of women and jury service.

The questionnaire also highlights a wider potential gulf on these issues between Labour and Fine Gael than existed between Labour and Fianna Fáil. The initial failure to respond directly to the questionnaire could either be an indication that Fine Gael gave a lower priority to women's rights than the other two parties or alternatively a lack of consensus on agreed policy positions. Whichever analysis is correct it represents a line of difference between Fine Gael compared to Fianna Fáil and Labour. Fine Gael's concept of employment equality and equal pay, particularly, appears narrower than either of the other two parties - a position which as chapter five demonstrated influenced the progress of employment equality legislation through the Dáil. The absence of any response from Fine Gael on the question of contraception is also an indication of future division in the Coalition, and within Fine Gael, on this topic.

## **The 1977 General Election.**

It is an indication of the growing impact of the women's movement in Ireland during the course of the 1970s that in the 1977 election campaign coverage of the related topics of women candidates and women's rights moved beyond the women's pages into the general news and comment columns.

### ***Party Manifestos and Campaigns***

Initially the way in which women's rights were reflected in the manifestos was fairly low key, but women's rights issues gathered momentum during the campaign especially as they became a subject of competition between the political parties. Ultimately, all the parties, following a strong lead from Fianna Fáil, made women's rights, or a version of it, an integral part of their election platform. However party differences in approach to questions of women's rights and political inclusion were still discernible, in spite of the similarity of their final set of election promises.

Fine Gael in its individual party manifesto did not mention women's rights but the joint coalition manifesto, presumably under the influence of Labour, contained a paragraph on 'Women' under the main heading 'The Family and Children'. The National Coalition manifesto was launched after the launch of the Fianna Fáil manifesto and in many ways seems to be a direct response to its contents. The Coalition manifesto promised to complete the process of removing discrimination against women by eliminating the marriage differential in civil service pay, allowing female school leavers to claim unemployment assistance and removing discrimination against married women in the conditions for receipt of unemployment and disability benefit. All three of these issues had been points on which the Coalition government had been continually critiqued in the Dáil by Fianna Fáil. Their inclusion was reactive and was intended to prevent Fianna Fáil being able to make political capital on these issues during the election, as they had during the previous Dáil. In Labour's



separate election material, it is noticeable that in spite of its better track record, in policy terms, on commitment to equality issues, the party remained 'pretty silent on the whole thing'<sup>9</sup>.

The National Coalition originally intended to run on its record in government in a proactive way, releasing a large volume of detailed material<sup>10</sup> describing the work of the Coalition during its four years in office, and reminding voters that:

This programme must of course be seen in the light of the world economic crisis that followed the five fold increase in oil prices at the end of 1973 - a crisis which halted the growth of output and led to massive inflation and unemployment throughout the non-oil-producing countries (National Coalition, 1977:1).

As well as its record in government in difficult economic times the Coalition based its campaign on the calibre and integrity of its front bench. The lack of success of its strategy meant that for most of the campaign Fine Gael and Labour appeared to be responding to Fianna Fáil's lead.

The Fianna Fáil manifesto itself was a departure - representing the beginning of the current style of election material. It was a 47 page document, but the text was widely spaced and the material brief, to the point, and clear - obviously for consumption by the general public. It included a commitment to 'work towards the elimination of discrimination against single, married and widowed women' in the social security system (Fianna Fáil, 1977:22). Its policy on health included a commitment to introducing contraceptive legislation, promising to 'ensure the widest possible acceptance of a positive policy for family planning and enact the necessary

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<sup>9</sup>*Irish Times*, 15 June 1977.

<sup>10</sup>Collectively published in National Coalition (1977).

legislation' (1977: 25). In a reference to the retention of the married pay scales in the public service by the National Coalition, Fianna Fáil restated its commitment to the principle of ' "equal pay" especially in the public service' (1977: 23). In response to the demands of lobby groups including AIM, Fianna Fáil TDs had in the previous Dáil raised the issue of the need for legal aid, especially in family law cases. Following on from this, the manifesto contained a commitment to set up 'informal' family law courts and that 'legal aid will be extended to civil cases where this is necessary; as a first step it will be introduced in the area of family law' (Fianna Fáil, 1977: 36). The manifesto also promised to establish a Women's Service Corps in the Army (Fianna Fáil, 1977: 45).

In the course of the campaign, Fianna Fáil took the issue of women's rights and the capturing of the women's vote very seriously, seeing it as a topic on which a significant number of votes could be lost or gained. The 1977 election was Fianna Fáil's most professional election up to then. They used three separate agencies to promote their campaign and imported many of the trappings of electioneering from the USA. It is an indication of how seriously they were taking 'women's rights' as an election issue that one of these agencies, the Peter Owens Agency, 'was directed to advertise in appropriate media (including magazines) aimed at the women's vote' (Farrell, 1978:119). The result was a series of advertisements in local and national media claiming that the 'Coalition discriminates against women' and a series of social welfare advertisements reminding voters that it was Fianna Fáil who initiated children's allowances, widows pensions and deserted wives allowances. The image of Fianna Fáil as a party committed to change and modernisation was also enhanced by its commitment to take action on the thorny issue of contraception.

Towards the end of the election campaign the Coalition indicated its concern that Fianna Fáil were gaining political support on the basis of its appeal to the women's vote. Following the Fianna Fáil advertisements alleging that the Coalition

discriminated against women 'in failing to implement equal pay fully, in job and promotion opportunities for women, and employment for married women'<sup>11</sup> on 13 June Richie Ryan, the Minister for Finance, and Michael O'Leary, the Minister for Labour, made crucial announcements. Richie Ryan acted on the promise in the manifesto for a two stage ending of the marriage differential in civil service pay, by announcing that 50% of the differential would be paid immediately to single civil servants, back-dated to January 1977, and that the remaining 50% would be removed in December, while Michael O'Leary signed the order bringing the Employment Equality Act (1977) into operation from 1 July 1977.<sup>12</sup> Coincidentally, these announcements were also made on the same day as an opinion poll, published in the *Irish Times*, showed that Jack Lynch was the choice for Taoiseach of 54% of respondents, compared to 29% support for Liam Cosgrave, and also that 10% of respondents thought that women's rights were an important general election issue<sup>13</sup>.

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<sup>11</sup>Christina Murphy, *Irish Times*, 15 June 1977, says Fianna Fáil have been 'littering the provincial and national press' with advertisements saying that 'The Coalition Discriminates Against Women'.

<sup>12</sup>*Irish Times*, 14 June 1977.

<sup>13</sup>*Irish Times*, 13 June 1977.

**Table 6.2 Party Manifesto Positions, 1977.**

<i>Issue</i>	<i>Party Positions.</i>	
	<i>Fianna Fáil</i>	<i>National Coalition (Fine Gael/Labour)</i>
Social Welfare	Will work towards elimination of discrimination against single, married and widowed women.	Female school leavers will be entitled to unemployment assistance. Discrimination in relation to unemployment and disability benefits removed.
Employment	Committed to equal pay especially in the public service.	Two phases introduction of equal pay in civil service.
Family Law	Will introduce informal family law courts and free legal aid in family cases.	Will introduce family law courts and free legal aid in family cases conditional on national resources.
Contraception	Will enact positive family planning legislation.	-
Defence	Will establish a women's service corps.	-

*Source: Created by author from original manifestos*

***Party attitudes.***

In the *Irish Times* coverage of the election and its aftermath the beginnings of the paradigm in the literature (Randall and Smyth, 1987; Galligan, 1998) that defines Fine Gael and Labour as pro women's rights and Fianna Fáil as antagonistic to women's rights, is discernible. That this exists even during an election in which Fianna Fáil, of the three main political parties, had most successfully been able to capitalise on 'women's issues' and attract a 'women's vote', winning the election by a very large majority, is a reflection on the deep seated antagonism to Fianna Fáil that existed amongst particular influential elites, including some of those in the media, and in Fianna Fáil's view also in the academic world (O'Halpin, 1997: 583-4). Under the headline

'Coalition parties respond better to women's survey than FF' Geraldine Kennedy reports on a survey conducted by the Women's Political Association and presented by its vice-president Gemma Hussey, later to be a Fine Gael TD and Minister For Education. It is unclear whether the headline is a reference to the number of TDs and senators that actually bothered to respond to the survey or a comment on the content of those responses. The postal survey was conducted between November 1976 and April 1977. Table 6.3 is a summary of the key questions and the responses. In total 51% of TDs and 45% of senators from all parties responded. The majority of Fianna Fáil politicians did so with a standard answer sheet supplied by their party, with only six answering on an individual basis. Fine Gael also supplied their TDs and Senators with a standard set of answers but approximately one third of them chose to answer individually, as did all Labour politicians.

The responses indicate that Fianna Fáil occupied a much closer position to the Labour party than did Fine Gael. It is also clear from the Fine Gael responses how weak the level of support for the National Coalition manifesto was within the party. Support for free legal aid in family law cases, an election promise in both the Fianna Fáil and National Coalition manifestos was only supported by 37% of Fine Gael respondents, while it received 100% support in Fianna Fáil and Labour. The Coalition's specific election promise to give female school-leavers unemployment assistance on the same basis as it was given to men was supported by 65% of Fine Gael respondents, compared to over 90% in Fianna Fáil and Labour. This is perhaps an indication that the position adopted in the National Coalition manifesto was primarily designed to persuade Labour to maintain its election pact with Fine Gael and did not represent a fundamental Fine Gael position.

The survey also gives an indication that Fine Gael was more out of tune with the emerging women's rights lobby groups to the point of being politically inept. In replying to a questionnaire issued by a feminist lobby group, whose aim was to promote women in politics, only 50% of Fine Gael politicians agreed with the statement that Irish life suffered because of a lack of women in politics, again compared to 100% for Fianna Fáil and Labour. Similarly when asked should local authorities provide refuges and assistance for battered families only 34% of Fine Gael respondents gave a positive answer, again compared to 100% in Fianna Fáil and Labour.

The two issues on which Fianna Fáil responded more negatively than Fine Gael were in response to the idea of a referendum on divorce and on a comprehensive, family planning service to be provided by the state. Only 17% of Fianna Fáil respondents were in favour of calling a referendum on divorce, compared to 37% for Fine Gael and 86% for Labour. Only 12% of Fianna Fáil replies favoured the state providing family planning services, compared to 34% for Fine Gael and 100% for Labour. As Fianna Fáil were committed to legislating for family planning, the negative response to the question is probably a reaction to the idea of it being both 'comprehensive' and 'state run', when as a party they had not yet determined what they thought the country and the electorate would tolerate. The results of this survey place Labour as the most progressive on gender related social issues, with Fianna Fáil in second place and Fine Gael as markedly the most conservative party.

**Table 6.3 Women's Political Association Survey, 1977.**

	<i>FF</i>	<i>FG</i>	<i>Lab.</i>
Agree that Irish life suffered because of lack of women in politics.	100%	50%	100%
In favour of free legal aid in family cases.	100%	37%	100%
Should local authorities provide refuge and assistance for battered families.	100%	34%	100%
In favour of equal unemployment assistance for female school leavers.	+90%	65%	+90%
In favour of a referendum on divorce.	17%	37%	86%
In favour of comprehensive family planning service provided by the state.	12%	34%	100%

Source: Irish Times, 9 June 1977 (Questions have been summarised here).

### *Women Candidates.*

The lack of women candidates and the very small numbers of women in public life generally, had only been briefly touched on by the print media in the course of the 1973 election campaign. The Irish Times women's page profiled the 16 women candidates in the election and also fantasised an all-women cabinet, with well known non-party political women such as Thelka Beere and Hilda Tweedy as ministers. The actual result saw four women elected to the twentieth Dáil. This poor result was compounded by Liam Cosgrave's failure to nominate any women to the Seanad. Cosgrave's defence in the face of criticism for this omission - that women should not be appointed because they were women<sup>14</sup> - was likely to anger politically aware women, who were coming to the conclusion that women were not being appointed because they were not men.

Once in office, the Coalition government did set up a Women's Representative Committee to monitor the progress being made in the implementation of the recommendations of the Commission on the Status of Women. It was under the auspices of the Department of Labour, and chaired by the Labour TD Eileen Desmond. Its membership included women from the recently formed Council for the Status of Women. The Council was set up as an umbrella organisation, by women who had been part of the ad hoc group which had campaigned for a commission on the status of women, with the aim of monitoring the implementation of the Commission's report and lobbying for change. Government consultation with the WRC appears to have been patchy and on occasion this lack of consultation was raised in the Dáil.<sup>15</sup> Fianna Fáil raised the issue of women's interest representation at state level, in 1975 - the UN international women's year - by suggesting that the government appoint a Parliamentary secretary with special responsibility for women's

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<sup>14</sup>Seanad Eireann, Vol. 75, c. 658, 25 July 1973.

<sup>15</sup>For example, Dáil Debates, Vol. 287, c. 1649, 11 Feb. 1976.



affairs, on the lines of a similar office established in France.<sup>16</sup> In spite of its shortcomings the existence of the Committee did give women's organisations an official entry point into the policy process and formed part of the growing focus of women's groups, and individual women, on the need to have more women elected, not only as political representatives but also on to the executive of the social partnership organisations. In the words of Maire Geoghan-Quinn

Our aim must be to achieve equality of treatment for women. Men's attitudes are most in need of change and men control the means of change. Therefore, a much greater involvement by women in the political life of this country is vital.<sup>17</sup>

The number of women selected as candidates became a focus of media interest and prior to the beginning of the 1977 election campaign, two women's lobby groups, the Women's Political Association and Women Elect, had been formed to promote women candidates. Fianna Fáil picked up on this trend, with Jack Lynch and the party national executive adding six women candidates to constituency tickets, including Sile DeValera and Mary Harney, increasing the total number running for the party to ten. Even this very small step meant that Fianna Fáil were the party with the largest number of women candidates. Fine Gael fielded only six women and the Labour party only five, five women independents stood and no women were nominated by the smaller parties. Fine Gael was perceived to have acted negatively on this question by ignoring potentially successful new women candidates in Dun Laoghaire, as the Taoiseach insisted on 'an elderly and exclusively male line up in what was clearly a marginal constituency with a significant young and feminist vote' (Farrell and Manning, 1978: 139). In this instance Monica Barnes, later to be a Fine Gael TD for the constituency, was the rejected woman candidate. The failure of any

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<sup>16</sup>Dáil Debates, Vol.279, c. 151, 11 Mar. 1975.

<sup>17</sup>Dáil Debates, Vol. 294, c. 1052, 1 Dec. 1976.

of the three main parties to run a woman candidate in Dun Laoghaire resulted in a significant vote for the progressive independent candidate Una O'Higgins-O'Malley and the loss of a Fine Gael seat.

The total number of women elected rose from four in 1973, to six in 1977, Fianna Fáil having four women TDs and Fine Gael and Labour one each. One sitting TD, Fine Gael's Brigid Hogan O'Higgins lost her seat. It was claimed by members of her party that this was because she relied too much on her name, and did not do enough constituency work. It was also true that her conservative views would not have fitted in with the younger more progressive party political women that were making the news. Even though the number of women elected was disappointingly small, of more significance was the number of first preference votes that women candidates received. The number of votes cast for women candidates nearly doubled from 42, 269 in 1973 to 81, 976 in 1977. In 1973, 16 women candidates had contested the election and the party make up of those candidates was also significantly different from 1977. (In 1973 there were five Fine Gael candidates, two Fianna Fáil, two Labour, five from small parties and two independents).

**Table 6.4 Women Candidates First Preference Votes.**

<i>Affiliation.</i>	<i>1973.</i>		<i>1977</i>	
	<i>Candidates.</i>	<i>Votes.</i>	<i>Candidates.</i>	<i>Votes.</i>
Fianna Fáil	2	8 811	10	37 547
Fine Gael	5	19 955	6	19 532
Labour	2	8 396	5	14 753
Sinn Fein	3	3 958	-	-
Aontacht				
Eireann	2	905	-	-
Independents	2	243	5	10 144

While the political parties did not increase their vote in proportion to the increased number of women candidates they fielded, the increase in votes for independent women candidates was more dramatic and the fact that four of the five running in 1977 were running on a women's rights platform of some sort was not lost on the political parties. In fact the two most feminist of the independents attracted the largest votes with Nuala Fennell, elected a Fine Gael TD in the 1981 election, running on an openly feminist ticket and polling 3426 first preference votes and Una O'Higgins-O'Malley polling 3305. Fine Gael, under the leadership of Garret FitzGerald, later corrected Cosgrave's mistake and courted a number of the new generation of politically active feminist minded women, notably Gemma Hussey, Fennell and Monica Barnes. All three women already had strong Fine Gael connections as well as a track record in political campaigning and elections before their selection by Fine Gael as part of FitzGerald's modernisation of the party.

In the 1977 Seanad elections Gemma Hussey was elected after a campaign focusing on the underrepresentation of women and Mary Robinson, after failing to gain a seat for Labour in the general election, was also re-elected. Of the eleven people nominated to the Seanad by Jack Lynch three were women, a reflection of the perceived strength of the women's vote in the general election and perhaps also a reaction to the criticism Liam Cosgrave had received after his failure to nominate any women to the Seanad in 1973. Maire Geoghan-Quinn, after a strong performance in the twentieth Dáil, was appointed Minister for the Gaeltacht, the first women cabinet member since 1922.

For women the promise of the 1977 election campaign, which appeared to mark a decisive break with previous general elections was not fulfilled. Increasing women's political representation proved to be an uphill battle. Similarly, further change in policy areas of concern to women would prove slow and laborious. In many ways, consequently, the 1977 election did not mark the beginning of a period of change, but the beginning of a period of stasis

### **Conclusion.**

The foregoing discussion has detailed the existence, in spite of the adoption of common manifesto positions, of a clear policy divide between Fine Gael and Labour on women's rights. It also demonstrates that during the 1970s, on this set of issues at least, Fianna Fáil and Labour occupied a similar space. Interestingly the division between the parties approximates to Sinnott's placement of the political parties on a confessional/non-confessional divide, but contradicts his right/left placement on economic issues.

In the 1970s, the elite of Fianna Fáil and Labour had become broadly 'modern' in their outlook, in the sense that as a group they had internalised, to an extent, the value changes that had occurred in progressive sections of civil society, including changes in attitudes to gender. Both parties had, at least, accepted as a policy goal the ideal of a genderless citizenship - premised on formal legal and procedural equality for women in employment and family law. They had also accepted that ensuring the physical and economic well-being of dependent wives and children should be a policy goal, and recognised the need to provide for mothers in the social welfare system. While the way in which both parties approached these issues was seriously flawed and inadequate, it differed markedly from the approach taken by the Fine Gael elite. The values that underpinned the Fine Gael party positions were founded on a degree of gender difference that made the acceptance of a form of equal citizenship, even in principle, a difficult one. As the Fine Gael response to the Women's Political Association questionnaire and to the running of women candidates in the 1977 election indicates, they had more difficulty in engaging with the new women's lobby groups and the feminist ideas they espoused than either Fianna Fáil or Labour. The divergence between the National Coalition manifesto positions and the policy positions of the Fine Gael elite on women's rights must cast doubt on the use of this manifesto material (as in Mair's, 1987, study) as an indication of Fine Gael's view on any other policy area, at least in the absence of corroborating evidence. It would also suggest that both the 'Just Society' programme and the National Coalition manifestos should be reassessed in the light of Fine Gael's desire to draw the Labour Party into pre-election pacts and coalition government. Between 1965 and 1977, the years of the 'Just Society' programme, Fine Gael remained a conservative party in terms of its attitudes to both gender and gender based economic issues, imbued with a strong attachment to Catholic social thought that was shared both by the reforming Garret FitzGerald and Declan Costello and the trenchant conservative Liam Cosgrave. The attitudes of the political parties to women's rights, the similarity between Labour and Fianna Fáil in key areas and the conservatism of Fine Gael, cannot contradict findings

based on purely economic questions as in Sinnott's study, but they do suggest that the more general application of the terms conservative and liberal/social democrat to the political parties is somewhat misplaced.

The differences in the programmes of the political parties and the way in which they engaged with civil society are defining frameworks within which the Irish policy regime was rewritten to produce the new paradigm of the equality contract by the end of the 1970s. This framework helps explain the particular parameters of Ireland's gender regime compared to developments elsewhere in Europe during this period.

## CHAPTER SEVEN

### EUROPEAN PERSPECTIVES

The previous chapters have examined the role of the state and political parties in the renegotiation of Ireland's gender contract during the 1960s and 1970s. The Irish state, contrary to the analysis offered in the literature, has been shown to have undergone a process of change in which the gender values held by members of the state elites shifted, leading to the creation of a new public policy paradigm - the equality contract. Chapter one indicated that comparisons between the political cultures of states would prove useful in explaining the differences in their gender regimes and that some element of international comparison was necessary in order to understand the relationship between external and internal factors in the creation of Ireland's individual gender regime. As the focus of this thesis has been on describing that evolution in Ireland's gender regime an extensive international comparison is beyond its scope. It is however useful, given that the description of Ireland as uniquely patriarchal in the Western Europe context is widely repeated in the literature, (e.g. Galligan, 1993; Mahon, 1987; Randall and Smyth 1987; Gardiner 1993) to use the existing comparative European literature, to compare the position of Irish women and the policy outcomes of the Irish state, to European trends.

From the late 1950s to the late 1970s, in spite of very varied political cultures and policy profiles, the development of European gender regimes have exhibited a significant degree of similarity, especially in their experience of the direction and timing of change. The experience of the majority of states on any tangent of development is that changes tend to cluster at a particular time and around a particular set of ideas and issues. So that, while outcomes may differ from state to state, the timing and direction of change tends to follow a similar pattern. In each case, although there is an internal rationale for the changes experienced by the individual

states, there is also a link to internationally experienced trends. This chapter aims to demonstrate that Ireland participated in such an international trend, leading to the renegotiation of gender regimes. This occurred even though Ireland's level of economic development, industrialisation and standard of living was considerably lower than the majority of democratic European states. The only western European states where this process was significantly delayed are those where there existed a political dictatorship that stifled all forms of dissent.

The European renegotiation of gender structures began in the late 1950s with the questioning of the existing family ideology and gender definitions that defined women as legally subordinate to men. This resulted in an improvement in the legal status of married women, and women as mothers, or at least produced pressure for change on this issue, from the early 1960s. Almost universally, from the mid-1960s, the pace of social change and political criticism intensified and, from 1968, it produced radical political protest leading to the development of new social movements, including the women's movement. Women's political lobbying in the 1960s, prior to second wave feminism, was dominated by the demand for equality, or equal treatment, in both employment and family law. The 1960s were also a period of growing secularisation and sexual permissiveness, trends which combined in the demands for the liberalisation of laws on contraception, divorce and in some cases abortion. It was this trend towards increased sexual liberalisation that became a strong component of the women's movement from its inception in 1970, evident in its focus on issues of sexual autonomy and reproductive rights. For most states, including Ireland, the decade from the late 1960s to the late 1970s was a period of major legislative change that considerably redefined their individual gender regimes. This chapter will give an overview of these changes in Europe in the areas of family law, employment, reproductive rights, and political representation comparing them to developments in the Irish state. It will begin, however, by discussing the conditions in post-war Europe that formed the milieu in which these changes took place.



## **Post-war Europe.**

Two of the dominant aspects of post-war Europe are its spectacular economic recovery and the speed with which pre-war authority structures reasserted themselves. In the 1950s Western Europe was dominated by right or centre right governments consisting of political parties which had existed prior to the war, or which were based on pre-war political cleavages. The experience of post-war states was a mixture of consciously reconstructing many pre-war social and political relationships and the inescapably profound influences of the war. The post-war governments, unlike their inter-war predecessors, envisaged a greatly expanded role for the state in the management of the economy, industrial development and the provision of social services. While the majority of states in the 1950s were actively concerned with creating economic growth and developing social welfare systems, they pursued this greatly expanded state role in the context of the re-establishment of pre-war gender norms. The intensity with which this set of gender relationships was re-established negated the potential impact of women's war time experience as workers, members of liberation movements and as heads of households. It is significant for the way in which gender relationships developed in the 1960s and 1970s, that the seemingly successful conservative hegemony that dominated Europe in the 1950s, contained strong sublimated tensions that surfaced in widespread and sometimes violent political critique in the late 1960s, questioning many of the fundamental assumptions of the post-war states and society.

In terms of Ireland's relationship to European-wide political norms, the move to conservatism in post-war Europe reduced the degree of difference in political culture between Ireland and the rest of Western Europe, that might have existed had the reconstructed European states been more imbued with the radical ideology of many of the liberation movements. The difference in the political experiences of Ireland and

the rest of Western Europe, which had in some ways been widened by the experiences of war, converged again in the 1950s. This was particularly true of the gender paradigm that shaped both Irish and European public policy, as women throughout Europe returned to the home and motherhood, and as a strong ideology of gender difference developed to support this return to 'normality'.

In the decade after the war the major point of divergence from the European experience was Ireland's very poor economic performance. At the end of the 1950s, the Fianna Fáil government, consciously decided to change its economic policy dynamic, in an effort to connect the state to the rapidly expanding international economy. It began to pursue a program of state-led economic development, that during the following decade was a major factor in substantially expanding the size and competence of the state (Horgan, 1997: 176-80). This new policy direction led the Irish state, not only to take a leading role in economic management and industrialisation but also, during the 1960s, to increase its commitment to social spending in the areas of social welfare, education, health and housing - following what was the general trend in Europe. During the period of post-war reconstruction, and the economic growth that followed it, governments continued to play a major role in economic management and industrial development and by the 1960s most governments, including Ireland, were involved in some form of indicative planning and social partnership arrangements.

The Irish state's decision to change policy direction has been described in terms of an internal state dynamic and the influence of a number of key individuals (Farrell, 1983; Murphy 1996; Bew and Patterson 1982) but that it was also determined by international conditions, is indicated by the development of similar policies in other countries, at the end of the 1950s. Franco's Spain, for example, by the late 1950s found political isolation had become increasingly economically unsustainable and from '1957 the regime's tightly-regulated 'national economy' began to be dismantled

and new policies were introduced to promote rapid industrial growth within a market economy open to Western capitalism' (Brookbank Jones, 1997: 2). Also Portugal during the 1960s became increasingly industrialised and successfully attracted foreign investment in the form of multinational companies which resulted in women moving into the labour market in increasing numbers (Lovenduski, 1986: 104).

During the 1950s Ireland fell behind the majority of European states in industrialisation, employment and standards of living, but in terms of the gender values of state elites and the way in which public policy treated women, Ireland was not significantly out of step with European practices. This was primarily because of the intensity with which European states re-established pre-war patterns of gender relationships and retained pre-war family law codes. Even the Scandinavian states, which by the 1950s already had family law regimes based upon an equality of authority in domestic decision-making between the spouses, had public policy regimes that were strongly premised on traditional gender roles. In the Scandinavian countries, in spite of women's relatively high levels of political representation and labour force participation, public policy was based on the division between 'man-the-worker' and 'women-the-mother', with women being primarily viewed as housewives (Siim, 1993: 28; Leira, 1993: 58). This meant that during the 1950s European states shared a basic family ideology based on a strong idea of gender difference, which primarily defined women as mothers and carers working in the home. This was as true for the social democratic Scandinavian states as it was for more conservative regimes such as Germany and Ireland.

In spite of the reassertion of gender difference and traditional gender roles in the immediate aftermath of the war, women did receive some recognition for the role they had played in the war years. France, Belgium and Italy gave women the vote and the new constitutions of France, Germany and Italy contained expressions of gender equality (Beckwith, 1985: 21). In France the most tangible expression of this

equality was in the formal legal commitment to equal pay. Article 119 of the Treaty of Rome (1957) which contains the principle that men and women should receive 'equal pay for equal work' was adopted 'to alleviate the French government's fears that wage differences between men and women would prove to be a competitive advantage for the other member states (Roelofs, 1995: 131). The concern of the French with equal pay was primarily aimed at protecting male employment and wage rates, the statement of equality in the constitution was for all other practical purposes ignored and a conservative family law regime dating back to the Napoleonic codes remained in place.

In the German constitution the equality statement was counter balanced by a statement of commitment to and protection for the institution of marriage and the 'family', institutionalising a strong moral conservatism in public policy (Ostner, 1993: 99). This resulted in conservative marriage and family policies in West Germany until 1970; 'parents as well as landlords were legally prohibited to give or rent rooms or flats to unmarried couples or to allow them to stay overnight' (Ostner, 1993: 97). An attempt to back track on the equality statement in the proposed West German constitution produced a public outcry. It was felt that women had earned the right to equality, as a reward for all they had endured during the war years, but it was an equality of value, not of rights, that was being supported. Men and women would continue to have different and separate social roles, but both contributions would receive equal recognition and value (Kolinsky, 1989: 45).

The Italian constitution of 1947 contains a stronger statement of equality than the Irish constitution but, like the German constitution, this equality statement was compromised by the constitution's strong support for the family and by the assumptions about gender roles that formed the basis of constitutional interpretation. The Italian constitution's position on the family is similar to that found in the Irish constitution, it defined the family as 'a natural social unit founded on marriage', and

limited women's equality by making it conditional on not disrupting 'the unity of the family', allowing the state to maintain discriminatory law using the defence of the family as justification (Bimbi, 1993: 148). The constitution's articles dealing with equal pay and access to public office did not have a beneficial impact on women's employment as they 'were interpreted in a restrictive sense, in accordance with the idea that a women's capacities and social role were different' (Bimbi, 1993: 148) a position which was comparable to Article 40.1 of the Irish constitution which gives the state the right to discriminate on the grounds of 'capacity, physical and moral and of social function'.

Constitutional statements of equality provided little protection, because in post-war Europe there was little political space in which women's organisations could campaign for policy reform. At the most conservative end of the political spectrum the dictatorships of Spain and Portugal banned all women's organisations other than those organised by the church for the support of the family (Brookbank Jones, 1997: 2; Lovenduski, 1986: 104). The depth of the unfavourable conditions for women's political action is demonstrated by the fate of Italy's major women's organisations. In anticipation of the enfranchisement of women the major political factions founded women's organisations to court the women's vote. These two associations founded in 1945 were the major women's organisations of the post-war period: CIF (Centro di Iniziativa Femminile) was set up by the Christian Democratic party and UDI (Unione Donne Italiane) by the left-wing parties, the Communist party (PCI) and the Socialist party (PSI). (Ergas, 1982: 257; Colombo, 1981: 467). Even with a formal vehicle for women's political involvement, in the cultural environment of the 1950s following the initial enthusiasm of their foundation, their political visibility declined and their membership fell rapidly (Ergas, 1982: 257).

The generation of a widespread political culture that was an anathema to the effective organisation of women in lobby groups or as part of wider political organisations

stemmed from the collective view shared by the European states of the need to re-establish 'normal' family relations as an essential ingredient in rebuilding society - and returning to the old social order. It was a situation in which dissent or criticism took second place to economic reconstruction. The return to traditional gender roles was strongly advocated as a state objective to counter the residual effects of the 'abnormal' gender roles and relationships that resulted from the war. It was the aim of most states to encourage, or force women back into the home and traditional roles - with the return to the home being presented as beneficial to women and a reward for all their effort and sacrifice. The cultural vehicle for this was the development of a strong gender ideology based on femininity, difference, and the importance of domesticity and motherhood.

After the upheavals of war, the family was seen as a bastion against political extremes and the repository of moral and social good. In the post-war reconstruction in West Germany politicians of all parties 'relied on the view that stable, well-integrated families are the best means of regaining normality and a democratic society' (Ostner, 1993: 97). Women as carers in the home were essential to this vision of the family. Ergas, (1982: 258) argues that in the case of Italy

... the essential character of the limitation placed on women was not clearly perceived until the middle and late 1960s ... public awareness was dimmed by the emergence of strong ideological currents exalting women's role as homemakers.

The new social welfare systems that were developed in the post-war years were also imbued with this gender ideology. For women this expansion of social welfare provision reflected the re-emerged gender regimes, and the 'post-war European welfare states were based on the shared assumption that women provided care,

generally in the private sphere of the home and were financially dependent on men' (Kofman and Sales, 1996: 36).

By the end of the 1950s, although facing a difficult international relations situation at the beginning of the Cold War, Europe had apparently achieved a remarkable degree of political stability and consensus. This situation lasted until the mid 1960s, when the complacency of both politicians and social commentators was shattered as 'student rebellion and resurgent class conflict marked the symbolic termination of post-war consensus' (Jenson, 1985: 5). In the late 1960s, the universities were the site where the tensions inherent in the post war settlement formed the basis of a new form of political dissent. This new politics, which included the women's movement, 'openly questioned the validity ... of the political culture that had developed since the war' (Ergas, 1982: 260). But even prior to the late 1960s there were signs of dissatisfaction with the existing gender regimes. Women's organisations, many pre-war in their origins, in the more liberal atmosphere of the 1960s were revitalised and began to lobby for improvements in women's legal status (Kaplan, 1992; Skjeie, 1991: 92; Galligan, 1998:48). From the beginning of the 1970s groups arising from the new women's movement added to the pressure for change. The major areas in which reforms were sought in the 1960s and 1970s were family law, employment law, reproductive rights and political representation.

### **Family Law Reform and the Status of Married Women**

Although united by a common perception of gender roles in the family, the actual detail of family law regimes varied. The major difference was between the Scandinavian countries, where a higher degree of legal equality between the spouses had existed prior to the second world war, and the rest of western Europe. Britain did not fit into either pattern. Pre-war it had achieved inheritance and guardianship rights for wives and mothers and it had more liberal legal regimes with regard to divorce,

contraception and abortion than many other states, and further liberalised abortion laws in 1967 and divorce in 1969 (Lewis, 1992: 40). Swedish family law, for example, had been radically reformed under the influence of first wave feminism, divorce by mutual consent was introduced in 1915, women gained the vote in 1919 and a new family law of 1920 abolished the husband's guardianship of wife and children (Kaplan, 1992: 67). The majority of European states in the 1950s had family law codes that gave husbands authority over their wives and children and assigned to husbands the right to make all major family decisions. In France, for example, 'until the mid-1960s, wives were legally minors, subordinate to husbands'. Married women did not have the right to open their own bank accounts, pursue any activity or employment outside of the home without their husbands permission and it was the husband who had the right to take all the decisions regarding the education and welfare of the children. If a 'couple were married under a regime *de la communauté légale*, which encompassed about three-quarters of French couples the husband had complete control over family resources and decision-making' (Jenson, 1985: 10; Hantrais, 1993: 117). The idea that a husband rather than state law could prevent a married women from working or conversely order her to go out to work was fairly common and also found in both German and Italian law. Similarly the concept of the father as sole or primary guardian of his children was widespread. The Irish family law regime resembled this Western European pattern up until the mid-1960s.

Pressure to reform family law across a wide spectrum of European states existed prior to, and apart from, the development of second wave feminism at the end to the 1960s, but the pace at which change occurred varied between states. Ireland, of those states that retained a system of legal infancy for married women, began the process of change relatively early. The Married Women's Status Act (1957), the Guardianship of Infants Act (1964) and the Succession Act (1965) substantially equalised the legal status of spouses. In Germany in 1957, a husband's absolute authority and guardianship over his wife and children was moderated, but not ended, and only 'after



a fierce and controversial debate in Parliament' (Ostner, 1993: 99). More substantial family law reform did not take place until the second half of the 1970s. What was to distinguish Irish family law from the majority of European democratic states was not that it was delayed, or that women remained the legal inferiors of their husbands, but that it took place in the absence of any substantial degree of secularisation. This lack of secularisation, while it did not prevent the creation of formal legal equality between husband and wife, did stifle the emergence of a pro-divorce lobby.

Family law reform took place in France at the same time as it took place in Ireland, with the reform of marriage law in 1965 as a result of which 'women obtained the right to decide for themselves (that is without their husband's consent) whether to enter employment. They also gained greater control over their own property and financial affairs' (Hantrais, 1993: 122). Duchon (1994: 179) describes this reform as 'timid, frustrating' even though it had taken nearly a century to achieve and sees its significance in the fact that it 'paved the way' for more fundamental change in the 1970s. Kaplan (1992: 169) describes the French family law reforms of both 1965 and 1970 as primarily a process from within the French state which occurred 'irrespective of women's activities ... there were a host of legal and policy reforms trickling down the maze of French bureaucracy through the 1960s and the 1970s' indicating a change in the gender values of French state elites prior to the campaigns of the new women's movement. In 1970, in more radical reform, the concept of head of household disappeared from civil law statutes: 'both parents now share parental authority and are together responsible for the moral and material welfare of their children. The same law also gave unmarried mothers parental authority and the right to pass their name on to their children' (Hantrais, 1993: 122). These changes in family law were accompanied by a liberalisation in divorce permitting divorce by mutual consent or after six years of separation (Kaplan, 1992: 170).

In Germany, Italy and Austria family law reform occurred at a later date. In Italy, post dating divorce legislation, and in Germany and Austria coming after legislation on abortion. In Italy in '1975 a new Family Law was passed in which women were regarded as fully adult social individuals and not simply defined by their family duties. The major changes introduced by the new law depended on the fact that the husband-father was no longer defined as "head of the family": husband and wife were given the same rights and duties and both parents were made equally responsible for their children to the age of majority. Children born outside marriage gained the same rights as the children of married parents; they were also granted equal status as heirs' (Bimbi, 1993: 153). Because this law was later than similar reforms in Ireland, and was introduced in a European wide political climate where the issue of women's equality was more fully developed, the Italian law was more comprehensive. In Ireland full legal equality between the spouses covering issues such as; the transfer of nationality; entitlement to claim certain social welfare benefits; the right to be taxed separately; and the abolition of the concept of illegitimacy came in a piecemeal fashion during the 1970s and 1980s.

Prior to the reform of family law in 1970 the Italian parliament had voted for a restricted form of divorce, the law was stringent and made divorce a costly, time-consuming process, with the result that in the 1970s it was not used at anything like the levels predicted or feared. Groups opposed to the law forced a referendum in 1974, to confirm or repeal the legislation (LaPalombara, 1977: 16). The referendum vote is considered an electoral watershed, it supplied 'concrete evidence of the spread of secular values and the decline of Church influence over the Italian voter' as three out of five Italians voted to retain divorce (LaPalombara, 1977: 17).

West Germany and Austria, like Ireland, are both are counties with a strong Catholic influence, more importantly both place great social importance on the idea of the wife and mother in the home. They are useful comparisons for Ireland because both states

in the 1960s and 1970s were slower than Ireland to reform their family law. Austria like West Germany in the post war period had a very conservative family law regime and like West Germany the trauma of the war was added to by a period of formal Allied occupation lasting in the case of Austria until 1955. This occupation may have reinforced the retreat into a strong version of traditional family ideology. In Austria family law reform started in 1975 with the formal acceptance of equality between the spouses but more detailed laws were necessary to remove specific instances of discrimination. 'Up to 1976, for instance, husbands had the right to prohibit their wives from seeking work outside the home. Until 1978 men had absolute power over their children' and 'all property and assets were assumed to belong to the husband' (Kaplan, 1992: 133).

In the 1950s West Germany, like Ireland, barred married women from working in the public service (Kolinsky, 1989: 47) reflecting a strong disinclination on the part of the West German state to see married women work. The equal rights statement in the constitution, the Basic Law, did not prove a strong source of legal reform because of the ability of the constitutional court to rule 'a fulfilment of basic [constitutional] rights was dependent on what was possible ... in accordance with the state's financial resources and with established political priorities' (Smith, 1982: 194). This allowed the 1957 family law reform act which was designed to comply with the Basic Law to leave gender relations within the family virtually untouched. Women were deemed to run the household 'in her own responsibility' but were only entitled to take on paid employment where it did not interfere with their 'duties in marriage and family' and it also obliged them to seek paid employment should the husband's income be inadequate (Kolinsky, 1989: 49). This position implicitly gave the husband the right to decide whether or not his wife worked, with the courts being the final arbiter of whether or not a particular decision was reasonable.

In 1959 the West German Federal Constitutional Court ruled that it was unconstitutional to grant fathers sole rights over their children. Custody and decisions concerning the welfare of children were decreed to be joint rights (Kolinsky, 1989: 49). This was comparable to the ruling made by the Irish Supreme Court in the *Tilson Infants* decision of 1951. It was 1977 before West German family law established the partnership marriage setting out that men and women had equal rights and equal responsibilities, including the right of a wife to work without her husband's permission, and joint authority in the family decision-making. Kolinsky (1989: 51) comments that this policy position 'distanced itself from prescribed male or female roles and decreed that couples themselves should decide how they would organise their affairs'. Similarly, the Irish Report of the Commission on the Status of Women (1972) promoted the idea of formal legal equality, while describing the division of work within the family and women's employment decisions as personal ones. Obviously the economic and social realities in both states meant that women's personal decisions tended to be circumscribed by strong cultural expectations and limited opportunities. This division between formal equality and proscribed private choice was a key component of the new gender contract that emerged in Europe at the end of the 1970s.

By 1970 Ireland had a very low level of secularisation, and as a result, although the ending of the constitutional ban on divorce had been suggested by a Dáil Committee on the Constitution in 1967 it was not being seriously considered by state elites during the 1970s. In terms of family law, Ireland's total ban on divorce by the end of the 1970s was unique within its immediate political environment of the EEC and the other democratic European states. The failure to introduce divorce legislation is firmly rooted in the low level of secularisation in Irish society. That Irish political culture was not determined by Catholicism per se, is demonstrated by the division between Ireland and other Catholic European states on this issue. Ireland's unique political history, which included a nineteenth century experience of colonialism and

religious repression, resulted in an identification of Catholicism being embedded in its macro political culture as part of its definition of Irishness. This has given adherence to Catholic teaching a strong and more central role in the definition of the state than is the case for other European Catholic states. This adherence to Catholicism has acted as a barrier to change in all areas, but its effects have been strongest on issues of 'morality'. This has meant that women in Ireland have been able to achieve substantial legal equality in a framework which until 1992 did not allow for divorce and which still - following a 1992 Supreme Court ruling that abortion was permissible where the life of the mother was threatened - has not legislated for abortion even in these restricted circumstances.

### **Women and Employment.**

From the late 1950s to the late 1970s the major difference between the labour market experience of Irish women and women elsewhere in Europe was the very low participation rate of married women. As tables 7.1 and 7.2 demonstrate Irish women's labour force participation and their percentage share of the labour market were on the lower end of the European range, but comparable to Italy, Luxembourg and the Netherlands. The change in the rate of European women's labour force participation during the 1970s is, in part, explained by the increase in the proportion of women in the active labour force employed on a part-time basis. Table 7.3 indicates that with the exception of France, the countries with the highest women's labour force participation are also the countries with the highest proportion of women working part-time. In the UK for example the bulk of the post-war growth in women's employment is accounted for by the rise in part-time employment (Cornu, 1974). The very small number of married women in the Irish labour market is the most exceptional feature of Irish women's labour force experience compared to other European economies. Table 7.4 demonstrates that in 1977 Ireland's participation rate

at 13.6% was low by the standards of other EEC states, but was comparable to the Netherlands at 17.6%..

**Table 7.1** *Female labour market activity rates, full-time and part-time (15-64 years)*

	1970	1980
<b>Denmark</b>	<b>58.0</b>	<b>71.8</b>
<b>West Germany</b>	<b>48.1</b>	<b>51.4</b>
<b>France</b>	<b>48.5</b>	<b>54.4</b>
<b>Ireland</b>	<b>34.3</b>	<b>36.3</b>
<b>Italy</b>	<b>33.5</b>	<b>39.6</b>
<b>UK</b>	<b>50.7</b>	<b>58.3</b>
<b>Norway</b>	<b>38.8</b>	<b>62.3</b>
<b>Sweden</b>	<b>59.4</b>	<b>74.1</b>

*Source: OECD, Dept of Economics and Statistics, Labour Force Statistics, cited in Lewis (1993:8).*

**Table 7.2** *Women's % share in the total labour force, 1975.*

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<b>Belgium</b>	<b>32.5</b>
<b>Denmark</b>	<b>39.2</b>
<b>West Germany</b>	<b>36.5</b>
<b>France</b>	<b>37.8</b>
<b>Ireland</b>	<b>26.3</b>
<b>Italy</b>	<b>27.0</b>
<b>Luxembourg</b>	<b>28.2</b>
<b>Netherlands</b>	<b>24.2</b>
<b>United Kingdom</b>	<b>38.3</b>

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*Source: Eurostat, Labour Force Survey, 1975.*

**Table 7.3** *Nature of Employment (Full time/part time) of women, 1975.*

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	<b>FT</b>	<b>PT</b>
<b>Denmark</b>	<b>54.8</b>	<b>45.2</b>
<b>West Germany</b>	<b>73.3</b>	<b>26.7</b>
<b>France</b>	<b>83.5</b>	<b>16.5</b>
<b>Ireland</b>	<b>83.1</b>	<b>16.9</b>
<b>Italy</b>	<b>87.3</b>	<b>12.7</b>
<b>UK</b>	<b>59.0</b>	<b>41.0</b>
<b>Norway</b>	<b>25.0</b>	<b>75.0</b>
<b>Sweden</b>	<b>30.0</b>	<b>70.0</b>

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*Source: Lewis (1993: 11)*

**Table 7.4** Percentage of married women in the labour market, by comparison with total female population, 1977.

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<b>Belgium</b>	<b>30.0</b>
<b>Denmark</b>	<b>48.8</b>
<b>France</b>	<b>42.4</b>
<b>Germany</b>	<b>35.6</b>
<b>Ireland</b>	<b>13.6</b>
<b>Italy</b>	<b>23.3</b>
<b>Luxembourg</b>	<b>21.1</b>
<b>Netherlands</b>	<b>17.6</b>
<b>United Kingdom</b>	<b>46.5</b>

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*Source: Commission of the European Communities (1977:13).*

Cornu (1974: 32-3) attributed the relatively low number of working women in Ireland to the economic stagnation of the 1950s and the persistent very high rates of unemployment. The particularly low level of married women's participation, he argued, was not just a product of the marriage bar, it could result from Ireland's exceptional marriage patterns and high fertility rates in marriage. Fewer Irish women married than their European counterparts (Table 7.5), until the 1960s up to 25% of each generation of Irish women remained unmarried and Irish women married later and had more children than other European women. This attitude to marriage, Cornu (1974) believes cannot be explained by reference to Irish Catholicism, because even compared to other Catholic states Ireland had a much lower marriage rate and much higher fertility rates in marriage. Neither can this exceptional position be attributable chiefly to the actions or preferences of the legislative state - the Irish state during the



1950s was concerned with the low marriage rate especially in rural areas and during the 1970s increasingly accepted an employment role for married women. The uniqueness of Irish marriage patterns in the post-war period have their roots in the nineteenth century experience of famine which encouraged high levels of celibacy, and delayed marriage until economic security or independence had been achieved. The practical results of this pattern of family formation on the labour market was that a low marriage rate and late age of marriage meant that there was always an abundant supply of single women to fill traditionally female employments. The demand side pressures that existed in others states which drew married women into the labour market were absent in Ireland until the second half of the 1960s, when a combination of economic growth, the expansion of secondary education delaying young women's entry into the labour market, a rising marriage rate and a reduced average age of marriage, simultaneously reduced the number of single women and increased the number of married women between the ages of 15 - 64. As a result the employment participation of married women began to rise slightly from the mid 1960s and increased substantially, in the 1970s, although still lower than the European average.

**Table 7.5 Percentage of married women by comparison with the total female population, 1977.**

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<b>Belgium</b>	<b>51.88</b>
<b>Denmark</b>	<b>46.26</b>
<b>France</b>	<b>45.91</b>
<b>Germany</b>	<b>47.58</b>
<b>Ireland</b>	<b>37.09</b>
<b>Italy</b>	<b>49.13</b>
<b>Luxembourg</b>	<b>50.27</b>
<b>Netherlands</b>	<b>48.78</b>
<b>United Kingdom</b>	<b>49.03</b>

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*Source: Commission of the European Communities (1977:8). 8.*

Another factor that contributed to the low recorded economic activity rate of Irish women and also to the comparatively slow growth in women's labour force activity, was the continuing importance of agriculture to the Irish economy in the 1950s and 1960s and its subsequent decline as a source of employment. The Irish agricultural sector was primarily family farm based, which internationally leads to an under-reporting of female economic activity. Ireland's high rate of single women who are recorded as neither in education, employed or registered as unemployed may in part stem from the importance of the agricultural sector and its ability to absorb underemployed labour in conditions of high unemployment in other sectors of the economy. The high levels of unemployment, the fact that female school leavers could not claim unemployment assistance until the end of the 1970s, and the fact that caring roles by single women in the family were not recognised, also undoubtedly contributed to the number of single women who appear in the statistics as not

economically active. Table 7.6 lists the percentage of women who are neither working or seeking employment, measuring a level of voluntary unemployment or inactivity. Ireland does not stand out as abnormal in this category.

**Table 7.6 Female Population - percentage who do not have a job and are not seeking employment, 1977.**

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<b>Belgium</b>	<b>55.8</b>
<b>Denmark</b>	<b>42.6</b>
<b>France</b>	<b>47.2</b>
<b>Germany</b>	<b>53.9</b>
<b>Ireland</b>	<b>52.9</b>
<b>Italy</b>	<b>59.4</b>
<b>Luxembourg</b>	<b>60.7</b>
<b>Netherlands</b>	<b>61.2</b>
<b>United Kingdom</b>	<b>45.9</b>

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*Source: Commission of the European Communities (1977: 9).*

Between 1961 and 1981 the percentage of the female labour supply employed in the Irish agricultural sector declined steadily by 11.2%, from 15.1% to 3.9%. In European countries a decline in agricultural employment tended to be accompanied by a decline in labour market participation of women. A contraction in agricultural employment in the 1960s in France and Italy reduced the labour force participation of women. Austria's comparatively high pre-war labour force participation of women declined primarily because of the reduction in the importance of agriculture as an employer. In Austria, between 1961 and 1981, agricultural employment for women

dropped from 27.8% of all working women to 10.4% and although women's employment in the service sector rose substantially the net effect over this 20 year period was that women's share of the total labour market fell by 2%.

Statistics on employment, while they can indicate some of the parameters of women's lives, the complexity of gender regimes is such that of themselves they do not provide an adequate understanding of the diversity of attitudes and conditions under which European women have been incorporated into the labour market, and the interaction of political culture with economic conditions that have shaped employment regimes. As well as clear differences, the labour force experience of Irish women also has had strong parallels with the experiences of women in other states.

The Irish state's poor record of support for even single women at work paralleled the public policy of other states. In France despite 'official recognition of the equal rights principle in the 1946 and 1958 constitutions, during the immediate post-war period women's concerns as workers were not to the forefront of policy. Although their participation was not opposed by labour movements, the proportion of women had scarcely changed since the turn of the century and had even fallen in the 1960s' (Hantrais, 1993: 117). Conservative attitudes to women working persisted in the face of liberalisation in other areas. In Denmark in spite of extensive childcare provisions from the mid-1960s, and in contrast to attitudes to sexual morality, public opinion in the early 1970s registered conservative attitudes to women, especially married women, working (Cornu, 1974: 53-54). Economic conditions in other states provided greater employment opportunities for married women to work but this did not mean a fundamental change, or even a significant change, in domestic gender roles.

In those states where the economic conditions were favourable, the new gender contract of the 1970s incorporated women into the labour force on a part-time basis,

facilitating them combining their primary role as housewives and mothers with a secondary role as workers. The growth in part-time employment was not a universal phenomena and Ireland is one of a group of countries with a relatively low rate of part-time work. Although France and Italy both had low levels of part-time work, because trade union activity had largely priced this type of employment out of the market, the impact that this has had on women's employment has differed. In France from the 1960s, women have been increasingly incorporated into the labour force as full time workers backed by the support of a strong pro-natalist policy. In Italy in less favourable economic conditions, and in the absence of a strong desire by the state to encourage women to combine work with childrearing, the absence of part-time work in the 1970s led to women's incorporation into an informal home-working economy rather than full-time employment (Chamberlayne, 1993: 176-7). In Austria trade unions also opposed the development of part-time work for women, which together with the use of 'foreign workers as a supplementary labor supply', to a great extent in competition with female workers for the same kind of jobs, has 'tended to dampen the growth of female labour force participation' (Biffl, 1996: 145).

Biffl (1996: 154) argues that one of the explanations for the low growth in Austrian women's labour force participation is their relatively low level of educational attainment. This was not the case in Ireland. Irish girls traditionally stayed on at school longer than their male counterparts and figures for female enrolment at third level, in the academic year 1977-8, shows Ireland mid way between the highest and lowest levels in EEC states, indicating that educational opportunities for women were within European norms.

**Table 7.7** Females as a percentage of the total student population at tertiary level, 1977-78.

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<b>Belgium</b>	<b>43.0</b>
<b>Denmark</b>	<b>46.7</b>
<b>France</b>	<b>47.0</b>
<b>Germany</b>	<b>39.6</b>
<b>Ireland</b>	<b>40.0</b>
<b>Italy</b>	<b>41.0</b>
<b>Luxembourg</b>	<b>32.3</b>
<b>Netherlands</b>	<b>43.0</b>
<b>United Kingdom</b>	<b>39.9</b>

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*Source: Commission of the European Communities (1977:36-40).*

Ireland's labour force activity rates for women, especially married women, were lower than the European average, but in spite of this, the relationship of Irish women to the labour market was in many ways within European norms. Ireland's legislative framework that defined women's labour participation, with the exception of the late date for the ending of the marriage bar, was also within European norms. Before the 1970s Ireland like the majority of European states had no public policy commitment to equality of opportunity in employment. The EEC policy directives on equal pay and equal treatment increasingly standardised employment policy in the member states. Prior to this very little action was taken based on this article and the majority of member states failed to comply with agreements governing its implementation (Roelofs, 1995: 131). This situation changed and the EEC introduced binding directives on equal pay and equal treatment as a result of a bundle of interrelated pressures. These included the growing demand in the member states for equal pay

legislation - this came from the direction of those seeking to protect male jobs from low cost female labour and from those more directly concerned with women's rights. As part of this campaign from the late 1960s citizens of EEC member states began to initiate claims based on Article 119 in their domestic courts. The equal pay campaign was given new resonance in the changed political conditions of the early 1970s when the EEC was concerned to develop a social dimension to counter criticisms of its *raison d'être* and to increase its legitimacy and scope. Part of its social policy initiative took account of the strong pressure for policy change in the member states that was being led by 'the rapidly growing women's movement' (Roelofs, 1995: 131).

In spite of this EEC related pressure and broader campaigns for social change, the implementation of equal pay and employment equality legislation was not complete. At the end of the 1970s only Ireland and Italy had enacted legislation that fully met the EEC directives. For the majority of the other member states this was because the detail of their law did not match the requirement of the directives. But in West Germany it was 1980s before 'a law on equality for women in the labour market was introduced, but apparently only under duress' because of the EEC directives (Kaplan, 1992: 124).

The development of employment equality policy went beyond the boundaries of the EEC. Non-member states facing similar internal pressures for change enacted employment equality legislation. In Sweden although there had been an aspirational commitment to equal pay from the time of a government equality programme in 1968, equal pay and employment equality legislation was passed only in 1977 (Kaplan, 1992: 70). This indicates that there were forces at work that were not confined to a political dynamic that formed part of the EEC, the enactment of employment equality legislation was part of a wider process of social and political change.

The differences in Irish women's patterns of labour force participation, from European averages, has a variety of causes that are not reducible to the attitude of the Irish state. In the case of the 'marriage bar' it was not just that the Irish state wanted to retain this limitation. The late date for the removal of the 'bar' in the civil service is also a product of the lack of demand for labour. Even with this anomaly, the level and pattern of Irish women and work was similar to the situation in the Netherlands and Luxembourg and it is therefore misleading to see Ireland as a unique exception.

### **Feminism, Autonomy and Reproductive Rights.**

Women's living conditions and self-perceptions were profoundly affected by both the rapid social change and the new political conditions of the post-war period. By the early 1970s, female participation in the paid labour force and women's access to education in most European states had steadily increased for more than a decade' (Jenson, 1985: 12, Kaplan, 1992: 11-12). In Italy, for example, 'by the second half of the 1960s, a substantial role conflict characterised the condition of young women, in such a way that their expectations and behaviour were polarised between "emancipation" (understood by access to social parity) and family-centred feminine models ... young Italian women's lives and prospects differed greatly from those of preceding generations' (Ergas, 1982: 259), they were the first generation for whom the franchise was a right, they had greatly improved access to education and to contraception and they could expect to have much smaller families than their mothers had done. 'At the same time, however, everyday family life and profoundly internalized values revolved around differentiated sexual roles' (Ergas, 1982: 259). It was these conflicts that produced the soul searching and revolt that characterised second wave feminism.

The development of second wave feminism as a social movement in Europe in the late 1960s and early 1970s was therefore not directly related to specific issues of



women's legal or economic disadvantage that formed the agenda of pre-existing women's groups. Its ideology and motivation was more all embracing and its critique of the existing gender structures more fundamental. The initial focus of most European women's movements was on a general assertion of women's rights and autonomy and a reassertion and celebration of female values. As Jenson (1985: 7) explains the rights demanded 'by the contemporary women's movement reflect a clear emphasis upon individual autonomy rather than traditional roles. For example, claims for unfettered control of fertility and reproduction, for the design of social programmes which acknowledged female independence from the family and men, and for societal and state action against sexism and marginalisation on the basis of gender', taken together these demands 'illustrate the independent identity championed by the modern women's movement'. This independence is by comparison to both established women's organisations and other social movements of the 1970s.

Kaplan (1992) points to the diversity in the form of feminism in different Western European countries and uses the different social and political histories of the individual states to explain both the difference in the role and status of women, and the varying parameters of the new women's movement. In West Germany, for example, the 1972 Decree against Radicals had a profound impact on the women's movement as it led to a 'stifling of critical thought and legal political actions'. The fact that 60% of the terrorists sought by the police were women did not go unnoticed and 'blame for the predominance of women terrorists has been placed at the feet of the nascent German women's movement'(Jacobs, 1978: 166), with the result that the West German women's movement developed apolitically with a very strong emphasis on cultural issues and women's projects (Kaplan, 1992: 115).

In spite of this diversity, the issue of abortion became the single most unifying issue for feminism - both within and between states (Kaplan, 1992: 13). This was because it encapsulated the right of women to reproductive freedom and the right to have

complete control over their bodies. It was also an emotive issue and therefore had a high level of visibility because it produced a strong reaction from women's groups ensuring public protest action and reaction. In West Germany and France the arrival of the women's movement was marked by a public confession of guilt by large numbers of well known women, to having committed an illegal act under the existing law, by having had an abortion. 'The Manifeste des 343, published in 1971, was a public acknowledgement by 343 women prominent in French artistic, professional, intellectual and political circles that they had undergone at least one abortion.' This was a 'collective confession of guilt under the law of 1920' (Jenson, 1985: 13-14). In West Germany a letter published in the magazine *Der Stern* was signed by 374 women claiming to have had an abortion and *Der Spiegel* also published a letter signed by 329 doctors declaring that they had performed illegal abortions (Kaplan, 1992: 114).

In those countries where some form of abortion was already legal the focus was on liberalising the law to encompass the idea of 'a women right to choose'. In Britain, for example, the 1967 abortion legislation permitted abortion up to 28 weeks, under certain circumstances including a widely interpreted provision for cases of social need; but women could not choose to have abortions, the operations had to be authorised by two doctors who certified that some condition of necessity had been met. In this case the feminist campaign focused on the absolute right of women to choose abortion.

In Italy and Germany the campaign for abortion provision fared differently at the hands of the constitutional courts. 'In February 1975 the [Italian] Constitutional Court declared unconstitutional several articles of the legal code governing abortion that had been introduced under Fascism. The ensuing legislative confusion made it imperative for Parliament to establish a new law' (Ergas, 1982: 265). In 1978 new legislation was confirmed by referendum with only 32% of the electorate supporting the 'right-

to-life' proposal. 'Public opinion has thus shifted toward a far more positive attitude toward women's rights than could have been expected at the end of the 1960s' (Ergas, 1982: 275). In 1975 the West Germany constitutional court declared that abortion was unconstitutional with the church playing a leading role in the campaign to retain the existing legal provisions. Prior to this abortion was a criminal offence and in the early 1970s there were prosecutions against members of women's centres for providing abortion information. Following the constitutional court decision abortion was legalised in quite restrictive circumstances (Jacobs, 1978: 171; Kaplan, 1992: 117).

When the Spanish women's movement emerged in 1975 following the death of Franco, it followed the dominant European trend in its focus on the issue of reproductive rights (Threlfall, 1985: 51). In the 1975-76 period the priorities of the women's movement in Spain were on the need for birth control facilities, the decriminalisation of abortion, along with statutory equal rights. These aims were only superficially incorporated into public policy. In 1978 birth control was legalised but the pill was only prescribed by the health service as a hormone regulator and many doctors refused to prescribe any form of contraception at all. Consequently family planning services developed within the private health sector (Threlfall, 1985: 63). The Spanish state continued to prosecute women for procuring illegal abortion at the end of the 1970s and it was not until 1985 that a very restrictive abortion law was passed allowing abortion in circumstances where there was a 'grave danger to the life, or physical or mental health of the pregnant women'; in reported rape cases within 12 weeks, and within 22 weeks when 'the foetus is presumed likely to be born with serious physical or mental defects' (Brookbank Jones, 1997: 86). This law, apart from the provision for the abortion of potentially disabled fetuses, is similar to the current position in Ireland in the wake of the Supreme Court's 1992 ruling in the 'X' case.

It is perhaps the fact that Irish feminism, unlike other feminist movements, did not have a strong public pro-abortion campaign that has led commentators to describe it as 'tame manifestation of feminist protest found in other countries' (Galligan, 1998: 163). Lovenduski (1986: 72) graded feminist movements defining those in the UK, Italy, Holland, Finland, Denmark and Norway as strong; those in France, West Germany, Sweden and Belgium as weaker and those in Spain and Portugal as weak and belated. Kaplan (1992: 18-9) disputes the usefulness of this strong versus weak definition arguing that 'the criteria available for comparison are largely subjective ones'. Galligan (1998: 162) describes the comparative weakness of the Irish women's movement as being a result of the 'dominance of conservative social values and attitudes in Ireland' implicitly characterising the Irish state as more conservative on gender issues than the other democratic states of western Europe. However, the earlier examination, in this chapter, of family law regimes casts doubt on the accuracy of this assessment of the Irish state. The history of the Irish women's movement from 1970, also indicates that it shared many features, especially in the progression of its development and the broad issues on which it focused, with the women's movements of other countries. Irish feminists campaigned actively for contraceptive rights from 1971 and were involved in more low-key activity around the provision of abortion information and referrals.

The early 1970s were marked by a high level of solidarity in the various women's movements across Europe, but even in this period of solidarity the women's movement was beginning the process of diversifying into a number of single issue lobby groups and or into various branches of cultural feminism. The policy areas on which feminist groups lobbied were primarily related to their analysis of the repressive nature of heterosexual relationships and the need for women's autonomy. The major areas of political action included campaigns on sexual violence, domestic violence and reproductive rights. Other areas of activity included the rights of single mothers, the provision of childcare, wages for housework and lesbian rights. This

pattern of activity was a common feature of the European women's movement. In West Germany, for example, a strong women's refuge movement developed in the 1970s in response to domestic violence and, in spite of resistance on the part of the state, succeeded in opening the first women's refuge in West Berlin in 1976 (Kaplan, 1992: 116). In Italy a strong anti-rape lobby emerged in the late 1970s in the context of the absence in Italian law of any provision to protect women from sexual violence (Beckwith, 1985: 31; Kaplan, 1992: 251). Ireland also produced a diversity of single issue groups. Women's Aid was founded in 1974 to establish refuges for victims of domestic violence and in 1979 the first rape crisis centre was established in Dublin (Galligan, 1998: 115 & 127)

### **Political Representation.**

One of the results of the fragmentation of the women's movement during the 1970s was a renewed focus on the issue of women and political representation both as a citizenship right for women and as a way of ensuring that issues of concern to women were included as part of the public policy agenda. A new focus on getting women elected to parliament and into decision making positions became a definite feature of European and Irish feminist activity in the 1970s. In the early 1970s the percentage of women in the Dáil, although very small, was not atypical in European terms - France had a lower level of women in parliament while in Italy and Belgium the percentage of women was only slightly higher.

**Table 7.8 Representation of Women in the National Parliaments in Ireland and selected European Countries in 1972.**

		Men	Women	% Women
Ireland	Dáil Eireann	141	3	2.0
	Seanad Eireann	55	5	8.3
UK	House of Commons	604	26	4.1
France	Chamber of Deputies	479	8	1.6
	Senate	279	4	1.4
West Germany	Bundestag	493	32	6.1
Italy	Lower House	614	19	3.0
	Upper House	310	5	1.6
Belgium	Chamber of Deputies	206	6	2.8
	Senate	172	6	3.4
Netherlands	Lower House	137	13	8.7
	Upper House	73	2	2.7
Luxembourg	One House	56	2	4.3
Norway	Lower House	102	10	8.9
	Upper House	33	5	13.2
Denmark	One House	149	30	16.8
Sweden	Riksdag	305	45	13.0

*Source: Report of the Commission on the Status of Women, Dublin: 1972.*

The Scandinavian countries, even during the 1970s, stand out as having very high levels of women's representation in parliament and in government which appear in conflict with the adherence to the idea of women as housewives and mothers that was a feature of the post-war period in these countries as elsewhere in Europe. It has been argued that as the perceived power and prestige of parliaments have waned women have been 'allowed' to play a larger role in them - because they have become less attractive to high achieving men. Skjeie (1991: 82) questions this thesis of 'women's integration into shrinking institutions' arguing that for Norway at least that there is no evidence that the parliament has become less effective and this is reinforced by the fact that members of parliament in the post-war period have become more elitist in terms of their educational background and occupations. Women have been able to open up a wedge into parliaments on the basis of the need to represent and incorporate women's interests and women's perspectives within the parameters of the existing gender regime rather than as a challenge to it. That is, women have been incorporated in parliamentary decision making on the basis of gender difference - women make a specific contribution to the public sphere as evidenced in the cabinet positions that

have been occupied by women. In the case of Norway, Skjeie (1991: 101) concludes that it is 'those arguments emphasizing "difference" that have provided legitimacy to women's claims for representation as a group'. Party competition has been an effective mechanism of integration for women because when 'gender is acknowledged as a politically relevant issue, the fear of losing women voters helps standardise the representation profiles of the different parties'.

For the majority of European states the integrating of gender difference into political decision making did not happen, and even into the 1970s a view persisted that politics was the concern of men not of women. In West Germany it was 'generally frowned upon for women to become political', public opinion displayed a high level of belief that politics was men's business (Kaplan, 1992: 117). This view was not unique, it was 1972 before Swiss women had the right to vote in parliamentary elections - but as late as 1982, male electors in one canton voted against giving women the vote in local elections (Kaplan, 1992: 140).

The 1977 general election in Ireland was seen by feminists at that time as something of a breakthrough (see chapter six). Although the increase in the number of seats gained by women candidates, after the high hopes of the election campaign, seemed disappointingly small in percentage terms, it did represent a significant increase after decades in which no movement occurred. However, subsequent elections proved that the 1977 election result rather than being the beginning of a period of growth in women's political representation heralded a period of stagnation with very minor improvements.

This was an experience Irish women shared with women in other European states. In France the 'most dramatic increase in female parliamentary representation occurred in 1978' (Northeutt and Flaitz, 1985: 63-64) but subsequently the numbers of women public representatives did not grow significantly. The first democratic election in

post-war Spain in 1977 resulted in the election of 22 women deputies to congress (6.3% of the total of 350 seats). However the following 1979 elections proved a disappointment as the number of women representatives decreased to 21 deputies (6% of the total) (Brookbank Jones, 1997:9-10).

The Italian women's movement also experienced electoral disappointment in the late 1970s. In the 1976 election 48 women gained seats in the Italian chamber of deputies, this was compared to 25 in 1973. This figure fell to 44 in 1979 and 1983 disappointing the hopes of politically motivated Italian women that the 1976 result represented an electoral breakthrough on which they could build (figures quoted in Lovenduski, 1986: 145). Following this disappointment the Italian women's movement appeared to accentuate its orientation towards cultural and microsocial objectives with only sporadic forays in the broader political realm' (Ergas, 1982: 253). The Italian state elite's response to the political ambitions of the women's movement was to set up new institutions by which the government could consult women's organisations in the wake of the 1976 election with the result that the pattern of more informal contacts that had been built up in the preceding years became congealed in a formal structure (Ergas, 1982: 270). In taking these actions the Italian state, like the Irish state which was also institutionalising the women's rights lobby links with government, was following a general European trend. In 1973 Germany set up the Women and Society Commission to enquire into the status of women and in 1974 France established a government post of Junior minister for women's affairs.

Women's political experience in Ireland during the 1970s both in terms of the promise it offered for future development and the disappointment felt by politically active women at the slow pace of subsequent development followed a pattern that was similar to other European states.



## Conclusion

In this review of the post war developments in the gender regimes of West European states two key points emerge. The first is that there was a wide diversity in the detail of the gender regimes of individual states and that these differences can be explained, as Kaplan (1992) argues, by reference to their different political cultures and their socio-political development. Given this diversity it is misleading to describe the Irish state in an entirely negative light, when compared to other European states. While the Irish state retained the marriage bar until 1973, it reformed family law earlier than other states, including Germany and Austria, and it took a stronger stance against sexual violence than the Italian state. In terms of education, Irish women, in spite of the country's low standard of living by European standards, had marginally better access to third level education than women in the UK or Germany. While the number of women in political life, and in particular the number elected to parliament, was low, it was not abnormally so by international standards.

The second key factor in these post war developments is that in spite of this national diversity, during the 1960s and 1970s, all states experienced a period of change that resulted in the renegotiation of their gender regimes along broadly similar lines. The exceptions to this pattern were Spain, Portugal and Greece, where military dictatorships stifled dissent and delayed the renegotiation on gender issues.

The renegotiation of gender regimes occurred in three main areas, family law, employment law and sexual autonomy, which included issues of reproductive rights and gender based violence. In family law, wives were given formal legal equality with their husbands, including equal inheritance, guardianship of children, and the right to control family property and make family decisions. The Scandinavian states and the UK had reformed family law, to some extent, before the second world war,

but for other states the most active period of family law reform was between the mid 1960s and mid 1970s. Irish family law followed this general European trend.

In the post war period there was a general growth in women's labour force participation, though in many states this came about through the growth of part-time employment. Ireland's lower than average female participation rates and the very slow growth in women's overall share of the Irish labour market in the 1960s and 1970s can be explained by the state's low level of industrial development, high unemployment and atypical family patterns. It does not require the existence of a 'uniquely patriarchal state'. In the enactment of employment equality legislation, a European wide feature of the 1970s, the response of the Irish state, while not pro-woman was also not unusual.

It is in the area of sexual morality that the Irish state deviates most strongly from the general European trend because of its failure to legislate for divorce or abortion and its tardy introduction of conservative family planning laws. However in other areas of sexual autonomy and gender based violence, the experience of the Irish state is more positive. Influenced by feminist lobby groups, it began to deal with the problem of domestic violence in the 1970s and in the early 1980s began an extensive reform of the laws on rape and sexual assault.

The experience of Irish feminism also falls broadly within the parameters of the admittedly diverse European experience. The Irish women's movement developed at the same time as other European feminist movements, coming to public prominence in 1970, and unlike the movements in Greece, Spain and Portugal it was not delayed by domestic political conditions. The Irish movement also followed a similar trajectory to feminist movements elsewhere, with an initial period of high profile public activity followed by the emergence of a variety of single issue lobby groups and cultural and political organisation. Its activism revolved around the same sets of

issues that motivated feminist groups in other countries - reproductive rights, legal equality, sexual violence and domestic violence. This is not to deny that there were differences. One of the most notable differences was the absence in Ireland, in the 1970s, of a strong public pro-abortion campaign; but Irish feminists did engage in low-key information and referral activities. In view of the over-emphasis in the general literature, of the degree of difference between Ireland and Western European developments, exploring the similarities that existed is also essential to fully understanding the evolution of the gender regime of the Irish state.

Across Europe the public policy regimes that emerged tended to be based on formal legal and procedural equality for women, in both family and employment law. This meant access to a full-time career for some women, but for the majority of women their paid employment played a secondary role in the family, with motherhood and a caring role in the home still taking primacy. This was the essence of Hirdman's 'equality contract' - an improved status for women as wives and mothers, formal legal access to employment, but little or no recognition of the other influences on women's life choices - the restrictions in practice on their access to employment, training and promotion and the difficulties involved in combining employment with motherhood. A form of this equality contract became part of the public policy paradigm in most European states by the end of the 1970s. In spite of the more restricted employment opportunities available to Irish women, it also shaped the Irish public policy regime. Where Ireland differed from the majority of Western European states, was that in Ireland the 'equality contract' was constructed in the relative absence of the strong drive towards the liberalisation of sexual morality, and the secularisation, that occurred in many other states.

## CHAPTER EIGHT

### CONCLUSION

The 1960s and 1970s were a crucial period in the development of women's rights policies in the Irish state. During these years the policy paradigm of the state was extensively renegotiated with the result that the legislative programmes of the 1960s and 1970s cumulatively installed a significantly different gender regime than that which had existed at the end of the 1950s. This new gender regime - 'the equality contract' - had two main policy aspects; firstly, it gave women substantial procedural equality in the labour market and secondly it enhanced the welfare and status of women as mothers by introducing formal legal equality in family law, providing some protection for the dependent spouse, and supporting women as mothers in the social welfare system.

The 'equality contract' put in place at the end of the 1970s, does not so much represent a point on a continuum as a point of stasis. Although there have been public policy reforms since the 1970s, they have taken place within the policy paradigm created by the equality contract - removing legal inequalities and expanding its tenets into those areas that were of primary concern to the women's movement of the 1970s - sexual violence, domestic violence and reproductive rights. The policy principle which underlies the 'equality contract' is the provision of equality of opportunity for individuals, which although it recognises motherhood as a special case, treats as matters of personal preference the non-regulatory issues that structure women's (and men's) life choices. The 'equality contract' did not and was never intended to re-order social gender roles, though it did offer women a greater degree of protection as wives and mothers, and easier access to employment. It was intended to remove the formal barriers that prevented women, who chose to do so, from competing with men in most aspects of public life, including employment. It also sanctioned a secondary

employment role for all women - that is, secondary to what was still seen as their primary role - being mothers and wives. With formal legal barriers removed the continuation of differing public roles, and differing employment experiences, for men and women become matters of privatised choice with little recognition given to the structural and cultural pressures which produce those private choices. The 'equality contract' laid down in the 1970s did not, and was never intended to, create a position of 'equality of outcome' as opposed to 'equality of opportunity'. In this too, the 'equality contract' of the 1970s continues to be the paradigm that shapes public policy

The analysis of these changes in the Irish state offered by this thesis contradicts some of the fundamental assumptions of the existing literature, as cited in chapter one. Firstly, the process of change in the Irish state was a product of an internal dynamic and did not come about primarily as a result of external forces. Secondly, the changes - or the impulse for change on gender issues - was experienced in the Irish state at the same time as they were experienced in other European states, in spite of Ireland's lower level of economic development. Thirdly, the changes were experienced by the Irish legislative state as a change in the values held by members of the state elites and finally, there was a divergence on gender issues between the main political parties that does not follow the usual division of conservative Fianna Fáil versus a more liberal Labour and Fine Gael.

The Irish state went through three phases of change in the period covered by this thesis. Between 1957 and 1964 the state elites initially exhibited a very strong consensus, based on traditional gender roles. But over this seven year period that consensus broke down, and during the debates on the Guardianship of Infants Bill (1963) and the Succession Bill (1964) the main political parties argued from very different perspectives. Fianna Fáil demonstrated a strong commitment to equality between the spouses in marriage and to enhancing the economic status of wives. The Fine Gael and Labour elites opposed these reforming measures from a conservative

perspective based on traditional and hierarchical views on gender roles. At this time the Labour Party were still dominated by a conservative rural element and the ideals of an essentially conservative and male dominated trade union movement, while Fine Gael remained strongly within the conservative framework of their founding ideology. Fianna Fáil, however, emerged in the first half of the 1960s as a modernising party elite in the sense that they were able to respond to currents of change in Irish society within their pragmatic and populist framework.

From 1965 to 1972, although there were few substantial policy changes the Irish state elite entered a period of major reappraisal and renegotiation on issues of gender, which focused especially on equal pay and social welfare provision for mothers but which more fundamentally saw a shift in the gender values expressed by state elites towards a view more strongly influenced by ideas of equal citizenship, while still retaining significant elements of gender difference. It was also a time of growing divergence in the gender values expressed by state elites. This process of renegotiation culminated in the report of the Commission on the Status of Women in 1972, which in many ways set out the parameters of the legislative reform which took place in the 1970s. During this period, Fianna Fáil consolidated the shift in the make up of its elite as a new generation of politicians came to prominence. After the election in 1965 it also entered a ninth year in government and as the decade wore on, while it retained a modernising position, its unchallenged exercise of political power began to influence the way in which it approached policy development, its responses to the other parties in the Dáil and it lost some of the dynamism that had characterised the Lemass era..

All the political parties, from 1965 onwards, operated in a political climate that was increasingly open to new and even radical ideas. One result was that Fine Gael and Labour both entered the 1965 election with new policy programmes, which superficially marked a move to the left for both political parties. Labour, as a

relatively small party, was subject to the influence of key groups of individuals within the party, and this mitigated any leftward move in the area of women's rights. These conservative influences came from some of those deputies representing a traditional rural segment of Labour's support base, and also from anti-feminist trade union elements within the party. Throughout the period covered by this thesis Fine Gael remained a conservative party. Even the small liberal wing of Fine Gael, centred on Garret FitzGerald and Declan Costello was more influenced by Catholic social thought and ideas of gender difference than the modernising sections of either of the other two major parties.

Irish party politics has been shaped by the realities of election results and government formation which in the 1960s and 1970s meant Fianna Fáil (because of its anti-coalition stance) versus the rest. Fine Gael and the Labour Party were forced into a position of accommodation with each other, or would face an indefinite, even permanent, term in opposition. This was not, at least initially, accepted as inevitable by the political parties. In the early 1960s Fine Gael worked on the premise that it should focus on building towards forming a single party government. The Labour Party at this time also collectively set its face against coalition and was encouraged in this stance by the relative success of their 1965 general election performance. It was not until the disappointment of the 1969 election general election that the Labour Party began to rethink this position. From the mid 1960s, however, the Fine Gael elite were again receptive to the idea of coalition, as they came to the conclusion that it offered their only hope of re-entering government, and the 'Just Society' programme needs to be reassessed in this light. Fine Gael as a whole adopted the programme in order to strengthen their capacity to negotiate a coalition agreement with the Labour Party and there was no real commitment even to its limited vision of reform under the Cosgrave leadership, either in opposition from 1965 to 1973 or during the National Coalition itself from 1973 to 1977. Analyses of the period which exclusively look at the 'Just Society' and National Coalition documents as an

articulation of Fine Gael's position miss the fundamentally conservative values that still dominated most of the contributions to public debate by party elites.

The life-span of the National Coalition government of Fine Gael and Labour (1973-1977) was the period in which the major legislative change that formed the equality contract, was introduced in the Dáil. As an opposition, the elite of Fianna Fáil took a progressive stance on all these issues. Even their decision to vote against the 1974 contraception legislation was portrayed, by the leadership at least, as opposition to the actual restrictive parameters of the bill itself, and not as a rejection of the need for legislation. After their electoral defeat in 1973, Fianna Fáil strengthened their appeal to women voters on the basis of continuing to support the legislative programme that put the 'equality contract' into place, indeed by claiming to have laid the groundwork for it while in government themselves, and by promoting a mild but progressive women's rights agenda in the 1977 election.

The evidence of party elite opinions presented in chapter six indicates that Fianna Fáil and Labour were significantly closer on women's rights in the 1970s than were Labour and Fine Gael, contradicting assertions in the literature (particularly in Galligan, 1998) that presents Fine Gael as a comparatively liberal party and Fianna Fáil as the most conservative on women's rights. During the 1970s, up to and including the 1977 election, Fine Gael expressed a conservative view on women's rights and social issues generally, that found expression in the negative nature of their input in to employment equality legislation and their failure to fully support an extremely limited government family planning bill in 1974.

Ireland, during the 1960s and 1970s, like other European states, was participating in an internationally experienced process of gender change. It was not simply reacting to a process of social and political change that was essentially external to any dynamic that existed in the Irish state itself. The classic process of modernisation which has



been widely used in the literature to account for the perceived changes in Irish society and the state's public policy output in this period is generally conceived as a culturally neutral process. That is, the changes set in train by industrial development follow a particular path irrespective of the cultural condition of the individual state. This has facilitated an analysis of change in Irish society during this period which sees the most significant agents of change as primarily external to the state - foreign capital and the legal obligations of EEC membership (Pyle 1990; Gardiner 1993; Galligan 1998).

As shown in chapter seven, the process of change in the Irish state and the policy paradigm established in the 1970s, followed a broad European pattern. Reforms of family law, employment law and social welfare provision followed the trends across Western Europe both in the type of reforms introduced and in the timing of those reforms. The area in which Ireland diverged most markedly from European norms was in its failure to secularise. During the 1960s and 1970s the other democratic European states, including strongly Catholic Italy, experienced a high level of secularisation, accompanied by a process of sexual liberalisation. In Ireland this process was comparatively muted. During the 1970s the Irish Catholic Church became more liberal, even developing a radical fringe, but religious adherence amongst the general public remained high and this strongly influenced public policy on issues of sexual morality. So while the majority of European states were introducing legal abortion and liberalising laws on divorce and contraception, Ireland was having difficulty dealing with the issue of family planning. This lack of secularisation did not however inhibit all aspects of women's rights policy, but it did mean that Ireland's 'equality contract' was enacted within the framework of Catholic morality and reflecting the centrality of the family founded on marriage. This did not prevent the state enacting employment equality legislation, giving women equality in family law, or including 'unmarried mothers' in the social welfare code but it did

mean that these changes were not accompanied by the introduction of divorce and abortion legislation that was the experience of most other European states.

Describing the state as gendered, and gender as a political cultural value held by members of society including members of the state elite, has permitted a flexible examination of the role of the state in the renegotiation of the gendered basis of Irish public policy. This is because it has freed the analysis from the static constraint of defining the state as simply patriarchal and has allowed a focus on the nature of the actual changes that took place. Using political culture facilitated a focus on the evolution of the views and actions of the state elites - and provided an opportunity to move outside the more usual focus of the women's movement or women's lobby groups and their interaction with the state. Political culture also gives primacy in the process of change to the internal variables that are the product of collective experiences. Perhaps more importantly this focus on political culture, while it elucidates the internal dimensions of change, it also facilitates international comparison, because it defines a clear area in which comparisons can be made. For example, the response of the Irish and Italian state elites on employment and rape showed considerable variations that were the product of different political cultural frameworks, based on divergent historical experiences.

A political cultural framework also allows the issue of gender to become one of the structuring values of the Irish state. The debate on the Succession Act (1965) and the resulting political crisis for Fianna Fáil indicates that the incorporation of attitudes to gender and the knowledge of the parameters of the gender regime are essential to fully understanding developments in the Irish state. Without this element of gender, this particular historical episode loses much of its significant meaning and the actions of state elites are less comprehensible.

Political culture finally provides a framework in which to analyse the way in which the gender contract is negotiated and given legitimacy by the state. The particular form of gender contract, 'the equality contract' established in the 1970s did not simply arrive in the form of EEC directives or indeed in the political opinions of any one political party. It is also clearly more than a simple updating of legislation. The renegotiation of Ireland's gender contract has been shown to be the result of a significant change in the gender values held by the Irish state elites, a shift that can be traced over the time-span of this thesis from the late 1950s to the late 1970s, and is itself part of a shift in the broader canopy of Irish political culture and the shape of the Irish state.

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#### **IV. Other Publications**

Federated Union of Employers Annual Reports  
Irish Congress of Trade Unions Annual Reports

#### **V. Manuscript Sources**

##### *i Official Records in the National Archives*

Department of Labour  
Department of the Taoiseach

##### *ii Records of Organisations*

Irish Congress of Trade Unions (in the National Archives)