

The session on “Families, the Law, and Public Policy” at the 2018 meeting of the Population Association of America

Promoted by the IUSSP Panel Family Demography and Family Law

The purpose of the Panel on Family Demography and Family Law is to foster the study of the connection between changes in family law and changes in family structure and family dynamics while assuming as little as possible about the specifics of the connection. Over the coming years, the Panel plans to organise two seminars and the publication of a selection of papers presented in these seminars, preferably in an open-access book or journal available to all interested potential readers regardless of their institutional affiliation and means.

The Panel also promotes the organisation of sessions on the connection between family demography and family law in population conferences such as the annual or biannual meetings of large-scale national or international population associations such as the Population Association of America (PAA), the European Association for Population Studies (EAPS), the Asociación Latinoamericana de Población (ALAP) and the Asian Population Association (APA). The session titled Families, the Law, and Public Policy at the 2018 meeting of the Population Association of America was the first of these.

As the organiser of the session, I received 23 proposals, most of them either very good or excellent, of which I was allowed to retain four. Two of the presenters were economists, Shoshana Grossbard and Emma Zang, and two were sociologists, Elizabeth Cozzolino and Dorian Kessler, but all papers were rooted in some form of economic perspective.

Dorian Kessler, from the Bern University of Applied Sciences, presented a paper on the take-up of social assistance by women after marital separation he co-authored with Gina Potarca and Laura Bernardi. He focuses on divorce as a source of public cost. His research is motivated by the rise in clean break divorces that do not entail spousal support and thus increase the likelihood of social assistance take up by women. His results show that in Switzerland, divorces women who receive social assistance benefits were married to men with low income who would not have been able to provide spousal support if they had been compelled to do it. This divorce among the poor increases the take up of social assistance and creates a public cost, but this cost cannot be transferred to the ex-spouse. D. Kessler uses an intriguing reasoning in which the will to avoid public costs is theoretically grounded in an idea borrowed from political theory, the principle of subsidiarity, whereas spousal support is historically grounded in the indissolubility of marriage and in the maintenance duty between spouses in Continental law and that of the husband towards his wife in English law. His contribution helps reminding that avoiding public costs by transferring them to the former spouse is typical of liberal-type welfare systems, whereas the same goal is achieved by actively promoting the economic independence of women in social-democratic welfare states.

Elizabeth Cozzolino, from University of Texas at Austin, focused on the child support's cost recovery goal of the US social assistance. The child support enforcement system in the United States was founded with the explicit fiscal goal of recovering the cost of welfare provision, by making nonresident parents reimburse the state for its welfare expenditures on resident parents and children. Under the current form of the system, individuals, typically mothers, who receive social assistance must request a court to issue a child support ordinance, and the agencies that enforce child support ordinances collect the money from the other parent and transfer it to the agency that provides social assistance. Using national child support data, she shows that in recent years, after a reform that has reduced dramatically the number of households receiving social assistance and in a context where most child support ordinances enforced by government agencies involve families which do not receive social assistance, the cost of the recovering exceeds the amounts that are recovered. As in the paper by D. Kessler, but in a different context, the will to avoid divorce having public costs of divorce seems to be overcome by the new social realities. In Switzerland, most women seem

to be able to maintain themselves. In the US, restrictions to social assistance and the rise in divorce have undermined the mechanics.

Emma Zang, from Duke University, looked at the consequences of the 2011 Chinese reform of divorce. Communist-era law had moved away from traditional law by making the marital home joint property and splitting its value between spouses on divorce. This might not have been that important in the truly communist era when there was little private property, but it is in the current context. Today, men's family help them buying a home or an apartment and women expect their potential husband to own a home as a condition for marrying. In 2011, a combination of changes to Marriage Law of the People's Republic of China and decisions from the Supreme People's Court has led to a reversal: now, the home is the property of the registered buyer. Emma Zang shows that this decreased women's welfare after divorce. Her work raises fascinating questions on fairness and equality in a society in which men and women have their own career and earnings, but expectations remain informed by patriarchy, and women are relatively scarce.

Shoshana Grossbard, from San Diego State University presented a paper on single motherhood as a rational decision in late 19th century United States she co-authored with Richard Geddes and Hazem Alshaikhmubarak. Under the common-law doctrine of coverture then prevailing, a married woman relinquished control of property and wages to her husband. S. Grossbard suspected that such a requirement deterred women from marriage and fostered single motherhood. Between 1850 and 1920, many U.S. states passed acts that expanded a married woman's right to keep her market earnings or to own separate property. Using census data and the fact that not all states changed their matrimonial law at the same time, she shows that the passing of these acts reduced the likelihood that single women become mothers of young children, the effects being stronger for literate women, U.S.-born women, and in states with higher female labour-force participation. As pointed out by the discussant, Andrew Cherlin, the strategy would have looked unlikely to succeed at first sight, as there was supposed to be a very strong social stigma against single motherhood in those years: even if the hypothesis had been true, the phenomenon should have been too rare or the information undisclosed to the census officers. But it was there. Even in the conditions of 19th century USA, some women chose to have a child without being married because they wish to avoid the complete control of their earnings and property by their husband they would have faced within marriage.

Apart being an occasion to listen to four interesting papers, the session achieved one of the goals we, as a panel, set for the session we promote at international and regional meetings: creating opportunities for researchers who are interested in family demography and family law to meet each other by presenting in a session on the topic rather than missing being able to meet each other because they are scattered across session on union formation, divorce, and so on.

More information on the Panel is available on its page in the IUSSP web site:

<https://www.iussp.org/en/panel/family-demography-and-family-law>.

Forthcoming events will be announced through the IUSSP.

Benoît Laplante, chair of the panel on Family Demography and Family Law