

Changes in Family Law and the Adoption of the Family Act in 1949

Jan Kuklík

Právnická fakulta, Univerzita Karlova

E-mail: kuklik@prf.cuni.cz

Petra Skřejpková

Právnická fakulta, Univerzita Karlova

E-mail: skrejeko@prf.cuni.cz

Abstract:

The article reflects on the changes of family after World War II and its codification in 1949. The particularization of private law and the forming of an independent branch of law were the main features of this development. The Family Act was adopted in 1949 and it regulated relationships between spouses, parents, and children. It was based on the equality between man and woman, which corresponds not only with the political postulates of the time but also reflects the needs of the society. It also demonstrated the incorporation of new ideology into this branch of law.

Keywords:

family law; Family Act; codification; marriage; divorce; Czechoslovakia

DOI: 10.14712/2464689X.2019.29

Family, as a fundamental social unit, plays an irreplaceable role in the development of society, since it constitutes the first human form of mutual association. Forms of family coexistence in the contemporary world are very diverse, influenced by tradition, cultural influences, religion, but also geographic location. In addition, family is undoubtedly influenced by legal norms that determine its place in society. To grasp the present understanding of family, its laws, and its role in society, it is crucial to have a closer understanding of the past, which determined its development in many ways. As such, family is the object of study not only of sociologists, political scientists, but also of lawyers. In recent years, several projects, aimed at the assessment of the totalitarian regime, were carried out. The

comparison of the legal development between individual socialist countries is still to be made.¹

It is essential to see the changes in family law as a universal feature of social development of the 20th century, which was not only limited to Europe or the socialist countries. Throughout the 20th century, the social understanding of family and its role in society shifted not only in the Czech Republic but also throughout Europe and America. Undoubtedly, the world war conflicts played a significant role in this aspect, with women taking the role of men in the background. As part of the war efforts, women worked jobs that had previously been unthinkable for their sex. They became pipe fitters, mechanics, welders, carpenters, shipfitters. The end of the war brought many changes into everyday family life and also changed the role family played in society. This caused a fundamental change in the emancipation of women that would have been previously unthinkable. In most of Europe and all across North America, the age of marriage fell and the rates of marriage rose while the divorce rate dipped.² No longer did people postpone marriage until they could establish their economic independence, as was the case up to the late 19th century. Marriage was how practically everyone embarked on her or his “real life” journey. It became the starting point of adulthood rather than a sign that adulthood had been established.³

A similar pattern of development is to be found in Czechoslovakia. However, it gradually became more and more influenced by the Soviet family concept that developed during the decades after the October revolution. Family law that was adopted in the USSR originally was very different from the law that functioned under the Tzarist regime and in this context, it bore a sign of modernization of the society. Marriage laws changed, divorces were acknowledged, birth control was accepted, and even abortions were possible. This concept changed successively as the laws regulating marriage became more restrictive. The societal role of family was no longer a private matter of individuals but became controlled by the state. The role of the individual was subordinated to the needs of the whole. As such, it differed from the democratic family model that existed in Czechoslovakia during the interwar period. The German occupation imposed new regulations into this system that were abolished after World War II and the former model continued to be accepted. The development of private law gradually transformed under the totalitarian regime as new principles were introduced that changed previous democratic principles. In some respects, they followed the general development (lowering age for entering marriage) but in many cases they applied the Soviet model that was alien to the democratic foundations of Central European societies. This totalitarian concept increasingly penetrated the Czechoslovak

¹ MALÝ, K. – SOUKUP, L. *Vývoj práva v Československu v letech 1945–1989: sborník příspěvků*. Praha: Karolinum, 2004; VOJÁČEK, L. – SCHELLE K. – TAUCHEN J. *Vývoj soukromého práva na území českých zemí*. Brno: Masarykova univerzita, 2012. Spisy Právnické fakulty Masarykovy univerzity v Brně. Řada teoretická, p. 501 ff.; ŠOŠKOVÁ, I. *Manželstvo a manželsko-právne vzťahy vo svetle prvej kodifikácie československého rodinného práva 1949*. Banská Bystrica: Belianum, 2016; RADVANOVÁ, S. – ZUKLÍNOVÁ, M. *Kurs občanského práva: instituty rodinného práva*. Praha: Beck, 1999. Právnické učebnice; KUKLÍK, J. et al. *Dějiny československého práva 1945–1989*. Praha: Auditorium, 2011, p. 100; VOJÁČEK, L. – SCHELLE, K. – KNOLL, V. *České právní dějiny*. 2nd revised edition. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2010.

² COONTZ, S. *Marriage, a History: How Love Conquered Marriage*. New York et al.: Penguin, 2006, p. 221.

³ COONTZ, *op. cit.*, p. 226.

legal system and thusly formed “the new socialist legal system based on the will of the ruling class of the workers”.

1) Legislative Changes before the Adoption of the Family Act 1949

Naturally, family law until 1949 formed an essential part of general civil law. Its main provisions were regulated by Part I of the Austrian Civil Code from 1811 (for the Czech lands). The other part was based on Hungarian, to a certain extent still customary, law (Slovakia and Carpatho-Ukraine). For the entire interwar period, the Czechoslovak Republic tried to unify all fundamental legal branches.⁴ For this purpose, the Ministry of Unification was established and various expert commissions were set up at the Ministry of Justice. The work of these committees is still under investigation and forms a constant inspiration for contemporary legal science. Even the new Czech Civil Code (Act No. 89/2012 Sb.) is to a certain extent based on the principles and overall concept of the interwar draft Civil Code of 1937. Only individual laws or draft laws have been created that have unified and modernized some legal areas. Unfortunately, these codification attempts have been successful only to a limited extent. One of the cases was the adoption of the Act No. 320/1919 Sb.⁵ First of all it provided uniform rules for the entire state to be applied to the conclusion and dissolution of marriage and to marital impediments. The civil form of marriage was optional, as was the conclusion of marriage before the Church. Divorce was, for the first time in Czech history, also available to Catholics.⁶ Unfortunately, most of the legislative proposals and drafts had not been completed or put into practice in the interwar period due to a limited time span and the later occupation of Czechoslovakia by Germany.

The first changes after the seizure of power by the Communists in the economic as well as legislative spheres were connected to the so-called two-year legal plan of codification. The two-year legal plan was announced by the Government Decisions of 7 July and 14 July 1948, by which the Ministry of Justice was assigned the task of submitting draft laws in all areas of law (civil and criminal law in particular) by 1 September 1950. The so-called Manifestation Congress of Czechoslovak Lawyers (23–29 September 1949) laid down the ideological basis for this plan. The main objective of the two-year legal plan was, in addition to the legal ensuring of the results of the political struggle for power, the unification of law throughout the territory of the Czechoslovak Republic, as well as codification of the most essential branches of law. The newly adopted law was to be clear and above all understandable to the ordinary people, which inevitably led to simplification of

⁴ DVOŘÁK, J. – FALADA, D. Snahy o unifikaci soukromého práva a právní civilistika v meziválečném období. In: MALÝ, K. – SOUKUP L. *Československé právo a právní věda v meziválečném období (1918–1938) a jejich místo ve střední Evropě: sborník příspěvků*. Praha: Karolinum, 2010, p. 719 ff; VESELÁ, R. Vývoj rodinného práva v meziválečném období. In: MALÝ – SOUKUP, *Československé právo a právní věda v meziválečném období (1918–1938) a jejich místo ve střední Evropě*, p. 791; VOJÁČEK – SCHELLE – TAUCHEN, *op. cit.*; SALÁK, P. *Historie osnovy Občanského zákoníku z roku 1937: inspirace, problémy a výzvy*. Brno: Masarykova univerzita, 2017. Spisy Právnické fakulty Masarykovy univerzity; sv. č. 601. SKŘEJPKOVÁ P. Umwandlung der tschechoslowakischen Rechtsordnung 1918–1938. In: GIARO, Th. (ed.). *Modernisierung durch Transfer zwischen den Weltkriegen*. Frankfurt am Main: Vittorio Klostermann, 2006, p. 193–232.

⁵ VESELÁ, R. *Rodina a rodinné právo: historie, současnost a perspektivy*. 2nd ed. Praha: Eurolex Bohemia, 2005, p. 75 ff.

⁶ KUKLÍK, J. *Czech law in historical contexts*. Prague: Karolinum, 2015, p. 159 ff.

legislation. Soviet law became one of the main sources of inspiration. This legal plan was supposed to correspond with the newly adopted two-year plan of economic reconstruction of the country (Act No. 192/1946 Sb. on the two-year economic plan). Czechoslovakia was the first country to implement such a plan of economic reconstruction in a system that had the characteristics of a developed and mature national economy. Such a law was unprecedented in our country since only financial laws have been drawn up that then took the form of financial plans. This form of planning of the national economy was later followed by the first five-year plan that was formulated on the basis of Act No. 241/1948 Sb. of 27 October 1948. The Five-Year plan commenced the planning era, which lasted until the early 1990s in the form of five-year plans.⁷

The most substantial changes towards the change to “People’s Democracy” were implemented into the field of family law based on the Constitutional Act of 9 May 1948 (Ninth-of-May Constitution), officially promulgated on 9 June 1948. The protection of family was paid a great deal of attention. Youth was also proclaimed to be under the special protection of the state, which undertook to apply “systematic measures in the interest of increasing the population within the nation”. Large families were promised special relief and assistance. Vague proclamations of the Constitution were to be implemented by special laws. The equality principle was defined in a new way: the Constitution emphasized not only the equality of citizens before the law, but also the equality of men and women in their positions in the family and community, including equal access to all professions, offices and honors.⁸ Women were also promised special work conditions, set by labour laws, in the event of pregnancy, maternity leave, and child care needs.⁹ The May Constitution of 1948 also stressed the equality of men and women, both as parties to marriage and as parents to their children, as well as the special protection of family and children by the state. This approach had an impact upon, and gave rise to major changes in family law. Yet, again, constitutional proclamations when applied in practice proved to be only half-way measures. The involvement of women in the workforce was not merely a theoretical requirement, but was, in a sense, vital to the overall economic development. The central thesis of the emancipation doctrine of the 1950s was classified with emancipation itself. Thus, the liberation of women became *de facto* the liberation of a female labor force, and the women became the object of emancipation.¹⁰

The decisive impulse to implement codifications came from political bodies of the Communist Party that entrusted the Ministry of Justice with the preparation of a series of new “socialist” codes that would regulate the most important areas of society.¹¹ They were to include a new regulation of all crucial areas of state life and incorporate new political goals and ideals. On 1 September 1948, the Ministry of Justice established a codification department headed by Karel Petrželka (in documents referred to also as the 5th department),

⁷ PRŮCHA, V. et al. *Hospodářské a sociální dějiny Československa 1918–1992*. 2. díl. Období 1945–1992. Brno: Nakladatelství Doplněk, 2009.

⁸ See also HAVELKOVA, B. *Gender Equality in Law. Uncovering the Legacies of Czech State Socialism*. Oxford: Hart Publishing, 2017. Part I. State socialism, especially chapter 2.

⁹ For the actual situation see *Women as workers in Captive Europe*, Mid European Law Project. New York: Library of Congress, 1954.

¹⁰ WAGNEROVÁ, A. *Žena za socialismu*. Praha: Sociologické nakladatelství (SLON), 2017, p. 35.

¹¹ In more details see article on codification of Czech Civil law in this volume.

whose other departments corresponded to the division of codification work. Its expert committees, and technical departments were responsible for the administrative organization and an additional department monitored the latest Soviet legislation and doctrine and publications that were translated by the employees of the department. According to available data, this department prepared 526 translations of legal literature, as well as laws and textbooks.¹² Other departments took care of the language quality of the drafts or of the promotion of the works. As the Ministry of the Interior also dealt with the preparation of legal regulations within the framework of the legal two-year period, the Government also established a special coordination committee after the first year of the two-year period in which representatives of individual ministries took part. At first, there existed two main legal committees, the task of which was to organize codification activities in the two main branches – civil and criminal law. These committees formed subcommittees that dealt with specific legal questions and made drafts of the proposed legislative acts. Later, the so-called political commission, that oversaw these activities from the ideological point, was set up. This committee could, at its discretion, intervene with the prepared documents, and as such played an important role in the whole legislative proceedings. All the drafts prepared within the legal two-year period were discussed by this body. The committee was reported directly to the Minister of Justice, who was regularly informed about its work through the Deputy Ministers who were its members. The Deputy Minister of Justice, Dr. Alfred Dressler, who was known as the protector of socialist ideology, played an important part in the committee.

2) Adopting the Family Act in 1949

In the field of family law, the main change was brought by the Czechoslovak Family Act enacted as early as December 1949. The Soviet Code of Marriage Laws of 1926 served as inspiration for the codification committee¹³ but the main guidelines were adopted by the political committee of the Ministry of Justice during two meetings in October 1948 and again in January 1949. The Czechoslovak experts stressed the variety of principles and goals, such as the unification of family (domestic) relations in Czech lands and Slovakia or introducing general but strict provisions on divorce.¹⁴ The Soviet Code however served as an inspirational source for other People's Democracies in Europe. The Czechoslovak Family Act adopted in December 1949 was also a result of an ambitious plan to coordinate the changes in Czechoslovakia in accordance with the Polish "People's Democratic" model. Cooperation with the Polish Republic was stressed already when adopting the Treaty of Friendship and Mutual Assistance between Czechoslovakia and the Republic of Poland, signed on 10 March 1947 in Warsaw. There was also a plan to prepare common Czech-Polish Civil Code. According to our new research, the plan was discussed by the

¹² FRANTALOVÁ, A. *Právnícká dvoutletka a činnost politické komise 1948–1950*. Disertační práce PF UK, Praha, 2019, s. 90.

¹³ BĚLOVSKÝ, P. Rodinné právo. In: BOBEK, M. – MOLEK, P. – ŠIMÍČEK, V. (eds.). *Komunistické právo v Československu. Kapitoly z dějin bezpráví*. Brno: Masarykova univerzita, Mezinárodní politologický ústav, 2009, p. 463–477.

¹⁴ FRANTALOVÁ, *op. cit.*, s. 91–92.

political commission of the Ministry of Justice, translations of Polish laws were made as a first step towards the preparation of the drafts.¹⁵

A delegation of experts exchanged visits and opinions, especially in 1949. Finally, the idea of a common Civil Code was dropped because of fundamental differences in the private law of both countries and from the Czechoslovak side also because it could endanger the quick drafting and adoption of the Civil Code as was proclaimed by the two-years legal plan.

In the end, family law was chosen to serve its original purpose – drafting of a common act – and it was used by the Czechoslovak side as a means of introducing the Soviet theory of the separate existence of family law under the special curatorship of the state. The discussions, especially in case of family law, show the tendency to implement the new Marxist-Leninist ideology directly into new legislation. This was acknowledged by the special meetings of the political committee of the Ministry of Justice on family law matters, when it entrusted JUDr. Zdeňka Patschová to redraft the original guidelines for family law prepared by the commission for the codification of civil law.¹⁶ Patschová was a devoted Communist and MP (one of the three female MP). She was also the first female Czechoslovak judge appointed in the 1930s. Unfortunately, she also later took part in the political trials of the 1950s.

The new draft prepared by Zdeňka Patschová was discussed during the meeting of the political committee of the Ministry of Justice in January 1949, as well as during heated discussions on the concept of family law at the Law Council of the Central Committee of the Czechoslovak Communist Party on 9 February 1949. The final decision on certain sensitive questions concerning family law (especially provisions on divorce) were left to the highest organs of the Communist Party.¹⁷ In the end, most of the proposed changes were dropped because the Czechoslovak draft was supposed to be as close to the Polish one as possible.

The proposal for Family Act was presented to the Constitutional Committee of the National Assembly as Act No. 378 to be discussed by 30 November 1949. The Constitutional Committee voted unanimously to recommend the passage of the Act only with minor legislative changes. When Patschová was discussing the Family Act in front of the National Assembly, she stressed the role of Soviet Law in the society: “And today the Soviet Code of Marriage, Family and Guardianship, of 19 November 1926, is a model for all People’s Democracies for the organization of married life and family relations in a spirit of justice and progress, as well as a testimony to how far the morality of the socialist state exceeds the hypocritical morality of the bourgeois state.”¹⁸ Furthermore, she stressed that family is a special collective, whose members are brought together by love and togetherness and deliver to each other material and moral help and by working together they are bringing about the socialist social order.”¹⁹ In her speech, Dr. Patschová also spoke in detail

¹⁵ See in more detail FIEDORCZYK, P. Počátky socialistického rodinného práva. In: VOJÁČEK – SCHELLE – TAUCHEN, *op. cit.*, p. 549 ff.

¹⁶ The National Archives, Prague, fund Ministry of Justice, politická komise (Political Commission) new material, not analysed, meetings 11. 10. 48, 31. 1. 1949.

¹⁷ BLÁHOVÁ, I. – BLÁŽEK, L. – KUKLÍK, J. – ŠOUŠA, J. *Právnícká dvouletka. Rekodifikace právního řádu, justice a správa v 50. letech 20. století*. Praha: Auditorium, 2014, s. 181.

¹⁸ See <http://www.psp.cz/eknih/1948ns/stenprot/037schuz/s037001.htm>.

¹⁹ Ibidem.

about the cooperation of the joint Czechoslovak-Polish Commission during the legislative work on the draft of the Act. She also mentioned the fact that the Czechoslovak law was, with a few differences, completely identical to the Polish law. This fact justified, inter alia, the short legislative period of the new law, when it stated that the Polish law as well as Czechoslovak law would have been effective as of 1 January 1950. This fact was further a demonstration of the close cooperation that the nations of People's Democracies have reached in the creation of a new legal order, while maintaining their sovereignty.

3) Content of the Act

In order to express the general principles, a preamble was introduced, which clearly and concisely characterized the meaning and purpose of the Act and referred to the relevant provisions of the May 1948 Constitution. It did not constitute a normative part of the Act and its task was to serve as a general guideline for the interpretation of the Act. According to the preamble, marriage created the basis of the family and as such it formed the cornerstone of society in accordance with its progressive development. In socialism, the interest of the family was in harmony with the interests of society. Family in socialism does not form a separate entity in itself, but is a social body, whose members are primarily focused on mutual social interests.²⁰

The content of the Act was divided into three titles, one of which was entitled "Marriage", the other "Parents and Children" and the third "Tutorship" followed by "Final Provisions".²¹ This Act is characterized by four main principles.²²

a) The first principle is the independence of the Act from other norms of civil law, thereby forming a new field of law.

b) The second principle was the obligatory civil and monogamous marriage that had in its consequences the secularization of marriage as a whole.

c) The third principle was according to Art. 15 the legal equality of both sexes among themselves and as parties to the marriage. Both parties were obliged to live together, to be faithful, and to mutually assist each other morally and materially. Equality was applied also in respect to the needs of the children, both spouses were responsible for the well-being and development of their children.

d) The other main principle was the equality of legitimate and illegitimate children. Previous differences were abolished by the law. The Family Act also regulated tutorship and adoption.

4) Adoption of the Family Act

The family gained new importance in society as it was the base of society and the measure of its development. To the state, family and marriage meant a healthy foundation for successful education of children as future citizens of the new form of state. The economic function of marriage and family was changed in favor of the emotional dimension and the priority to descendants' education. The education of next generations was another aim of the preparation of a new family code.

²⁰ Act No. 265/1949 Sb.

²¹ For English text see HIKL, M. *The Civil Codes in Communist Czechoslovakia*. Toronto: The Czechoslovak Foreign Institute in Exile, 1959, pp. 23–27.

²² ŠOŠKOVÁ, *op. cit.*, p. 27 ff.

A new feature of the Code was its “novelty”, i.e. the new family law, new society, new order, new forms of family with the building of a new society, and the growth of the population whose new existence was the first prerequisite for a happy family life. If we look at the statistics, these new measures had limited influence, according to statistics (Czech Statistical Office). The birth rate was about 20 live births per 1000 inhabitants until 1952 when it began to fall. The concept of the law of persons, known from the Austrian Civil Code (*ABGB*) was abandoned. Family law was thusly excluded from the Civil Code for decades. On the other hand, the new Family Act was the first example of the successful unification of Czech and Slovak law and brought not only ideologically based concepts but also a much needed liberalization of the law of marriage demanded already in the interwar period.

a) Marriage

The conclusion of a marriage in front of the Church was banned. The only valid form was a marriage concluded by state organs-national committees, which were in charge of all personal status records (compulsory civil marriage). Religious celebrations were allowed, but could only take place after the marriage was concluded before the civil authority. The law states (Art. 1): “The marriage is concluded by a consensual statement by a man and a woman before the local national committee that they are entering into marriage.”

We can cite for illustration from minister Čepička’s speech: “If marriage ceases to be a private affair, it is necessary for the State to ensure its participation from its very beginning. The capitalist society imprinted on marriage in the form of a private contract, which did not differ from the purchase and other commercial contracts ...”²³ The power of the father of the family was abolished, and both parents had equal rights towards their children. They were responsible for the physical and mental development of their children, for their alimentation, property, and education. All remaining differences between legitimate and illegitimate children were abolished.

The Family Act unified the property rights of spouses (which were until 1949 quite different in Czech lands and Slovakia) and introduced an obligatory type of community property between spouses. A special type of property was established: a so-called “community property between spouses”. Community property covered all property acquired during the existence of the marriage. Apart from this form of property, there existed individual property of each spouse, that he or she had before concluding the marriage or that was gained by inheritance or as a gift. Things that were used by one of the spouses to fulfill their profession, interests, or personal belongings were regarded as individual property. This community property terminated in principle on the date of dissolution of the marriage, which meant either the death of one spouse or divorce.

b) Divorce

This term was used to define the dissolution of marriage during the life of both spouses. The Family Act introduced, as the only reason for divorce, a deep and long-lasting breakdown of marriage between spouses, which has the consequence of the marriage not being

²³ RAIS, Š. *Za socialistické právo!: Manifestační sjezd čs. právníků ve dnech 23–25. září 1949*. Praha: Min. spravedlnosti, 1949.

able to fulfill its purpose. Disruption of marriage can have various reasons. The act does not give a definition of “a deep and long-lasting breakdown”. It had to be specified by practice and by theory that suggests that it is a case when marriage ceases to fulfill its role in society.²⁴ The law does not specify any reasons which would usually result in breakdown of marriage, as it presumes that the range of these serious reasons cannot be calculated and that the court needs to examine in each individual case whether there is a serious reason for the divorce. The court had to investigate the material truth, i.e. reasons for granting a divorce. In particular, people’s judges and their life experiences could be relied upon in this examination. A marriage could not be divorced if it was not in the interest of the children. Another provision stated that a spouse who alone was to blame for causing the serious and deep breakdown could not file the petition for divorce, unless the other, innocent, spouse consented to it. In 1955 an amendment of the Family Act emphasized the interests of society as an important condition for the decision of the courts on divorce. The judge was obliged to investigate *ex lege* the real reasons for the divorce and to conclude that marriage does not fulfill its social role. The case-law had established that it may be i.e. adultery, abusive treatment, mental illness,²⁵ criminal convictions, political differences.

c) Parents and Children

Parents within the meaning of the law are a father and a mother. Whoever is the father of a child is determined by law in the form of legal presumptions of paternity, placing these presumptions in a certain order, following more or less the former historical regulation of this question.

The Family Act also dealt with the relationships arising from foster care and especially from tutorship. In practice, family law was also influenced by new “socialist ideology” and for example Czechoslovak courts in the 1950s in several cases favored guardianship of special state social welfare institutions over those parents (especially during divorce or as a result of criminal proceedings) who “failed to educate their children in a socialist way”.²⁶ The state intervened through national committees particularly where education and the upbringing of children were concerned; first step towards the general parental responsibility was adopted.

This law completed the first stage of emancipation of women, their formal equality. The second phase, its implementation in practice thusly began. The new family law had a very prescriptive character, as it corresponded with the notion of the educational function of the law in Marxist theory. What the law was supposed to achieve was anticipated within the law. Official public opinion at that time tended to confuse what was anticipated in the law with the factual social reality. Following the adoption of the Socialist Constitution in 1960, the Family Act was amended in 1963, with *de facto* a new codification. The new Family Act had adopted many provisions from the previous law. As a result of the development of the society, the principles on which it built increased in importance. The main social goal of marriage was founding a family and raising children. One of the commentaries to the

²⁴ ŠTĚPINA, J. *Rodinné právo*. Praha: Panorama, 1958, p. 52 ff.

²⁵ PATSCHOVÁ, Z. Několik poznámek k výkladu zákona o právu rodinném. *Právník*, 1950, pp. 100–103.

²⁶ See cases cited by GSOVSKI, V. – GRZYBOWSKI, K. (eds.). *Government Law and Courts in the Soviet Union and Eastern Europe*, vol. 1, part I. New York: Frederick Praeger, Inc., 1959, pp. 505–506.

Act says: “The main social purpose of marriage is to establish a family and raise children. However, this does not mean that a childless marriage is totally lacking its social function and that the duty to bring up children born outside marriage is less important.”²⁷ New Family Act No. 94/1963 Sb. was divided into four parts (1. Marriage, 2. Relationships between parents and children, 3. Nourishing, 4. Final Provisions), of which the first three were divided into a total of 16 heads. This Act determined family law until the changes that were implemented after the Velvet revolution in 1989.

The concept of family has been changing, but it has done so for the last thousand years. Nowadays, we are witnessing unprecedented changes in family relationships not only in the Czech Republic but around the world. However, it is undoubtedly important to remember what the family and family law are based on, what has proven effective in practice and how the family law legislation can be further developed.

Conclusions

The development of family in the afterwar period as well as in the 1950s fulfilled the need to modernize family law. The role of women was strengthened and raised onto the same level of importance as of the man, thereby finalizing the equality between both sexes. The adoption of the Family Act in 1949 introduced new principles among family members and the state – the family was now seen as a part of a whole, as a group that belongs to society, and should serve the needs of the society. The adoption of the Act was in accordance with the particularization of the whole legal system that reflected the changes based on the Constitutional Act of 9 May 1948.

²⁷ HOLUB, J. *Zákon o rodině a předpisy související*. Praha: Orbis, 1977, p. 21.