

EASP 5th Conference
National Taiwan University
November 3-4, 2008

The Role of the Family in Financing Long-term Care
of the Frail Elderly: Filial Piety Laws in Europe,
South East Asia and the USA

Bernard H Casey



Institute for Employment Research,
University of Warwick, UK

Filial Piety and Long-term Care

Issues to be addressed

- What is filial piety?
- Laws and morals in Europe
- Laws and morals in Anglo-Saxon countries
- Practice in south east Asia
- Practice in the USA
- Practice in France
- Practice in Germany
- Summary and conclusions

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What is filial piety?

Perceptions of East Asia

- “Confucianist values” (importance of familism/collectivism/lineage)
 - respect for elderly and for seniority
 - “life-time employment systems”
 - multi-generational households, private, intra-familial financial transfers
- “oikonomic welfare states”
 - moral codes backed by laws (state can reclaim social assistance from family member)
 - justifying fiscal conservatism

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What is filial piety? (2)

Contrast with Europe/north America

- “modern values” (individualism, independence from family)
 - family responsibility only for children and spouse/partner
 - independent living/sheltered and semi-sheltered accommodation, public financing of care services
- “socialization” of LTC provision
 - financing via tax, health insurance, LTC insurance

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Laws and morals in Europe

European “civil codes” (Napoleonic and Bismarkian)

- civil law obligations within family upwards as well as downwards
- social assistance laws incorporate civil codes
 - state as a last resort
 - financial responsibilities of adult children towards parents (includes paying for care services provided)

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Laws and moral in Europe (2)

Socialist social policy

- patriarchist as well as pro-natalist
 - Article 66 of the constitution of the USSR
- social policy post socialism
 - copying west European codes
 - asserting “traditional” values
 - coping with budget constraints

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Laws and morals in Europe (3)

Scandinavian and Anglo-Saxon social policy

- outside civil code tradition
 - limited familial responsibilities under “poor law”
 - protestant/secular individualism
- Scandinavian “universalist” approach
 - extensive/expensive provision
- Anglo-Saxon means-testing approach

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Laws and morals in Anglo-Saxon countries

operation of means-testing in the UK and USA

- paying for care by running down housing assets
- “filial obligation” legislation in the USA
 - federal/state Medicaid law enabling individual states to initiate “estate recovery”
 - obligatory recovery since 1993 and lengthening of “look back” period to reduce leakages though “Medicaid planning”
- implications for children as inheritors
 - economic incentives to “moral” behaviour

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Practice in South East Asia

The importance of “shame”

- pressure on adult children to conform and refusal of elderly to admit need
 - litigation seldom but press reports

Responsibility of local government

- governed by fiscal situation
 - high variance in practice

Sustainability of traditional values

- introduction of LTC insurance (first Japan, now Korea)

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“Parental Abuse” in P R China

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[天津首次将“精神赡养”纳入审理范畴](#)
2007年11月14日 07:38 [[按图说新闻](#)] [[字号：大 中 小](#)]

use of the Marriage Law
from www.news.sohu.com
on 14/11/07



日前，在审理一起赡养纠纷案时，本市和平区法院首次将精神赡养义务以判决的形式予以明确，并对义务的履行方法作出具体规定。据了解，这也是本市首次将精神赡养纳入审理范畴。

This is a court case in Tianjin. An elderly women sued her five children for not caring. The court asked each child to pay 150 yuan per month to their mother and health care costs happened in 2006, 304 yuan. The five children were asked to go to their mother's home to take care of her in turns. Starting from the eldest child and seven days each. If anyone does not come as required, they should pay 280 yuan for the costs of hiring a carer. During the care period, the child should prepare their own food. If the mother needs to go to hospital, the care should continue. Any healthcare costs should be divided evenly among the five children. If the mother needs to be hospitalised, each child should pay 1/5 of the advancement required by the hospital and 1/5 of the healthcare costs.

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Practice in the USA

The Medicaid program

- federal and state financed, pays c50% of all LTC costs
- 51 states (not Michigan) have recovery laws
 - federal guidelines governing state practices
 - liens on estates of people institutionalised,
 - or via probate
 - exemption if spouse/dependent children in house,
 - or estate an income-producing asset, recovery would cause loss of livelihood for survivors

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Practice in the USA (2)

The extent of recovery

- about 0.5% of all LTC Medicaid expenditure
- average by state 0.65% but max 6.90% and min 0.01%
 - high variance (σ 1%)
- c $\frac{3}{4}$ return funds only to Medicaid budget
- contestation rate varies (0 to nearly 40%)
 - informal resolution and courts used
 - successful contestation rare
- costs c7% of amount recovered (but high variance)

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Practice in France

Obligation alimentaire (in Civil Code)

- vertical (to grandchildren/grand parents) and horizontal (includes in-laws)
- covered social assistance and care cost/services
- simultaneous recovery or recovery from estate
- administered at level of *Département*
 - differing practices
- enforceable in civil and administrative courts
 - debtor's ability and cost recovery concerns

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Practice in France (2)

Special programmes for the frail elderly

- *PSD* replacing social assistance (*ASA*) in 1997
 - only for most frail
 - subject to recovery (but not *oblig alim*) and delayed adult children sending parents into homes
- *ADA* replacing *PSD* in 2002
 - wider definition of frailty
 - no recovery from estate
 - but still covers only 30-50% of care home costs

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Practice in France (3)

Differences between *départements*

- *obligation alimentaire*
 - who was liable
 - whether recovery from succession
- *PSD*
 - limit on recovery
 - no recovery from estate
- estates recovery in 2005 av. 3% of net expend, σ 3%
 - data quality problems (39 of 95 *départements*)

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Practice in Germany

Support obligation/*Unterhaltspflicht* (in Civil Code)

- upward as well as downward obligations
- covered social assistance, inc. care cost/services
 - supporters' living costs taken into account
 - and threshold higher re upward obligations
- enforceable in civil and administrative courts
 - but reliance upon "shame"/moral pressure
- administered by local government
 - different practices
- copied by Japan, post-imperial China, etc

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Practice in Germany (2)

Recent reforms of social assistance

- 2003, minimum pension, remove shame of appealing to children (*verschämte Altersarmut*)
- 1995, LTC insurance, relieve calls on social assistance
- social assistance still accounts for c16% of total expend
 - “hotel costs” lower levels of frailty and dementia not covered
 - LTC benefits frozen, care costs rising
 - some not covered by LTCI (esp. the very old)

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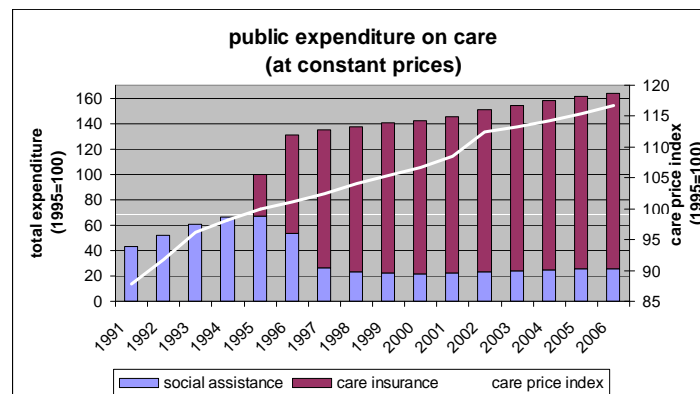
Practice in Germany (3)

Possible extent of shortfall

Costs for person with care level 2 needs (2004)	
care home costs	€ 2,800
- LTCI benefit	€ 1,279
- public pension	€ 500
- other income	€ 300
= costs not yet covered	€ 721
(as share of total costs)	26%

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Practice in Germany (4)



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Practice in Germany (5)

Differences between local governments

- cost effectiveness (is it worth it?)
- “political” differences (what are “obligations?”)
- fiscal pressure (substantial and rising)
- federal recovery rate 1.7%
- Hessen recovery rate 1.6%
 - 26 locals av. 2.0%, min 0.6%, max 5.9%, σ 1.4%

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Practice in Germany (6)

The case of Hessen

- do politics matter?
 - not obviously (coalitions, religion, cities versus rural, recovery rate for regular social assistance)
 - fiscal pressure (substantial and rising)
- does indebtedness matter?
 - not obviously (even with interactions)
- “normal” social assistance v “care” assistance
 - recovery rate 2.2% v 1.6% (all FRG 5.8% v 1.7%)

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Summary and conclusions

Are we all Confucianists?

- near universality of reliance on filial piety
 - promotion of “Asian values” in western social policy debate
 - economic incentives through “taxing” inheritance
 - even Sweden, concentration of scarce resources on those with greatest care needs
- reliance on moral pressure rather than law
 - USA seems outlier

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Summary and conclusions (2)

Heterogeneity of practice

- consequence of decentralised administration

Poor quality of data

- commented upon in USA but see also France

“Recovery” only the tip of the iceberg

- what is paid “voluntarily”?
- est. 75% of care residents in FRG have adult children
- evasion (estate planning) and “who benefits?”