

FAMILY LAW: BALANCING INTERESTS AND PURSUING PRIORITIES

TABLE OF CONTENTS

Preface iii

Part I: Families and Family Law in General; History and Theory 1

Chapter 1 1
OF WORLD-WIDE INTEREST
Peter Lodrup, Norway

Chapter 2 3
SEEKING BALANCE AND PRIORITIES IN FAMILY LAW AND IN FAMILY LIFE
Lynn D. Wardle, U.S.A.

Chapter 3 12
PROTECTION OF THE FAMILY IN POLISH PRIVATE INTERNATIONAL LAW
Katarzyna Bagan-Kurluta, Poland

Chapter 4 20
THE PROBLEM OF PERSUASION: A COMMENT ON LINDA MCCLAIN'S *THE PLACE OF FAMILIES*
Brian H. Bix, U.S.A.

Chapter 5 28
UNIVERSAL THEORY IN FAMILY LAW
Brian H. Bix, U.S.A.

Chapter 6 35
RECENT REFORM OF KOREAN FAMILY LAW
Mi-Kyung Cho, South Korea

Chapter 7 43
NEW FAMILY LAW ISSUES IN MACAO'S RETURN TO CHINESE SOVEREIGNTY
Paula Nunes Correia, China

Chapter 8 51
RESPECT
John Eekelaar, United Kingdom

Chapter 9	57
FAMILY LAW IN 20 TH CENTURY POLAND: BETWEEN SOVIET PATTERNS AND EUROPEAN LEGAL TRADITION	
Piotr Fiedorczyk, Poland	
Chapter 10	64
THE SEDUCTION OF LYDIA BENNETT AND THE JURISPRUDENCE OF THE JURISTIC SOCIETY	
Scott FitzGibbon, U.S.A.	
Chapter 11	73
THE CONCEPT OF "LEGAL FAMILY" IN MODERN LEGAL SYSTEMS: A COMPARATIVE APPROACH	
Federica Giardini, Italy	
Chapter 12	80
SEXUALITY AND THE SOUTH AFRICAN FAMILY	
Lindiwe Gura, South Africa	
Chapter 13	86
PRESSURES AND PRIORITIES IN FAMILY LAW REFORM IN NEW ZEALAND: ALL FAMILIES ARE EQUAL BUT SOME ARE MORE EQUAL THAN OTHERS	
Mark Heneghan, New Zealand	
Chapter 14	95
THE ROLE OF THE "NATURAL FAMILY" IN RELIGIOUS OPPOSITION TO HUMAN RIGHTS INSTRUMENTS	
Linda C. McClain, U.S.A.	
Chapter 15	105
THE LAW, SOCIAL SCIENCE AND INDIVIDUAL MORAL RESPONSIBILITY	
Terrance D. Olson, U.S.A.	
Chapter 16	114
EXPORTING THE FRACTURED FEMALE: GLOBALIZATION AND AMERICAN ADVERTIZING	
Cheryl B. Preston, U.S.A.	
Chapter 17	126
LAWRENCE AND THE HARM PRINCIPLE	
Mark Strasser, U.S.A.	
Chapter 18	135
LAW-MAKING THROUGH THE ADVERSARIAL PROCESS: THE NEED FOR STANDARDS FOR SOCIAL SCIENCE BRIEFS IN FAMILY LAW CASES	
Sarah H. Ramsey and Robert F. Kelly, U.S.A.	
Chapter 19	145
TRADITION AND THE CONSTITUTION IN THE CONTEXT OF THE KOREAN FAMILY LAW	
Jinsu Yune, South Korea	

Part II: Regulation of the Creation of Spousal and Quasi-Spousal Relations	156
Chapter 20	156
SAME-SEX MARRIAGE IN CANADA: THE DEBATE ABOUT THE BEST INTERESTS OF CHILDREN Jane Adolphe, U.S.A.	
Chapter 21	166
SAME-SEX MARRIAGE IN CANADA: CONTROVERSY OVER THE EVOLUTION OF A FUNDAMENTAL SOCIAL INSTITUTION Nicholas Bala, Canada	
Chapter 22	178
MARRIAGE LICENSES Mary Anne Case, U.S.A.	
Chapter 23	188
STATE, SOCIETY AND THE REDEFINITION OF MARRIAGE William C. Duncan, U.S.A.	
Chapter 24	196
THE BOUNDARIES OF LEGAL RECOGNITION OF PERSONAL PARTNERSHIPS: WHERE AND WHY? Roger Kay, United Kingdom	
Part III: Regulation of the Creation of Parent-Child and Similar Relations	204
Chapter 25	204
CRYOPRESERVED EMBRYOS: A RESPONSE TO "FORCED PARENTHOOD" AND THE ROLE OF INTENT Susan B. Apel, U.S.A.	
Chapter 26	213
ASSISTED HUMAN REPRODUCTION: NEW ZEALAND'S "THIRD WAY" MODEL Bill Atkin, New Zealand	
Chapter 27	223
ADOPTION OF CHILDREN IN NIGERIA UNDER THE CHILD'S RIGHTS ACT 2003: PROBLEMS, PITFALLS AND PROSPECTS Larry O.C. Chukwu, Nigeria	
Chapter 28	235
BALANCING RIGHTS AND INTERESTS IN ADOPTION: THE CASE FOR QUEBEC'S "MIXED BANK" PROGRAM Dominique Goubau, Canada	

Chapter 29	243
RECOGNIZING LEGITIMACY IN THE CASE OF BABY X: THE LEGAL AND HEREDITARY IMPLICATIONS OF USING CRYOPRESERVED SPERM AFTER THE HUSBAND'S DECEASE	
Keiko Irako, Japan	
Chapter 30	252
REFORM OF ADOPTION ACCORDING TO THE NEW SERBIAN FAMILY ACT	
Olga Cvejić Jančić, Serbia	
Chapter 31	260
RACIAL HIERARCHY AND INTERNATIONAL ADOPTIONS	
Solangel Maldonado, U.S.A.	
Chapter 32	270
IN VITRO VERITAS? THE NEW ITALIAN HUMAN FERTILISATION AND EMBRYOLOGY ACT 2004: LEGAL ISSUES BETWEEN BALANCING OF INDIVIDUAL INTERESTS AND SOCIAL PRIORITIES	
Antonello Miranda, Italy	
Chapter 33	274
FOR A BETTER BALANCE BETWEEN CONFLICTING INTERESTS IN THE CASE OF "ELECTIVE" FILIATION	
Odile Roy, France	
Chapter 34	283
MOTHERS' CONSENTS TO ADOPTIONS: "BEST PRACTICES" AND STATE LAWS	
Elizabeth J. Samuels, U.S.A.	
Chapter 35	292
INTERNATIONAL ADOPTION IN THE ITALIAN LEGAL SYSTEM	
Sabrina Vecchio Verderame, Italy	
Part IV: Regulation of Ongoing Spousal and Quasi-Spousal Relations	299
Chapter 36	299
LOOK WHO'S STALKING: NONMOLESTATION ORDER AND CIVIL REMEDIES AGAINST DOMESTIC VIOLENCE IN ITALY IN A COMPARATIVE OVERVIEW	
Alessandra Alaimo, Italy	
Chapter 37	306
IMPLEMENTING A JURY OPTION IN FAMILY VIOLENCE PROCEEDINGS	
Melissa L. Breger, U.S.A.	
Chapter 38	313
THE PATRIMONIAL FUND	
Ciro Cardinale, Italy	

Chapter 39	321
BREACH OF INTERSPOUSAL OBLIGATIONS: LIABILITY OR IMMUNITY? THE ITALIAN PERSPECTIVE	
Salvatore Casabona, Italy	
Chapter 40	327
CHANGES IN THE MATRIMONIAL PROPERTY LAW IN HUNGARY: PAST, PRESENT, AND FUTURE	
Martha Dóczi, Hungary	
Chapter 41	335
BALANCING INTEREST AND PURSUING PRIORITIES IN PROVIDING LEGAL SERVICES TO SURVIVORS OF DOMESTIC VIOLENCE: COMPARING APPROACHES IN THE UNITED STATES AND IRELAND	
Barbara Glesner Fines, U.S.A.	
Chapter 42	344
GOOD PRACTICES IN THE LEGAL RESPONSE TO DOMESTIC VIOLENCE IN THE UNITED STATES	
Sally F. Goldfarb, U.S.A.	
Chapter 43	354
MARRIAGE PENALTIES AFFECTING DISABLED PERSONS IN THE UNITED STATES	
Robert E. Rains, U.S.A.	
Chapter 44	361
DOMESTIC VIOLENCE AND CONTACT CONCERNING CHILDREN IN CROATIA	
Branka Rešetar, Croatia	
Chapter 45	366
THE LAW AND THE COHABITANT IN TRINIDAD AND TOBAGO: BALANCING WHOSE INTERESTS? PURSUING WHOSE PRIORITIES?	
Hazel Thompson-Ahye, The Bahamas	
Part V: Regulation of Ongoing Parent-Child and Similar Relations	376
Chapter 46	376
CAN WE ALREADY DISPENSE WITH THE FATHER?	
Heloisa Helena Barboza, Brazil	
Chapter 47	382
DUAL-GENDER PARENTING: A SOCIAL SCIENCE PERSPECTIVE FOR OPTIMAL CHILD REARING	
A. Dean Byrd and Kristen M. Byrd, U.S.A.	
Chapter 48	391
CHILDREN WITHOUT PARENTAL PROTECTION: AN ANALYSIS OF CHILD'S RIGHTS-BASED POLICIES AND STANDARDS	
Frances G. Connell, U.S.A.	

Chapter 49	400
THE EVOLUTION OF THE STATUS OF THE CHILD IN FRENCH FAMILY LAW	
Christian Dadomo, United Kingdom	
Chapter 50	408
THE RIGHTS OF CHILDREN IN THE AZERBAIJAN REPUBLIC	
Makhabbat Damirchieva, Azerbaijan	
Chapter 51	416
PRESERVING FAMILY SANCTITY OF PROTECTING CHILD WELFARE? JUDICIAL	
ATTITUDES TO POST-ADOPTION CONTACT IN NORTHERN IRELAND	
Alice Diver, Ireland	
Chapter 52	427
HOW FAMILY RELIGIOUS INVOLVEMENT BENEFITS ADULTS, YOUTH,	
AND CHILDREN AND STRENGTHENS FAMILIES	
David C. Dollahite and Jennifer Y. Thatcher, U.S.A.	
Chapter 53	437
WORLDWIDE STEPFAMILY TRIBULATIONS UNDER CURRENT LAWS AND	
SOCIAL POLICIES	
Margorie Engel, U.S.A.	
Chapter 54	448
WALKING THE TIGHTROPE, CARRYING THE BABY: WORK-FAMILY BALANCE FROM THE	
CHILD'S POINT OF VIEW	
Ruth Farrugia, Malta	
Chapter 55	457
FAMILY GROUP CONFERENCING IN THE UNITED STATES: QUESTIONS FOR THE	
FUTURE	
Clare Huntington, U.S.A.	
Chapter 56	465
SUPPORTING ADMINISTRATION AND INCAPACITATED PERSONS	
Adriano Lo Nardo, Italy	
Chapter 57	472
TO DEFINE FAMILY BELONGING—STARTING POINTS FOR FAMILY BENEFITS IN A	
COMPARATIVE PERSPECTIVE	
Eva Ryrstedt, Sweden	
Chapter 58	481
EXERCISE OF THE PARENTAL RIGHT: THE NEW SERBIAN FAMILY ACT 2005 IN THE	
LIGHT OF A CASE BEFORE SUPREME COURT OF SERBIA	
Gordana Kovacek Stanic, Serbia	
Chapter 59	489
THE RIGHT OF MINORS AND THEIR PARENTS TO RECEIVE JUVENILE CARE IN THE	
NETHERLANDS	
Adriaan P. van der Linden, The Netherlands	

Chapter 60 497
BALANCING INDIVIDUAL PRIVACY AND PROTECTING ADOLESCENTS IN
FAMILY LAW
Camille S. Williams, U.S.A.

Chapter 61 507
IN DEFENSE OF JUVENILES: DUE PROCESS FAILURES IN THE UNITED STATES
JUVENILE JUSTICE SYSTEM
Monique Haughton Worrell, U.S.A.

Chapter 62 516
STUDIES ON THE LEGAL SYSTEM OF GUARDIANSHIP OVER MINORS IN THE
PEOPLE'S REPUBLIC OF CHINA
Xia Yinlan, China

**Part VI: Regulation of the Dissolution of Spousal and
Quasi-Spousal Relations and Subsequent
Relations 523**

Chapter 63 523
CONVERGENCE OF DIVORCE LAWS IN EUROPE
Masha Antokolskaia, The Netherlands

Chapter 64 533
FAMILY MEDIATION
Marija Draškić, Serbia

Chapter 65 542
DIVORCE AND FEDERALISM: BALANCING STATE INTERESTS AND INDIVIDUAL
RIGHTS
Ann Laquer Estin, U.S.A.

Chapter 66 551
WESTERNIZATION OR PROMOTION OF THE AFRICAN WOMAN'S RIGHTS?
CUSTOMARY INTESTATE SUCCESSION IN SOUTH AFRICA
Elmarie Knoetze, South Africa

Chapter 67 557
PENSION DIVISON AT THE TIME OF DIVORCE: NEW PENSION SYSTEMS
IN JAPAN
Yuko Koishi, Japan

Chapter 68 566
ALTERNATE DISPUTE RESOLUTION: BALANCING PUBLIC POLICIES AND PRIVATE
INTERESTS
Malcolm Kronby, Canada

Chapter 69	576
SEPARATION IN ITALY AND RELATED ISSUES	
Raffaella Losurdo, Italy	
Chapter 70	585
WHAT IS THE FUTURE FOR FAMILY COURTS? DEVELOPMENTS IN ENGLAND AND WALES	
Judith Masson, England	
Chapter 71	595
BALANCING INTERESTS AND SETTING PRIORITIES IN FAMILY MATTERS: THE MODEL ADVOCATED BY THE LAW OF SUCCESSION IN QUÉBEC	
Christine Morin, Canada	
Chapter 72	603
BALANCING THE CONFLICTING INTERESTS OVER THE FAMILY HOME	
Maria Donata Panforti, Italy	
Chapter 73	611
FAMILY RELATIONSHIP CENTRES: A NEW APPROACH TO RESOLVING CONFLICTS ABOUT PARENTING IN AUSTRALIA	
Patrick Parkinson, Australia	
Chapter 74	621
BALANCING ESCAPE AND COMMITMENT IN MARRIAGE	
Allen M. Parkman, U.S.A.	
Chapter 75	630
FAMILY MEDIATION IN ITALY: BILLS AND IDEAL MODEL (ESPECIALLY FOR THE "DE FACTO" COUPLE)	
Alessandra Pera, Italy	
Chapter 76	638
ALIMONY AND ALIMONY SURROGATES AND THE IMPUTATION OF INCOME IN AMERICAN FAMILY LAW	
David S. Rosettenstein, U.S.A.	
Part VII: Regulation of Parent-Child and Similar and Subsequent Relations After Family Dissolution.....	647
Chapter 77	647
BALANCING INTERESTS IN AUSTRALIAN FAMILY PROPERTY LAW—IS ALL REALLY FOR THE BEST?	
Frank Bates, Australia	
Chapter 78	655
THE SEPARATE REPRESENTATION OF CHILDREN—IN WHOSE BEST INTERESTS?	
Gillian Douglas, United Kingdom	

Chapter 79	664
RIGHT TO ACCESS TO ONE'S CHILD—OR—THE CHILD'S RIGHT NOT TO SEE ONE OF ITS PARENTS	
Marianne Holdgaard, Denmark	
Chapter 80	672
PARENTAL RIGHTS AND RESPONSIBILITIES AFTER SEPARATION OR DIVORCE IN RUSSIAN FAMILY LAW	
Olga A. Khazova, Russia	
Chapter 81	680
BALANCING THE POST-DIVORCE INTERESTS OF FAMILIES	
Marygold S. Melli, U.S.A.	
Chapter 82	689
CHILD SUPPORT AND MARITAL SUPPORT IN JAPAN: COMPUTATION METHOD AND RATE SCHEDULES	
Koji Ono, and Kazuhiko Niijima, Japan	
Chapter 83	697
JOINT CUSTODY IN BRAZIL	
Sofia Miranda Rabelo, Brazil	
Chapter 84	699
THE POWER OF A CUSTODIAL PARENT TO REMOVE THE CHILD FROM THE REPUBLIC OF SOUTH AFRICA AFTER DIVORCE	
Neil Van Schalkwyk, South Africa	
Chapter 85	708
CHILDREN'S NEEDS WHEN CUSTODIAL PARENTS WANT TO RELOCATE: WISHFUL THINKING OR SOUND RESEARCH?	
Carol S. Bruch, U.S.A.	
Part VIII: Conclusion	718
Chapter 86	718
THE ISFL 12 TH WORLD CONFERENCE (REFLECTIONS OF A PARTICIPANT)	
Hazel Thompson-Ayhe, The Bahamas	
Chapter 87	719
RUSSIAN DIVORCE LAW UNDER THE FAMILY CODE OF 1996: IN THE INTERNATION AVANT- GARDE OR REAR GUARD?	
Olga A. Dyuzheva, Russia	