

Book Review: Robin Fretwell Wilson and June Carbone (eds) *International Survey of Family Law 2023* ed (Intersentia UK 2023)

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Abstract

The International Survey of Family Law 2023 edition is a golden jubilee commemoration of its momentous achievements, recognised globally for its scholarship on developments, reform initiatives and emerging trends on family law. The series commences with personal chronicles and successive chapters providing overviews of continuing evolutions in family law over half of the past century from a global jurisprudential perspective. The book engages various aspects of personal and family law, with traditional, modern influences and controversial influences, accentuating the progressive move over the five decades from a homogenous perspective on personal law systems to pluralistic systems of governing family law.

Keywords

Family law; family law jubilee edition; family law reform and developments; *International Survey of Family Law 2023*; International Society of Family Law; ISFL.

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Review

The International Survey of Family Law, edited by Robin Fretwell Wilson and June Carbone, sets the scene of its beginnings and successive developments across the globe, presenting a powerhouse of global literature, philosophy, innovations, and points of debate on family law. The 2023 edition *International Survey of Family Law* is a tribute to its milestones and accomplishments since its inception. The book comprises 3 parts, as a celebration edition, in Part I of the book, vivid historical accounts are given by key editors, philosophers and academics who played a key role in its establishment. As a reflective piece of 50 years of the International Society of Family Law (ISFL) journey, Part I is a sage's discussion on family law, closely attached to the establishment of the society. The book succinctly lays out the historical forces and developments within family law and the establishment of the Family Law Survey Society globally. In honour of this expedition through the lived experiences, one is given a window into societal influences, internal and external forces that have progressively commandeered its present success. This is despite hurdles and complexities at the local and global level resulting from some of the traditional structures, beliefs and cultures that shape the discipline of family law globally.

The book, additionally, through Part I, presents the empirical historical accounts elaborating the advocacy and activism that shaped and reformed the nature of family law in the global jurisdictions worldwide. From two distinct periods of family law development discussed, 1970-2000 and the turn of the millennium, it depicts marriage and divorce undergoing revolutionary modifications and liberalisation based on personal freedom to enter and dissolve marriage and equality between spouses and parents. Additionally, the turn of the millennium revolutionised marriage and family on new principles of inclusiveness and equal rights. These unparalleled changes, were not without turbulence, or devoid of opposing views, but the result, however, is a promotion of respect and tolerance for divergent values and convictions. The resultant effect reflects plurality in modern societies where family forms and a diverse set of family values coexist alongside each other. On the global jurisprudential notions on marriage laws, while there have been momentous, trendy and progressive achievements, what is evident in most countries is that opposing and conservative resistance is becoming stronger. Particularly in the United States of America, Russia and other Western countries.¹ An exposition on the 50 years of development of

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¹ Antokolskaia, "50 Years of Developments in Family Law", 88.

the rights of children by leading ISFL members is discussed by Mark Henaghan, and family law is tackled with the aim of paying tribute to Nigel Lowe's work in this field.

Part II is an introspective account with tangible evidence of versions from diverse aspects of Western personal laws perspectives, particularly Belgium, China, France, Japan, Portugal and Scotland. It is an elaboration of the pathway each country has embarked on from child rights, parentage law, divorce law practices and dejudiciarisation of French law. Evident through these developments is that the traditional character of family law systems, practices and values are being moulded into systems that resemble a human rights blueprint because of the universal acceptance of fundamental principles. Intriguing within Part II is the progressive reforms in family law on the traditional function of judges, which is particularly interesting in the China and France accounts. In the case of France, the concept of avoidance of judicial intervention measures has been accepted in settling conflicts and in China, the use of mediatorial processes in divorce disputes is gaining significant ground. The 50-year span in France and China has witnessed a changing role of judges from deciding to guiding, reconciling and calming, in a permanent search for consensus in French and Chinese family law.² This shift is propelled by the profound changes in society of privatisation and deregulation, moving from things based on status (marriage, inheritance, reserves and the disappearing hierarchical relationship within family), giving instead an increasingly important place to the freedoms of choice of people and the instrument of law, paving the way in protecting individual autonomy.³ These reforms are emblematic of moves towards the prevailing modern and liberalistic nature of law that has influenced the way redress and approaches to family law disputes in marriage and divorce are being structured. A protest to the traditional methods of handling divorce, which are adversarial in nature, is shifting to mediatory mechanisms in divorce laws.⁴

The rest of the chapters in Part III focus specifically on modern developments in family law reforms and retrenchments. The initial chapter in this section explores the phenomenon of family law using a sociological lens, drawing on Pierpaolo Donati's philosophy for Brazil to enhance possibilities and reflections on its diverse cohabitational situations.⁵ Another chapter focuses on the developments that have extended Israel's civil-religious family law hybrid to Muslims. It expounds on the minority personal law system in Israel, focusing on Islamic law in contrast to Jewish law. It describes the process where there is a convergence of external forces, legal

² Fulchiron "'Dejudiciarisation' of French Law" 145.

³ Fulchiron "'Dejudiciarisation' of French Law" 146.

⁴ Antokolskaia "50 Years of Developments in Family Law" 86.

⁵ Pereira "Family Among the Cohabitation Modalities of the Law" 202.

forces, and mechanisms impacting overtly and covertly on the advancement of Islamic doctrines within the Jewish legal system.⁶ The other chapters are a discussion on various personal law concepts, presumption of marriage from a Kenyan perspective, the controversial and topical gender and sexuality concepts in the Pacific Island countries and the solutions Poland adopts in providing protections of the elderly and the realisation of their rights. A comparative analysis ends the series, looking at the United States and Israel's position on the right to privacy on the issue regarding abortion rights.

It is significant that over the past 50 years, the International Survey on Family Law series, through its conferences and literature, has recognised the nature of family law in its diversity, and the incorporation of differing views on family is evidence of law being kept alive. To that, legal pluralist challenges to families are discussed and the recognition of their impact on family law with the aim of harnessing lasting solutions to these perennial challenges. Symbolic to this recognition, ISFL has held conferences to feature the effects of colonialism, the difficulties encountered in applying conflict cultural norms and values to family law and the complexities indigenous people face in addressing its consequences. This aspect is particularly relevant for the Global South countries that are contending with this complex phenomenon within their legal systems. To that, Henaghan emphasises the need for ISFL conferences to remain relevant and strong, with the focus of its future conferences on countries that are marginalised and have their family structure dominated by Western-style perspectives.⁷ Accordingly, achieving sustainable approaches and responses, the argument is that more voices are needed to come from Africa and other indigenous communities with family structures and systems, with distinctive viewpoints about families and family law.⁸ This recognition fits into the growing shift within post-colonial legal systems on how to preserve and integrate their indigenous knowledge systems within their laws.

The 2023 series is a historical and retroactive foundational knowledge base from which family law redress and contentious aspects can further proceed. The series should be used by scholars who have an interest in comparative studies for modern states, not only for the progress and strength of family law universally, but also including obstacles, complexities and sensitivities. The book heralds the irreplaceable work done by academics, intellectuals and specialists globally and is valuable for worldwide usage to those invested in the reform, development and future prospects of personal and family law systems.

⁶ Yefet and Shahar "Islamic Law in the Jewish State" 261.

⁷ Henaghan "50 Years of Contribution to Family Law" 98-99.

⁸ Henaghan "50 Years of Contribution to Family Law" 98-99.

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