

Great Debates in family law, by Jonathan Herring, Rebecca Probert and Stephen Gilmore, Palgrave, Palgrave, Macmillan Publishers Ltd., 2015, 296 pp.; £27.99 (paperback), ISBN 978-1-137-48156-6

Family law, taught as a final year LLB elective at my institution, has become an increasingly popular choice over the last few years. Whilst there is a wealth of academic commentary available for students to explore, the range of student engagement beyond the core text varies widely. The aim of the '*Great Debates*' series is to provide an accessible route into key concepts and areas of contention to assist students to reflect critically on the subject and to, in the words of the blurb, "gain additional insights with which to excel". Having dipped into the text when it was first published, I was interested to evaluate its usefulness for my current cohort and to ascertain whether the discussion has moved on since time of publication given that family law has seen significant changes in the last few years.

The areas covered are those you would expect to see on a family law module and should map well onto the curriculum. The authors are all prominent in the field and students may be familiar with their textbooks and/or journal articles. Chapter 1 'The Nature of Families and Family Law' sets the context for the subject, namely the concept of what is meant by 'family', how this has evolved and what role the law should play in regulating the rights and responsibilities of family members in relation to each other. The discussion of the interplay between domestic law and the European Court of Human Rights is interesting and recurs throughout the text so it is useful to see this from the outset. Due consideration is given to the question of couples resolving disputes away from the court process in line with the 2011 *Family Justice Review* and Legal Aid, Sentencing and Punishment of Offenders Act 2012 and government push towards mediation with the arguments in favour and against presented succinctly, but not over simplistically.

A key strength of the text is that the reader is provided with a context for the area of debate. This informs the discussion which follows and makes the technical legal discussion more accessible. An example of this is the discussion of parental responsibility for fathers in Chapter 2, set in the context of defining biological and social parenthood and advances in assisted reproduction and its legal regulation most recently through the Human Fertilisation and Embryology Act 2008. The discussion in Chapter 3 'Children's Rights' on the significance of *Gillick v West Norfolk and Wisbech Area Health Authority and Department of Health and Social Security*, 1986 from a children's rights perspective was particularly interesting. Although we do not cover this area in depth on my family law module, the issue of children's refusal of medical treatment is a popular choice of dissertation subject on both our undergraduate and post-graduate programmes and this chapter would be a useful starting point for students wishing to research this area.

The text moves on to discuss other key areas relating to children, namely disputes between parents over child arrangements (Chapter 4); Child Protection (Chapter 5); and Adoption and Special Guardianship (Chapter 6). Throughout the text the reader is encouraged to consider different perspectives, for example in the section on the s1(1) Children Act 1989 welfare principle, alternative arguments are thoughtfully presented, even though as Herring, one of the authors, has previously memorably noted, making arguments against the welfare principle "may at first blush appear a bit like arguing against 'rhubarb crumble'". From a student perspective the depth of the text may be more than they need depending on how the module is taught (at my institution this area is assessed through a practical negotiation assessment where the focus is more on the application of the s1(3) Children Act 1989 checklist). That said, this is a key aspect of family law and one which my students always

find interesting, so I think regardless of how this area is taught, this section is likely to be of interest. Analysis of the Section 31(2) Children Act 1989 threshold criteria and the difficult and often seemingly conflicting case law in the Child Protection chapter, gets to the crux of the debate on the whether the law strikes the right balance between protecting children from abuse and avoiding unnecessary and potentially damaging state intervention.

Moving on to the chapters on non-children related topics coverage is given to areas which are the subject of much debate by commentators such as the role of marriage within society; the role of religious ceremonies; whether civil partnerships should be extended to opposite sex couples; cohabitee rights in relation to the family home; whether the law on cohabitation should be reformed; division of assets on separation and the state's interest in this; the arguments for divorce law reform to permit no-fault divorce; and the arguments for and against the enforceability of pre-nuptial agreements post *Radmacher v Granatino*, 2010 and *SA v PA (Pre-Marital Agreement: Compensation)*, 2014 (Chapters 7, 8, 9 and 11). Notably, although the issue of cohabitation rights is somewhat 'groundhog day' with the Cohabitation Rights Bill introduced in successive parliamentary terms without progress, there have been developments in the area of domestic violence (Chapter 10) with the offence of coercive control now on a statutory footing in the Serious Crimes Act 2015. Whilst it would be useful to have an updated chapter, the discussion on domestic violence is still relevant and the debate on whether a pro-prosecution policy should be pursued remains current.

Alongside providing an insight into key areas of debate which students can 'dip into' depending on the areas they are studying, the text introduces key family law commentators such as Eekalar, Bainham and Auchmuty in an accessible way, providing readers with different perspectives which are of themselves useful or can be used as a springboard for further research, with a sensible Further Reading list provided at the end of each chapter. I have recommended the book to my students ahead of their final examination and hope that a new edition is forthcoming, particularly given that the most comparable text, Rob George's *'Ideas and Debates in Family Law'*, Hart Publishing, was published in 2012.

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