

BOOK REVIEW

*La Personne La Famille
Le Droit: Trois Décennies
De Mutations En Occident
1968-1998.*



For those who read French, here is an important new book from one of Europe's best known comparative lawyers.

The author, Marie Thérèse Meulders-Klein, retired from her Chair at the Université Catholique de Louvain in Belgium in 1999. Her work over the past 30 years has been translated widely, particularly into German and English. She was a founder and past president of the International Society for the Study of Family Law (IFSLS) which is holding its international conference in Brisbane in July 2000.

Published by Bruylant, Bruxelles, and LGDJ, Paris, 1999, 608 pages, price: 116.51 Euros. Inquiries to Bruylant@pophost.eunet.be

Family law and policy: 30 years

*The Human Person, the Family and the Law:
Three Decades of Change in the Western World 1968-1998*
By Marie Thérèse Meulders-Klein

STEPHANIE CHARLESWORTH

In Australia we are not only geographically distant from Europe but also isolated by our monolingual approach to legal and social ways of thinking and analysis that is different from our own. The world has beaten a track to our door, in the sense of translating much of what we want to know into English, but there are still valuable source materials that are not yet available. This book is a good example of a valuable account of the dramatic changes in family law and policy in the past 30 years which could be lost if we ignore the existence of writing not easily accessible to us.

One of the immediate effects of this avoidance is to lose the perspective on family law reform that comes from realising that the English-speaking world is not unique in experiencing revolution in official approaches to the family. In civil code countries for instance, similar sorts of ambitions for change have been realised in a variety of national settings with differing impacts and outcomes.

In her latest book, Meulders-Klein sets out to examine the kind of law that affects the most profound of human relationships – those between individuals related by emotional, biological, or permanent legal ties. What she attempts is not just a broad consideration of trends but a meticulous and detailed comparison of legal provisions and their underlying policy intentions. Evidence and arguments are scrutinised in the sometimes bold interpretations presented by the author.

Legal systems that are examined are primarily those in European Union countries, although comparative references are made to family law and traditions in the United States, Japan, Australia, and New Zealand. The book is designed for a readership that goes beyond those interested in family law in a narrow sense. Some of the latter may find the theoretical perspective a distraction from the substantive account that is also integral to the text.

The content of the book is not a chronological account of the way the law views family institutions, but an arrangement of ideas about the family in a logical and conceptual way. The two main themes could be described as, first, that related to the interior of the family – couples, parenthood, and children as people in their own right; the second theme is the relationship between family groups, and their members as individual citizens, with the state. The book discusses the provision of social and economic support and links this to the provision of the optimum conditions envisaged in international conventions on human rights.

Part I of the book covers the evolution in the law on marriage and marriage-like relationships and how these relationships are ended. Particular attention is paid to differences between status and consensual approaches. Also under this heading come the growing primacy of biological parenthood over social parenthood, and the issues of freedom of choice, and informed consent in connection with family formation with the use of artificial reproductive technology. The consequences of these changes for extended families are also considered.

Part II is concerned with the political reality of the family and its legal recognition, particularly in terms of human rights. Topics covered are economic and social security; rights of individuals and communities; and models of administration of justice for family members.

The publishers describe the book as being written for legal scholars (jurists), social anthropologists, sociologists, legal historians and philosophers. Importantly they list policy makers and analysts among the numbers of people who may also benefit from what Meulders-Klein has to say.

Stephanie Charlesworth, qualified in law and social work, was for 20 years an academic at the University of Melbourne. She now practices family law and specialises in mediation. She is co-author of two books published by Federation Press, and will be bringing out a third in July 2000.