

From Rights and Obligations to Contested Rights and Obligations: Individualization, Globalization, and Family Law

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Individualization and globalization are recent trends that bring fundamental transformations of modern society. In this Article, I will first outline what individualization and globalization imply on a general level, and how in particular they affect families. I will then argue that individualization and globalization also imply some major consequences in the field of family law: Today, norms and beliefs in respect of what is right and proper in regard to personal lives multiply and compete with one another, new family models challenging older ones and opening up numerous questions regarding which model should be given priority. The effect is that the issue of rights and obligations turns into an arena of controversies, an issue of contested rights and obligations.

INTRODUCTION

In recent decades, individualization and globalization have gained momentum and given rise to fundamental transformations of modern society. The effects are being felt in vastly diverse fields, from the economy and the labor market to education, communication and the media.¹ In the following, I will first

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1 Take the labor market, for instance: Globalization opens up new options (people living in countries that experience massive unemployment may go abroad and find a job there). At the same time, globalization brings new risks (people living in countries where the cost of labor is high may wake up one morning and find that their job has been outsourced to some cheaper country).

outline what individualization and globalization imply on a general level, and how in particular they affect families. Building on these ideas, I will argue that individualization and globalization also imply some major consequences in the field of family law: Increasingly, rights and obligations in the family become a matter of controversy, of public and political debate. Norms and beliefs in respect of what is right and proper in regard to personal lives do not disappear, as some people assume. Rather, norms multiply and compete with one another, new family models challenging older ones and opening up numerous questions regarding which model should be given priority. The effect is that the issue of rights and obligations turns into an arena of controversies, an issue of contested rights and obligations.

To present these arguments, I will proceed in four steps: First, I shall introduce the concept of individualization. Second, the consequences of individualization in respect of the family come into focus: a fundamental change from “the family” to families. Third, I suggest that this change from “the family” to “families” poses major challenges and dilemmas for the law. Fourth, I shall touch upon globalization and suggest that when globalization gains in speed, it adds to the challenges and dilemmas produced by individualization, to their dynamics and power.

I. THE CONCEPT OF INDIVIDUALIZATION

Quite often, the concepts of “individualism” and “individualization” are mixed up and taken as equivalent. Yet though they are closely connected, there are distinct differences between the two. To put it in a nutshell: Both relate to the autonomy of the individual. Individualism is the philosophical, intellectual, ideological dimension which goes back to Greek philosophy and has gained a central position in European enlightenment. In another meaning, it is closely related to capitalism and, more specifically, to neoliberalism. Here we already touch upon the second dimension, the sociological dimension of institutionalized individualism, meaning that rights, obligations, etc. (such as human, social, civil rights) are not addressed to any collectivity (such as class or the family) but to the individual. This closely relates with the Western welfare state. At the same time, the global market economy induces individualization in authoritarian countries with a market economy, such as China.

By contrast, individualization is a sociological concept.² It analyzes a basic change in the very architecture of society. When speaking of individualization, we mean that with the transition to modernity, a fundamental transformation of both institutions and ways of life has begun that is characterized by two movements, bringing new freedoms as well as new risks. On the one hand, the closer we come to the present, the more traditional social relations, bonds, and beliefs — which in earlier times had narrowly defined people's lives — decline in importance. Whether extended family, village community, religion, rank, gender — affiliations and ties that once provided a stable framework — have meanwhile crumbled. The individual has gained freedoms, options, and choices unknown before. He or she can and should, he or she may or must now decide for themselves, design their lives themselves — albeit within certain limits.

These limits point to the other side of the individualization dynamic. While people are becoming detached from traditional norms and rules, they are simultaneously bound by the institutions that have spread with modern society or, more specifically, by the demands, constraints, and prerequisites of such institutions; for instance, the demands of the labor market, the regulations of the welfare state, the imperatives of education, legislation, bureaucracy, etc. Today's men and women have to struggle through a network of regulations, from pension rights to insurance policies, from student grants to tax rates. Beyond the new options and opportunities, there are also new demands, compulsions, and constraints inherent to the process of individualization.

This institutional framework defines opportunities as well as sanctions. Furthermore, it not only affects the biography of the individual, but also reaches deep into our social lives, producing new standards for relationships and for everyday family life. With individualization, a reorganization of intimacy, and familial roles and relationships is set into motion. And obviously, a key issue is how the state and its law link into this process. In the next Part, I will explore this link.

2 See ULRICH BECK & ELISABETH BECK-GERNSHEIM, *INDIVIDUALIZATION: INSTITUTIONALIZED INDIVIDUALISM AND ITS SOCIAL AND POLITICAL CONSEQUENCES* (2001).

II. INDIVIDUALIZATION AT HOME: FROM “THE FAMILY” TO “FAMILIES”

In the 1950s and 1960s a standard family model existed in Western countries that was generally accepted, and was indeed practiced by most people.³ This so-called “normal” family consisted of an adult couple with children; of course, the adults were of different sexes, that is, a man and woman, they were married and (with very few exceptions) remained so until they died. Inherent to this family model was a belief in the fundamental differences between the sexes, with a supposed superiority of the man, preordained by the laws of God and nature. From this followed a gender-based division of labor, such that the husband held a job and was the breadwinner, while the wife was responsible for home and family.

That was the model. Of course, there were exceptions to the rule, some men and women who did not follow the conventional path. A few “brave souls” indeed chose to live differently, of their own free will. But in most cases it was not because people were so daring and wanted to break the rules, but rather because for some reason, for instance, legal inhibitions, the conventional path was not open to them.⁴ At any rate, these nonconventional arrangements were relatively rare; and usually they were not practiced openly but rather furtively, indeed frequently not even talked about. Above all, it was commonly understood that they were “deviations” from what the majority saw as right and proper. They were “lapses,” “mistakes,” the product of unhappy circumstances and external forces, for example the turmoil of war and resulting upheavals.

How times are changing. The “normal” family described above has not disappeared, but there is a much greater diversity of family forms and arrangements today; moreover, the standard model has lost much of its normative power. This trend is especially strong in Western and Northern Europe,⁵ somewhat less so in the United States,⁶ and gaining strength in South

3 See Scott R. Harris, *What Is Family Diversity? Objective and Interpretive Approaches*, 29 J. FAM. ISSUES 1407 (2008).

4 Well into the nineteenth century, in many regions of Germany couples who had little or no financial means could not get a marriage license. Well into the twentieth century, in some states of the United States marriages across the black-white color line would not be allowed. And to this very day, in most countries gay and lesbian couples cannot be legally married.

5 Graham Allan, Sheila Hawker & Graham Crow, *Family Diversity and Change in Britain and Western Europe*, 22 J. FAM. ISSUES 819 (2001).

6 Andrew J. Cherlin, *Demographic Trends in the United States: A Review of Research in the 2000s*, 72 J. MARRIAGE & FAM. 403 (2010); Belinda Luscombe,

Korea,⁷ China,⁸ and Japan.⁹ Despite national differences, there is clearly a similar trend in most, if not all, industrialized countries. In recent decades changes have taken place both in family behavior and in the normative understanding of the family, and now different forms coexist side by side, each of which claims equal standing. This change has made its way into the language: Speaking of “the family” has become suspect, and instead the proper term now is “families.” For example, take the White House Conference on Families, held in 1980: Early in its organizing phase it significantly changed its name from the singular to the plural, the reason being that it was “impossible to arrive at even rudimentary consensus on what ‘the American family’ was supposed to be.”¹⁰ Thus, the standard family form has lost its former monopoly position; in its place, there are now different and competing ideas of normality, and ever more ways are considered legitimate options. This indeed is the crucial point: It is not only the rise and increase of “deviations” that marks our situation today. Even more important is that formerly “deviant” ways have become one of the many varieties of the normal, and are being increasingly socially accepted.

These changes in social climate and social practice have also made their way into legislation. In former decades the law defined a catalogue of rules, oriented to the standard family model described above. Inherently based on the supposed differences between male and female nature, the law emphasized and reinforced the roles of man as master and head of the family, and woman his loyal help-mate serving the family needs. Contrary, the closer we come to the present such norms are increasingly disputed, and in many respects cease to be effective. In their place new rules are introduced, and their very aim is to acknowledge a greater variety of family forms and ways of life. This holds especially true in respect to gender relations within marriage: Here in many countries the respective paragraphs have been reformed thoroughly. Take German law as an example:

Who Needs Marriage? A Changing Institution, TIME MAG., Nov. 18, 2010, available at <http://www.time.com/time/magazine/article/0,9171,2032116,00.html>.

7 Young-Hee Shim & Sang-Jin Han, “Family-Oriented Individualization” and Second Modernity: An Analysis of Transnational Marriages in Korea, 61 *SOZIALE WELT* 237 (2010) (Ger.).

8 I CHINA: THE RISE OF THE INDIVIDUAL IN MODERN CHINESE SOCIETY (Mette Halskov Hansen & Rune Svarverud eds., 2010).

9 OCHIAI EMIKO, *THE JAPANESE FAMILY SYSTEM IN TRANSITION: A SOCIOLOGICAL ANALYSIS OF FAMILY CHANGE IN POSTWAR JAPAN* (1997).

10 BRIGITTE BERGER & PETER L. BERGER, *THE WAR OVER THE FAMILY: CAPTURING THE MIDDLE GROUND* (1983).

	Original version of the Civil Code, in force since 1900	Marital Law Reform Act of 1976, in force since 1977
§ 1354	The husband is entitled to decide on all matters concerning marital life; in particular, he decides residence and place of residence.	Revoked.
§ 1355	The wife takes on the husband's name.	The spouses can choose either the birth name of the husband or the birth name of the wife as family name.
§ 1356	The wife is entitled and obliged to run the family household.	The spouses decide by mutual agreement how the family household is managed.

Furthermore, in Germany as in other Western countries, many policy initiatives which follow a similar line have taken place: Whereas before the law had been designed to protect the family and its stability, now increasingly the individual and his or her rights, needs, etc. come into focus and gain a place in legal considerations. Whereas before, lifestyles centering on the individual and individual wishes were considered improper or even illegitimate, ostracized and even punished by the law, such lifestyles now have gained in rights and recognition. To give but a few examples: easier access to divorce; more rights and protections for children born outside of marriage; more rights and protections for cohabiting couples; and growing recognition of homosexual relationships. Increasingly, legislators today refrain from prescribing a particular form of family life. Instead, in many countries a variety of lifestyles and practices are being recognized and acknowledged by political and social institutions.

III. THE WAR OVER THE FAMILY

Described in this way, the change from “the family” to “families” is a simple and linear process, a straightforward march to “progress.” But not so. When we look into the details of the change in law and social policy, we find it far from being unilateral and coherent. This change has involved long, highly emotional and highly controversial debates.¹¹ It was welcomed by some,

11 Michele Adams, *Women's Rights and Wedding Bells: 19th Century Pro-Family Rhetoric and (Re)Enforcement of the Gender Status Quo*, 28 J. FAM. ISSUES 501 (2007).

resented by others. It provoked many battles, with new fights erupting time and again.¹²

States typically seek to secure family functioning, reproduction, and care provision. Family law and social policy (such as financial subsidies, the provision of institutional care such as kindergartens) are major means of such intervention. As different groups and parties often tend to differing views on how to protect families best, decision-making in this field has probably never been an easy task. Whereas in the past policymakers quite often could refer to a commonly accepted model of family life (the standard or normal family described above), now that the standard model of family has lost its monopoly position, and in many areas is being contested, the tasks for family law and social policy become much more complex and controversial. In the words of Mary Daly and Kirsten Scheiwe, “[w]hile there is general acceptance that the male breadwinner model is the past that welfare states are moving away from, there is no agreement about the emerging model of family and gender relations that is taking its place.”¹³

For instance when it comes to divorce and its consequences, two principles compete with one another, one stressing the family (or ex-family) as common bond, and one stressing individual responsibility. In a nutshell: Should women who became mothers-and-housewives receive alimony from their ex-husbands, thus making up for the financial opportunities they missed out on while caring for the needs of their families? Should the former bond and the gendered division of labor thus be recognized and create long-lasting obligations? Or should these women receive little or no alimony, thus creating strong incentives, or even pressures, for them to return to the labor market, find a job and become financially independent? In other words, should the past be left to the past and the notion of individual responsibility take precedence when the couple is a couple no more?

Now that we have moved from “the family” to “families,” the question is: Which of these diverse models, if any, should the state support, protect, or even subsidize? We may agree that the law should not be based on the standard family model, and that other forms of family life should be recognized and accepted. But does this imply that all lifestyles should be respected and accepted, for instance single motherhood, lesbian couples — or polygamy, sex with minors, or arranged marriages for girls aged fourteen? And if this is not to be the scenario for our future, where do we draw the line?

12 BERGER & BERGER, *supra* note 10.

13 Mary Daly & Kirsten Scheiwe, *Individualisation and Personal Obligations — Social Policy, Family Policy, and Laws Reform in Germany and the UK*, 24 INT’L J.L. POL’Y & FAM. 177, 178 (2010).

Even if we have mastered this task, and have somehow hit on an agreement on where to draw the line, immediately we are confronted with another question: Does acceptance of diverse lifestyles require us to do away with all forms of negative sanctions? Or does it imply a further step — that different lifestyles should be given *equal* recognition and acceptance? For instance, what should the state do in respect of gay and lesbian people? In the old days, the answer was simple: Homosexuality was against the laws of God and nature, a vice, a criminal act, and to be punished accordingly. Meanwhile, homosexuality has become a way of life, and should be recognized as such. Does this mean merely an end to negative sanctions; or does it imply positive acceptance; and if so, how much positive acceptance? Should gay and lesbian couples be granted more rights than before (such as inheritance rights), but not on an equal footing with heterosexual couples; or should they have the same rights and no less (such as the right to marry and to adopt)?

Another example is single motherhood. In the past, women who had a child outside marriage were considered to be morally deficient, and were in due course stigmatized and banned from decent society. Today, single motherhood has become a choice, a kind of lifestyle. In increasing numbers, women who haven't found their Mr. Right (or who don't wish for such a man) do not see this as reason to forgo the pleasures of motherhood. In this situation, some take action and use the services of fertility clinics and sperm donors (or maybe try their luck with a "one-night stand"). Again, this trend invites a reassessment of the directions of family law and social policy. Should the state simply accept these women's choice, refrain from any interference and let single mothers go their way? Or otherwise, should the state grant them special subsidies (such as tax breaks, priority ranking on waiting lists for publicly funded housing, etc.) to make up for the financial and social hardships of single motherhood; maybe even cover fertility treatments for single women so that they, too, may experience the joy of becoming mothers? Or quite to the contrary, should the state refrain from any kind of positive discrimination, on the grounds that such a lifestyle is not in the best interests of the child, and should therefore not be encouraged?

Of course, democracies have their established ways of tackling such questions. Yet we have good reason to assume that with the ongoing process of individualization, and the standard family model losing its normative power, we can expect such questions to multiply and provide the material for more controversies to come. Moreover, as many European countries experience

massive immigration from non-Western countries today, and are becoming increasingly heterogeneous, such controversies will gain further momentum.¹⁴

IV. THE IMPACT OF GLOBALIZATION

Ours is the age of migration and globalization.¹⁵ More than ever before in human history, men and women are leaving the place and country where they were born and going to distant destinations and countries. They do so for a variety of reasons: for education or love, for leisure or labor, because of poverty and unemployment at home, ethnic cleansing and persecution, or civil war and political unrest. But whatever the reasons, the effect is that the relation between people and the nation-state changes. Since the rise of the nation-state, for most people the rule once was simple: Each person had a predestined place in the world; he or she was born into a particular nation, hence held its nationality, once and for all. By contrast, some people now hold different passports; some give up their former nationality and become naturalized citizens of a new country; and in increasing numbers, people live transnational lives. That is, they do not leave one country for good and stay put in the new country; rather, their way of life is characterized by a regular toing and froing between the country of origin and the receiving country.¹⁶

Many studies have analyzed how globalization has brought major transformations in the economy. And gradually, social scientists have begun to realize that globalization has also far-reaching consequences for our personal lives. Whether from urban regions or remote villages, people from all over the world travel to foreign countries, meet people from other nations, cope with cultural differences, eat strange food, buy foreign products and confront different systems of law and regulations. The consequences are being felt in many areas, not least in the field of law.

Within a few decades, the big business companies have learned their lesson on how to make good use of globalization, for instance by outsourcing production to places where labor is cheap, or transferring their money to

14 See ULRICH BECK & ELISABETH BECK-GERNSHEIM, *FERNLIEBE — LEBENSFORMEN IM GLOBALEN ZEITALTER* [LIFE FORMS IN A GLOBAL AGE] (2011) (Ger.) (the English edition will be published in 2012).

15 STEPHEN CASTLES & MARK J. MILLER, *THE AGE OF MIGRATION: INTERNATIONAL POPULATION MOVEMENTS IN THE MODERN WORLD* (1st ed. 1993).

16 *MIGRATION, DIASPORAS AND TRANSNATIONALISM* (Steven Vertovec & Robin Cohen eds., 1999); Nina Glick-Schiller, Linda Basch & Cristina Blanc-Szanton, *Transnationalism: A New Analytic Framework for Understanding Migration*, 645 *ANNALS N.Y. ACAD. SCI.* 1 (1992).

countries with investor-friendly tax rates. Briefed by international experts and legal advisors on the legal requirements, rules and loopholes of places abroad, managers have become skilled in devising strategic company movements between various countries and their respective legal systems.

In recent years, private individuals have begun to follow suit, in pursuit of happiness or for other motives. When meeting obstacles in their personal lives, they look for better options elsewhere. They opt for the way out, the exit strategy. And indeed, by going abroad they can often find more favorable conditions and better their prospects, in respect of legal regulations or financial costs, medical treatment and personal services. Three examples — marriage tourism, divorce shopping and fertility tourism — will be surveyed very briefly.

A. Marriage Tourism¹⁷

In recent decades, the number of binational couples has risen considerably. Yet quite often, these men and women have to cope with barriers, legal and otherwise. In Germany, mixed couples (one partner German, the other from some more or less distant country) often have a hard time when it comes to marriage because registry offices require them to produce volumes of documents, official papers, legal certificates, etc. Exhausted and desperate, some couples decide to bypass the paperwork and go to nearby Denmark, a place with few bureaucratic requirements. While staying there for a few days they can get married, and then return to Germany. In Israel, a similar practice has been emerging among Jews marrying non-Jews. As the Israeli law does not enable this kind of mixed marriage, such couples often fly to nearby Cyprus, obtain a marriage certificate there, and return to Israel after a few days.

B. Divorce Shopping¹⁸

Ever more frequently, couples hold different nationalities, or one or both partners hold several nationalities, or have places of residence in two or even

17 See BECK & BECK-GERNSHEIM, *supra* note 14.

18 DAVID HODSON & ANN THOMAS, WHEN CUPID'S ARROW CROSSES NATIONAL BOUNDARIES: A GUIDE FOR INTERNATIONAL FAMILIES 11-20 (2009); Jane Croft & Michael Peel, *Divorce Capital*, FINANCIAL TIMES MAGAZINE (Nov. 5, 2010, 7:43 PM), <http://www.ft.com/cms/s/2/2b2c18a0-e7a9-11df-8ade-00144feab49a.html#axzz1KNFYeQ2f>.

more countries.¹⁹ In these cases, when the marriage comes to an end and the legal battle over divorce starts, it often starts with the question: which national law to apply. Should the divorce proceedings follow the husband's nationality and respective national law (or if he holds several, which of these); or should they follow the wife's nationality and respective national law (or if she holds several, which of these); or should they follow the national law of the place and country where the couple actually lives (and if they live in several countries, which country should be given priority)?

These are by no means minor questions. As laws concerning alimony and the attribution of wealth differ considerably from one country to another, for the well-to-do, and even more so for the rich, literally millions might be at stake: money, houses and other resources that will either be the exclusive property of one partner, or be divided between both. For middle-class divorcees, the impact may be even greater, even if the sums discussed are much lower. Here the consequences, immediate as well as long-term, might be severe, implying harsh cuts in daily budget, standard of living and pension rights.

For this reason, divorce shopping has become a widespread practice, with one separating spouse rushing to court before the other to exploit advantageous laws in a particular country. For instance, when it comes to dividing up the assets of a marriage, the English regime has become uniquely favorable to the economically weaker partner — usually the wife. The result has been a steady procession of U.K. cases where women have walked away with large financial settlements; also some unseemly races between divorce lawyers to complete paperwork, with husbands trying to file in other countries before their wives can launch cases in England; and wives who have received a paltry settlement after divorcing abroad coming back to the English courts for a better deal. As a result, the pre-divorce battle over which country and national law should take precedence can soon turn into a bitter, nasty, and time-consuming affair.

C. Fertility Tourism²⁰

In recent decades, the combination of medicine, biology and genetics has resulted in various reproductive technologies, from in-vitro-fertilization

19 To give some notion of the numbers involved here: According to data published by the European parliament, each year more than 350,000 cross-border marriages and 170,000 cross-border divorces are registered in the EU. Agence France-Press, *Scheidungen erleichtert [Divorce Made Easier]*, SÜDDEUTSCHE ZEITUNG, June 10, 2010.

20 BECK & BECK-GERNSHEIM, *supra* note 14.

to pre-implementation diagnosis. Through assisted reproduction, infertile couples have some chance of becoming parents. Moreover, men and women in non-standard relationships, or in no relationship, may become parents, from singles to gay or lesbian couples.

Yet again, obstacles. Many states have regulations in respect of reproductive technologies, defining who may or may not use what kind of technology to what purpose. For instance, in Germany in-vitro-fertilization is not open to gay and lesbian couples, and pre-implementation diagnosis is generally prohibited. But in increasing numbers, in Germany and elsewhere, men and women see it as their personal right to have a child of their own. With the process of individualization described above, men and women feel entitled to their personal choices, and do not accept the restrictions posed by the law as legitimate. In growing numbers, they go elsewhere: to countries where there are more options available and/or prices of treatment are considerably lower. For example, Norwegian men rent surrogate mothers in India because surrogacy, while illegal in Norway, is legal in India; for the same reason, women from Germany go to Russia to have egg cells from Russian donors implanted; and Austrian couples who want sex selection go to the United States. In sum, international fertility tourism is rapidly expanding, with people from countries with relatively strict legal regulations travelling to countries with less restrictive regulations, or no regulations at all, leaving home as intended parents and hoping to return with a baby or a pregnancy on the way.

As can be seen from these examples, globalization adds another dimension and further dynamics to the complex relationship of individual, family and state. Of course, states make efforts to stop this kind of tourism, this “law shopping” aimed at bypassing legal regulations. For instance, in order to stop divorce tourism, some EU countries have recently reached an agreement on common rules concerning divorce proceedings of binational couples.²¹ Or in order to stop fertility tourism, and to enforce the ban on surrogacy, German authorities have refused to issue travel documents allowing babies to be brought out of India and into Germany — babies born in India by Indian surrogates, yet the biological offspring of German men or women.²² It remains

21 Stephen Castle, *EU Plans Legal Reform to End ‘Divorce Shopping,’* THE INDEPENDENT, July 19, 2006, <http://www.independent.co.uk/news/world/europe/eu-plans-legal-reforms-to-end-divorce-shopping-408496.html>; Martin Winter, *Scheidungen erleichtert — 14 EU-Länder einigen sich auf gemeinsame Regeln* [Divorce Made Easier — Fourteen EU-Countries Agree on Common Rules], SÜDDEUTSCHE ZEITUNG, Nov. 4, 2010.

22 *Deutsche Familie kämpft um Zwillinge aus Leihmuttertschaft* [German Family Fights to Have Twins Born by Surrogate], SPIEGEL ONLINE (Mar. 3, 2010), <http://www.spiegel.de/panorama/0,1518,681418,00.html>.

to be seen, however, how effective such efforts will be in times of cheap and easily available means of transnational communication and transportation. As American sociologist Caroline H. Bledsoe writes, “creating policies inevitably creates the potential for actions that contravene these policies”²³ A paradoxical yet predictable consequence is a new spiral of new regulatory clauses. The more the old barriers set by religion, tradition, legislation, and biology lose strength, and the more choice there is in personal lifestyles, the more the need for more regulation spreads.

V. CONCLUSION: LOOKING TO THE FUTURE?

In a previous book, Ulrich Beck and I have argued that with individualization comes a variety of lifestyles and relationships, some experimental, some stable, a constellation we have named “The normal chaos of love.”²⁴ Following this line, other authors have suggested that the growing diversity in respect of love, relationships, and families makes it necessary to reassess the respective rights and obligations of family members. Quite often, the result is a transformation of law and social policy that is complex and ongoing, and sometimes uneven and inconsistent. While in some respects the law moves ahead, in others it lags behind, a situation that gives rise to numerous contradictions in the architecture of law.

Take, for instance, legal regulations in respect of cohabitation. After a thorough analysis, Anne Barlow concludes that British law in this field is “schizophrenic”: “In some situations it regards heterosexual cohabitants as if they were married, in others it regards them as a family form inferior to marriage, and in yet others it chooses to ignore the cohabitation relationship altogether, treating partners as strangers.”²⁵ Similarly, in respect of divorce shopping it is being said that the U.K. divorce law is in a state of “deepening muddle” when it deals with rich individuals, that “the law of marital agreements is in a mess,” and that marital law needs wholesale reform.²⁶ So it may well be that the normal chaos of love all too often produces a corresponding state of law, or as John Dewar has put it, a “normal chaos of

23 Caroline H. Bledsoe, *Reproduction at the Margins: Migration and Legitimacy in the New Europe*, 3 DEMOGRAPHIC RES. SPEC. COLLECTION 87, 97 (2004), available at <http://www.demographic-research.org/special/3/4/s3-4.pdf>.

24 ULRICH BECK & ELISABETH BECK-GERNSHEIM, *THE NORMAL CHAOS OF LOVE* (1995).

25 Anne Barlow, *Regulation of Cohabitation, Changing Family Policies and Social Attitudes: A Discussion of Britain Within Europe*, 26 LAW & POL’Y 57, 60 (2004).

26 Croft & Peel, *supra* note 18.

family law.”²⁷ We have good reason to assume that this constellation will be a characteristic of family law for quite some time to come, giving new material for controversial debates, and for contested rights and obligations in regard to families and personal lives. For the future, major tasks lie ahead: “We can expect a continuing revolution in family laws as the ways in which families are formed and maintained continue to evolve. We can also expect that both law and social science will be seriously challenged to keep up with the changes.”²⁸

27 John Dewar, *The Normal Chaos of Family Law*, 61 MOD. L. REV. 467 (1998).

28 Mary Ann Mason, Mark A. Fine & Sarah Carnochan, *Family Law in the New Millenium: For Whose Families?*, 22 J. FAM. ISSUES 859, 879 (2001).