

# New issue alert: Rabelsz 89(2005)

Issue 1/2025 of Rabelsz has just just been released. It contains the contributions to a family law symposium held at the Max Planck Institute in Hamburg in June 2024. All content is Open Access: CC BY 4.0 and more articles are available Online First.



**Anne Röthel**, Preface to this family law special, pp. 1-2, <https://doi.org/10.1628/rabelsz-2025-0003>

## **FAMILY LAW PARADIGMS - SYMPOSIUM, JUNE 2024**

**Anne Röthel**, Familienrechte unter den Bedingungen der Moderne - eine Erprobung, [Family Law Under the Conditions of Modernity - An Essay], pp. 3-34, <https://doi.org/10.1628/rabelsz-2024-0069>

*Since the turn of the twentieth century, many European legal concepts of marriage, divorce, parentage, and family have been fundamentally transformed. These shifts are spoken of in terms of relaxation, liberalization, pluralization, individualization, and emancipation, whereupon family law is often said to have been »modernized« or become »more modern«, premised on the everyday usage of »modern« to signify what is new or has changed. This article focuses instead on the concept of modernity as the quintessential identifier of particular legal ideals and particular assumptions about developments in the law as they have unfolded in the sociological theory of modernization. Based on examples, this article shows how family law in European jurisdictions can be described as*

*»modern« in this specific sense of the word, identifies the legal structures through which these modernizing instances have been accomplished, and points out ongoing tensions over the legal ideals of modernity. The result is a nuanced portrait of the modernity of family law in Europe and the various dynamics affecting it. Modernity is as much of a failure as it is a fait accompli. But modernity has fundamentally changed expectations, both about how the core notions of family law are to be justified as well as about law's legitimate function.*

**Johanna Croon-Gestefeld**, *Is There Such a Thing as Transnational Family Law?*, pp. 35-58, <https://doi.org/10.1628/rabelsz-2025-0007>

*Analysis of transnational law embraces the idea that thinking about the law almost exclusively in national terms is inadequate. Transnational legal analysis further rests on the concept of legal pluralism. Family law has received little attention in the field of transnational law so far. But the existence of transnational and migrant families is plain. Moreover, family law pertains to events that take place in a pluralist environment. Does it therefore make sense to look at family law from the transnational point of view? This article explores this question in detail. It sets forth that the transnational perspective assists in depicting the operation of family law in a globalized world, including by encompassing the phenomenon of non-state actors being heavily involved in the creation, application and enforcement of family law.*

**Anatol Dutta**, *Familie und Personenstand: Die zunehmende Bedeutung des Personenstandswesens*, [Family and Personal Status: The Increasing Importance of Civil Status Registration], pp. 59-82, <https://doi.org/10.1628/rabelsz-2025-0005>

*This article focuses on the civil status registration system, an area of public administration whose central task is to record as completely as possible important life events of citizens - birth, marriage, the establishment of a registered partnership, and death. In many jurisdictions, the civil registrars thereby engage in public enforcement of otherwise private family status laws.*

*The registry offices not only record the facts relevant for civil status but also certify parentage, marriage and partnership, name and gender as legal status relationships based on family law and the law of natural persons. This paper aims to show that certain recent developments have increased the importance of civil status registration, but so far the consequences of this increase have not always been sufficiently recognized, neither in legal policy nor in legal academia.*

## **MORE ESSAYS**

**Katharina Kaesling**, Kindliche Autonomie und elterliche Sorge im (digitalen) Binnenmarkt, [Children's Autonomy and Parental Rights of Care in the (Digital) Single Market], pp. 83-131, <https://doi.org/10.1628/rabelsz-2025-0006>

*Children are increasingly important actors in the (digital) single market. The realization of their (digital) autonomy has to be reconciled with their protection. The developing capacities of minors, to which the legal systems of the Member States and the European regulatory approaches refer in different ways, are crucial in this respect. The rules of the Member States determine how children can shape their external relations autonomously and how their opinions are taken into account within the family. Starting with the General Data Protection Regulation and continued by new EU digital legislation, such as the Digital Services Act, new, largely indirect regulatory approaches have emerged, based on the obligations of other private actors, such as data controllers and online platforms. Against this background, the article comparatively analyses context-specific regulations and their application in the analogue and digital spheres. The legal fragmentation resulting from the differences in regulation jeopardizes not only the internal market, but also the steering function of state law and thus the guarantee of children's autonomy in the EU - especially in the data and platform economy.*

**Iryna Dikovska**, Removal and Retention of Children in Times of War: The Hague Child Abduction Convention and the Case of Ukraine, pp. 83-131,

<https://doi.org/10.1628/rabelsz-2025-0009>

*It seems fair that a parent who has custody of a child who is removed or retained abroad without the parent's consent should be able to have the child returned. However, what if this entails return to a country at war? What if the child has settled down in a new country to such an extent that returning to the country from which he or she was once removed would be highly traumatic? What should happen when the child objects to his or her return? To which state can a child be returned? Does the parental right of return depend on the legislative provisions regarding border crossings and whether they stipulate that a child may be taken out of the country without the parent's consent? These and other questions are analysed under the lens of the 1980 Hague Convention on the Abduction of Children, considering in particular the specific example of Ukrainian children who, after the beginning of Russia's full-scale invasion of Ukraine, were taken to the territory of states that are party to the Convention.*

## **BOOK REVIEWS**

This issue also contains several reviews of literature, this time with a special focus on family law (pp. 165–192).