

# Ethnic Minorities, their Families and the Law

Edited by  
JOHN MURPHY



• H A R T •  
PUBLISHING

OXFORD - PORTLAND OREGON  
2000

# Contents

Contributors	xiii
Table of Cases	xv
Table of Legislation	xix

## Part I Children

1	Images of Child Welfare in Child Abduction Appeals <i>Michael Freeman</i>	1
	Introduction	1
	Assessing a Risk	5
	An Objecting Child	7
	Non-Convention Cases	9
	Looking at Other Systems—A Value Framework	11
	Conclusion	14
2	Local Authority Support for Ethnic Minority Children <i>Martin L. Parry</i>	15
	Introduction	15
	Provision of Services	18
	Children Looked After by Local Authorities	24
	Placement	26
	Leaving Local Authority Accommodation	28
	Conclusion	30
3	Child Welfare in Transracial Adoptions: Colour-blind Children and Colour-blind Law <i>John Murphy</i>	33
	Introduction	33
	Two Urban Myths	35
	Transracial Adoptions are Harmful?	35
	Transracial Adoptions Damage Minority Community Interests	38
	Legal Improprieties of Race-matching	40
	Race-matching as Racial Discrimination	40
	The Centrality of Child Welfare	42
	Reform Measures	44
	Practical Measures	44
	Legal Steps	46
	Conclusions	48

**Part II International Issues**

4	Recognition of Foreign Divorces: Unwarrantable Ethnocentrism <i>Abla Mayss</i>	51
	Introduction	51
	Historical Overview	52
	The Scheme of the Current Law	54
	Divorces Obtained within the British Isles	54
	Overseas Divorces	55
	Conclusions	68
5	The Discretionary Refusal of Recognition of Foreign Marriages <i>John Murphy</i>	71
	Introduction	71
	Public Policy and Cultural Imperialism	74
	Cultural Values: Reasons and Non-reasons	77
	Cultural Values in the Non-recognition of Child Marriages	80
	Conclusion	85
6	Indigenous Children in Australian Law <i>John Dewar</i>	87
	Introduction	87
	Self-determination and Multiculturalism Defined	89
	Child Protection and Child Placement: Towards “Self-determination”?	92
	The “Stolen Generation”	92
	The Aboriginal Child Placement Principle (ACPP)	92
	Towards Greater Self-determination?	96
	Family Law: Towards “Multiculturalism”?	98
	Family Structures and Family Values	99
	Re CP: The Tiwi Island Case	102
	Recuperating the “Best Interests” Principle?	105
	Conclusion	108
7	Rhetoric and Reality in Inter-country Adoptions: Divergent Principles and Stratified Status <i>John Murphy</i>	111
	Introduction	111
	The Welfare of the Child in Inter-country Adoptions	113
	Convention Adoptions	113
	Other Adoptions	115

Safeguards (?) Against Wrongful Adoption	118
The Recognition of Inter-county Adoptions	121
Conclusion	124

### Part III Miscellaneous Issues

8	Double Jeopardy: Race and Domestic Violence	
	<i>Ada Kewley</i>	129
	Introduction	129
	Women Trapped in Violent Relationships	130
	Domestic Violence and Contact Orders	131
	Race and the Legal System	133
	Institutions and Procedures	135
	Race, Gender and Criminal Law	137
	Problems in Policing Domestic Violence	139
	Introduction	139
	Particular Problems of Policing and Race	140
	Domestic Violence and Immigration	141
	Conclusion	142
9	State Support for Housing Ethnic Minority Households: Spatial Segregation and Ghettoisation?	143
	<i>David Cowan</i>	
	Introduction	143
	Spatial Segregation and Ghettoisation	145
	The 1991 Census: General	145
	The 1991 Census: Ghettoisation	147
	The 1991 Census: Spatial Segregation	147
	State Support: The Effects of Colour Blindness	149
	Home Ownership	150
	Council Housing	152
	Housing Associations	153
	Private Renting	154
	The Politics of Segregation	155
	Conclusion	159
10	Healthcare Law for a Multi-faith Society	
	<i>Jonathan Montgomery</i>	161
	Introduction	161
	Three Principles	162
	Autonomy	162
	Best Interests	163
	Sanctity of Life	166

xii *Contents*

Religious Dimensions to Assessing Competence	168
Categorical Imperatives in the Structure of Welfare	
Decision Making	172
Conclusions	177
Index	181