

Abstracts, Bios, and Contact Information (ABCs) for

**Colloquium on the Indissolubility of Parenthood
205 JRCB, Brigham Young University Law School
29 September 2011**

Abstracts

Mediation: Indispensable for the Indissoluble Parenting Relationship

Carolynn Clark Camp

Brigham Young University, J. Reuben Clark Law School

In his book, “Family Law and the Indissolubility of Parenthood,” Patrick Parkinson notes the evolving tension between the former idea that divorce could be a clean break, bringing an end to both the marriage and the parental relationship, and the growing recognition of the indissoluble nature of parenthood. Parkinson’s research, underscoring this new view of the post-divorce parenting relationship, uncovers the need, not just for new legislation, but for new conflict resolution practices. In the United States, mediation has stepped in to fill this need, which development should be both applauded and approached with some caution. In one sense, the much lauded benefits of mediation naturally lend themselves to fostering parenting relationships in a post-“clean break” world. Mediation is ideally less adversarial and allows for more creative solutions, thus allowing parents who intend to continue their parenting relationship to develop customized parenting plans and learn new and less contentious ways of communicating. On the other hand, for mediation to realize its ideals, careful attention must be paid to the particular behaviors and skills employed by the mediator. Specifically, mediators (and the lawyers who hire them) should be careful about employing “evaluative” mediation techniques, when a “facilitative” approach is more likely to help parents survive their dispute with a functioning and hopefully amicable relationship. In addition, Parkinson’s suggestions regarding more cohesive legislation that recognizes the indissolubility of parenthood will have a direct effect on parties mediating their disputes in the shadow of the courthouse. With new legislation and appropriate conflict resolution techniques, parties will be more likely to recognize their responsibilities and be able to transform their relationship as they move forward as co-parents.

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At the Crossroads of Divorce: Is Reconciliation a Realistic Public Policy Pursuit?

Professor Alan J. Hawkins

Brigham Young University, School of Family Law,

Abstract: Professor Hawkins will review the research that suggests that many divorces are unnecessary and reconciliation is a realistic possibility. In addition, he will review public policy possibilities for helping distressed couples repair their relationships rather than divorce.

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**The Indissolubility of Non-custodial Parenthood:
Making it more than “a legal concession to the loser”ⁱ**

Cynthia R. Mabry
Howard University School of Law

This presentation will cover laws that protect non-custodial parents' right to maintain access and ties with their children and the children's right to continuation of that relationship after divorce. In addition, social and psychological support will be offered to demonstrate that, except when the children are adopted by stepparents, while a clean break between the parents may help the parents to make a fresh start, such a break with children generally is not in the children's best interests. Consequently, suggestions for reform to maintain and buttress the indissolubility of access are provided.

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When Parenthood is Dissoluble

Patrick Parkinson
University of Sydney (Australia), Faculty of Law

This paper will look at how we deal with issues of violence, abuse and other such issues in a context where we rightly emphasize the importance of a child's relationship with both parents. It will be substantially reworked from a chapter in the book, *Family Law and the Indissolubility of Parenthood* (Cambridge University Press, 2011).

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Conflict Breeds Conflict: What About the Kids?

Susan D. Talley
Utah State University

This paper will focus on how conflict in the home affects the children and does not translate well into legislation and legal determinations of parenthood. The legislative response to domestic conflict is appropriate for the legal experts. This paper is intended to raise some of the critical underlying questions that policy makers must consider!

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**Dilemmas of Indissoluble Parenthood:
How Legal Incentives Impact Parenting and the Work-Family Balance**

Lynn D. Wardle
Brigham Young University, J. Reuben Clark Law School

Both scholar and policy makers now recognize that while spousal relations (marriages) can be easily dissolved – at least legally (even unilaterally, on demand of one spouse, over the objection of the other spouse) in the United States and many contemporary legal systems, parenthood, the relationship between children and the man and woman who procreated them or legally adopted them, is not easily dissoluble, either legally or practically. This paper will review Professor Parkinson's book which focuses on parenthood in the context of the break-up or non-formalization of the relationship between the the parents, primarily after divorce. The

constitutional status of parenthood in comparative constitutional law globally will be noted. Then the burdens and sacrifices that parenthood requires, and the practice of minimizing of parental commitments and responsibilities – the abandoning of children to their rights, as Professor Bruce Hafen once described it – will be considered. The way that law influences (to some extent) how parents parent, the incentives and disincentives the law creates to support or undermine parental commitments, will be examined. Many important interests conflict and compete for time and commitments of parents, and the law has to balance legal support for parenting and with other worthwhile personal, familial, and social interests.

Bios

Alan J. Hawkins is a professor of Family Life at Brigham University in Provo, Utah, USA. He earned a Ph.D. in Human Development and Family Studies at The Pennsylvania State University in 1990. Professor Hawkins' has taught and conducted research and outreach at Brigham Young University since 1990. He recently received the university's prestigious Karl G. Maeser Research Award. His scholarship and outreach focuses on educational and policy interventions to help couples form and sustain healthy marriages and relationships. He is widely cited for his work that examines the overall effectiveness of marriage and relationship education. In 2003-2004, he was a visiting scholar with the Office of Planning, Research, and Evaluation, Administration for Children and Families (U.S. Department of Health & Human Services), working on the federal healthy marriage initiative. He was the Research Director of the National Healthy Marriage Resource Center from 2004-2006. He was the Chair of the Utah Healthy Marriage Initiative from 2008-2010. He is a member of the Research Advisory Group of the Oklahoma Healthy Marriage Initiative and Texas Healthy Marriage Initiative, and the National Advisory Committee for the National Center for Families and Marriage Research at Bowling Green State University.

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Carolynn Clark Camp has been mediating since 2002 and is a Master Mediator and Domestic Mentor on the Utah Court Roster of Mediators. She received her formal training in mediation at the J. Reuben Clark Law School while completing her law degree. After completing a judicial clerkship with the Utah Supreme Court and working for several years as a litigator at the firm of Ray Quinney & Nebeker in Salt Lake City, Ms. Camp completed a Master of Laws in mediation at Pepperdine University's Straus Institute for Dispute Resolution. Ms. Camp currently teaches and oversees the basic mediation curriculum at the BYU Law School. In addition to her teaching activities, Ms. Camp conducts a mediation practice specializing in the areas of divorce and family mediation. In addition, Ms. Camp has mediated numerous types of disputes including: landlord-tenant, victim-offender, truancy, commercial disputes, employment issues, and small claims disputes. Ms. Camp sits on the Judicial Committee for Alternative Dispute Resolution, which reviews proposed legislation and weighs in on other issues affecting the use of mediation in the State of Utah. Ms. Camp is also listed on the professional roster at Utah Dispute Resolution in Salt Lake City and regularly volunteers her time there for low-income clients.

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Professor Cynthia R Mabry JD., 1983, Howard Univ.; LL.M., 1996, New York Univ.; Student Articles Editor-Howard Law Journal; judicial law clerk; law teacher since 1993- teaches Adoption Law, Family Law, Civil Procedure, and Pretrial Litigation at Howard University School of Law and serves as the Faculty Advisor for the Family Law Certificate Program which she created. She has taught at New York University, Washington and Lee University, West Virginia University and the University of the Western Cape (South Africa). Memberships: District of Columbia Bar Association; International Family Law Society; American Bar Association, (Adoption Section Committee); AALS-Secretary/Treasurer, Children and the Law Section; Honorary Member-American Academy of Adoption Attorneys.

Presentations/Scholarship: several presentations and law review articles in national and international venues on domestic and international family law with a specialty in children's rights, co-authored ADOPTION LAW: THEORY, POLICY AND PRACTICE (2d. ed. 2010). Practice: Associate -Crowell & Moring; Assistant General Counsel-Washington Metropolitan Area Transit Authority; Trial Attorney, Federal Railroad Administration. Professor Mabry has made presentations on domestic and international family law issues in several states in the United States. As a member of the International Family Law Society, she has spoken to international audiences in the Netherlands, China, Italy and France. Professor Mabry is lead co-author of Adoption Law: Theory, Policy and Practice, a legal textbook-one of W. S. Hein & Co.'s bestsellers for 2007. She is an Honorary Member of the American Academy of Adoption Attorneys. She has written several law review articles focusing on a variety of issues with an emphasis on children's rights.

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Professor Patrick Parkinson teaches at the University of Sydney in the Faculty of Law. He is the current President of the International Society of Family Law (an international scholarly organization with about 650 family law professor members from over 65 nations). Professor Parkinson also served from 2004-2007 as Chairperson of the Family Law Council, an advisory body to the Australian federal Attorney General, which recommended landmark family law legislation that was enacted to establish "family relationship centres" (now numbering 65) where a variety of services are available for families including (generally mandatory) pre-divorce mediation services. See <http://www.familyrelationships.gov.au/Pages/default.aspx> . He also chaired a review of the Child Support Scheme in 2004-05, which led to the introduction of major reforms to the Australian child support system in 2008. His most recent book is *Family Law and the Indissolubility of Parenthood* (Cambridge University Press, New York, 2011), which follows *The Voice of a Child in Family Law Disputes* (with Judy Cashmore, Oxford University Press, Oxford, 2008). He has lectured around the world at academic conference dealing with family law, religious liberty, and other topics.

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Professor Susan Talley is an Associate Professor in the Department of Family, Consumer and Human Development at Utah State University. She has taught courses about Child Development, Adolescent Development, Families and Social Policy, Families and Cultural Diversity, Adult Development and Aging, and Human Development, among others. Her field research has included the *Circles of Care* which evaluated the family needs of the Northern Ute Tribe concerning the quality of mental health care for Tribal Children, specifically children who are at risk or who are diagnosed with Severe Emotional Disturbance (SED), and developed a system of care that is culturally appropriate for tribal members. She also participated in *The Great Self-Mystery*, an intervention program for Adolescents that focuses on the child's strengths working with children at Vernal Middle School and at West Jr. High. She is the Director of the Utah Family Impact Seminars, part of the national Policy Institute for Family Impact Seminars. The purpose of these seminars is to highlight the need for a family perspective when making legislation that impacts families. The first seminar was held in January of 2011 during the Utah legislative session in Salt Lake City, Utah.

Lynn D. Wardle is the Bruce C. Hafen Professor of Law at the J. Reuben Clark Law School at Brigham Young University where he began teaching in 1978. His primary fields of teaching and writing are family law, comparative family law, conflict of laws, and U.S. constitutional history. Professor Wardle was President (2000-02) and Secretary-General (1994-2000) of the International Society of Family Law (ISFL), and serves on the ISFL Executive Council. He also is a member of the American Law Institute. Some recent publications include *The Judicial Imposition of Same-Sex Marriage: The Boundaries of Judicial Legitimacy and Legitimate Redefinition of Marriage*, 50 Washburn L.J. 79-107 (2010); *Section Three of the Defense of Marriage Act: Deciding, Democracy, and the Constitution*, 58 Drake L. Rev. 951-1103 (2010); *The "constitution" of Marriage and the "Constitution" of Nations*, 45 U. San Francisco L. Rev. 437-489 (2010); and *The Impacts on Education of Legalizing Same-Sex Marriage and Lessons from Abortion Jurisprudence*, 2011 B.Y.U. Ed. & L. J. 593-635.

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¹ LYNN HALEM, DIVORCE REFORM: CHANGING LEGAL AND SOCIAL PERSPECTIVES 213-14 (1980).