

Historical Perspectives on Family Law: An Annotated Bibliography

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This bibliography lists articles and books that provide historical perspectives on major aspects of family law. It focuses on legal history, but it includes some works that look at family relationships and issues through the broader lenses of social history, cultural history, or other historical approaches.

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Adoption

ADOPTION IN AMERICA: HISTORICAL PERSPECTIVES (E. Wayne Carp ed., 2004) (containing a collection of essays that provide an overview of the history of adoption in the United States, including several essays on adoption in the nineteenth century).

JULIE BEREBITSKY, LIKE OUR VERY OWN: ADOPTION AND THE CHANGING CULTURE OF MOTHERHOOD, 1851-1950 (2001) (considering the development of legal rules governing adoption in the century from the enactment of the first adoption laws in 1851 to the postwar “baby boom” era).

Naomi Cahn, *Perfect Substitutes or the Real Thing?*, 52 DUKE L.J. 1077 (2003) (tracing the historical development of adoption law in nineteenth century legal sources and discussing how this history provides a novel and useful way to examine the complicated relationships among traditional and alternative family forms).

E. WAYNE CARP, FAMILY MATTERS: SECRECY AND DISCLOSURE IN THE HISTORY OF ADOPTION (1998) (examining how the confidentiality surrounding adoption has inhibited the historical study of adoption).

Saba Deutschmann, Comment, *U.S. Intercountry Adoption Policy: A Brief History*, 36 J. AM. ACAD. MATRIM. LAW. 509 (2024) (looking at the history of international adoption and the international agreements concerning it).

ANN FESSLER, THE GIRLS WHO WENT AWAY: THE HIDDEN HISTORY OF WOMEN WHO SURRENDERED CHILDREN FOR ADOPTION IN THE DECADES BEFORE ROE V. WADE (2006) (providing oral history accounts about young single women who gave up children for adoption in the era between World War II and *Roe v. Wade*).

GABRIELLE GLASER, AMERICAN BABY: A MOTHER, A CHILD, AND THE SHADOW HISTORY OF ADOPTION (2001) (examining the history of adoption in America after World War II and claiming that adoption was a lucrative and exploitative industry founded on secrecy and lies).

LINDA GORDON, THE GREAT ARIZONA ORPHAN ABDUCTION (2001) (recounting a dramatic episode in which vigilantes kidnapped Irish orphans that had been brought to a remote Arizona mining camp, by Catholic nuns and priests, in order to be adopted by Mexican families).

Chris Guthrie & Joanna L. Grossman, *Adoption in the Progressive Era: Preserving, Creating, and Re-Creating Families*, 43 AM. J. LEGAL HIST. 235 (1999) (using court records and orphanage reports to examine the law and practice of adoption in the late nineteenth and early twentieth centuries in Alameda County, California).

ELLEN HERMAN, *KINSHIP BY DESIGN: A HISTORY OF ADOPTION IN THE MODERN UNITED STATES* (2008) (tracing the history of American adoption laws and practices since the early 1900s, from early efforts to regulate adoption through modern developments such as special needs, transracial, and international adoptions).

Ruth-Arlene W. Howe, *Adoption Practice, Issues, and Laws 1958-1983*, 17 FAM. L.Q. 173 (1983) (discussing the legal roots of adoption, from ancient times to the modern era, and describing the key developments and issues for adoption law in the 1950s through the 1980s).

KATHRYN JOYCE, *THE CHILD CATCHERS: RESCUE, TRAFFICKING, AND THE NEW GOSPEL OF ADOPTION* (2013) (criticizing the promotion of transnational adoption by evangelical Christian families and comparing it to abuses in the “Baby Scoop” era after World War II).

Yasuhide Kawashima, *Adoption in Early America*, 20 J. FAM. L. 677 (1981-1982) (looking at adoption practices prior to the era, in the mid nineteenth century, when American legislatures began to enact adoption statutes).

C.M.A. McCauliff, *The First English Adoption Law and Its American Precursors*, 15 SETON HALL L. REV. 656 (1986) (examining the first English adoption statute, enacted in 1826, and the early American adoption statutes of the 1850s).

BARBARA MELOSH, *STRANGERS AND KIN: THE AMERICAN WAY OF ADOPTION* (2002) (examining how the field of social work supported and influenced the development of adoption in twentieth century America).

David Ray Papke, *Pondering Past Purposes: A Critical History of American Adoption Law*, 102 W. VA. L. REV. 459 (1999) (reviewing the historical origins and evolution of the procedures and institutions of American adoption law).

Amanda C. Pustilnik, Note, *Private Ordering, Legal Ordering, and the Getting of Children: A Counterhistory of Adoption Law*, 20 YALE L. & POL'Y REV. 263 (2002) (arguing that while the standard history of adoption focuses on legislative enactments, the history of adoption is better understood as a non-statutory practice with deep roots in contract law).

Elizabeth J. Samuels, *The Idea of Adoption: An Inquiry into the History of Adult Adoptee Access to Birth Records*, 53 RUTGERS L. REV. 367 (2001) (examining the legal history concerning adoptees' access to birth records and using that history to analyze the complex relationship between legal rules and social attitudes about this issue).

Elizabeth J. Samuels, *Surrender and Subordination: Birth Mothers and Adoption Law Reform*, 20 MICH. J. GENDER & L. 33 (2013) (analyzing a collection of adoption surrender documents from the mid twentieth century, finding that birth mothers in that era did not seek and were not guaranteed lifelong anonymity, and concluding that efforts to block access to adoption records perpetuates a culture of shame and secrecy).

Burton Z. Sokoloff, *Antecedents of American Adoption*, FUTURE OF CHILD., Spring 1993, at 17 (discussing the historical development of adoption law, from the colonial era to the modern day).

RICKIE SOLINGER, WAKE UP LITTLE SUSIE: SINGLE PREGNANCY AND RACE BEFORE ROE V. WADE (1992) (examining the American adoption system from 1945 to 1965, with a focus on unequal treatment of women based on race).

KATARINA WEGAR, ADOPTION, IDENTITY, AND KINSHIP: THE DEBATE OVER SEALED BIRTH RECORDS (1997) (exploring the history of adoption, the debate over sealed adoption records, and the movement favoring access to information for those searching for their birth parents).

Child Custody and Child Support

Sarah Abramowicz, Note, *English Child Custody Law, 1660-1839: The Origins of Judicial Intervention in Paternal Custody*, 99 COLUM. L. REV. 1344 (1999) (arguing that the Tenures Abolition Act of

1660, which enabled fathers to appoint guardians for their children in their wills and was intended to strengthen and extend the power of fathers to control their families even after their deaths, wound up undermining paternal rights by creating a tradition of judicial intervention in child custody matters).

Paul J. Buser, *Habeas Corpus Litigation in Child Custody Matters: An Historical Mine Field*, 11 J. AM. ACAD. MATRIM. LAW. 1 (1993) (tracing the historical development of the right to habeas corpus in English common law, its adoption by American judges and legislators, and the use of habeas corpus in litigation about child custody, visitation, adoption, foster care, and parental termination disputes).

Irwin Garfinkel, *The Child-Support Revolution*, AM. ECON. REV., May 1994, at 81 (describing the weaknesses of the traditional approach to child support obligations, relying primarily on efforts at the state and local government level, and the emergency of a federal child support assurance system).

Drew D. Hansen, Note, *The American Invention of Child Support: Dependency and Punishment in Early American Child Support Law*, 108 YALE L.J. 1123 (1999) (discussing how courts in the nineteenth century invented the concept of legally enforceable child support obligations and how the twin discourses of dependency and punishment came to dominate modern understandings and legal regimes concerning child support).

Leslie Joan Harris, *Child Support for Post-Secondary Education: Empirical and Historical Perspectives*, 29 J. AM. ACAD. MATRIM. LAW. 299 (2017) (examining the legal history of child support enforcement since the nineteenth century, describing the evolving social understandings and expectations about parental support for higher education for children, and arguing that courts should have the authority to order divorced or separated parents to pay support for their children's post-secondary education).

Elizabeth D. Katz, *Criminal Law in a Civil Guise: The Evolution of Family Courts and Support Laws*, 86 U. CHI. L. REV. 1241 (2019) (discussing the history of child support laws and arguing that child support enforcement was generally a criminal law matter until legislatures in the 1930s began strategically recharacterizing family courts and child support enforcement as civil matters).

MARY ANN MASON, *FROM FATHER'S PROPERTY TO CHILDREN'S RIGHTS: THE HISTORY OF CHILD CUSTODY IN THE UNITED STATES* (1994) (examining the history of American child custody law since the colonial era).

Mary Ann Mason, *The Roller Coaster of Child Custody Law over the Last Half Century*, 24 J. AM. ACAD. MATRIM. LAW. 451 (2012) (tracing the history of child custody rules and how the development of these rules reflects the evolving realities and perceptions of American histories).

Corinne Schiff, Student Research, *Child Custody and the Ideal of Motherhood in Late Nineteenth Century New York*, 4 GEO. J. ON FIGHTING POVERTY 403 (1997) (discussing how the emergence of ideals of motherhood and childhood advanced women's legal rights with respect to child custody but also worked against women in child neglect proceedings).

Donna Schuele, *Origins and Development of the Law of Parental Child Support*, 27 J. FAM. L. 807 (1988-1989) (examining the formative years of the modern law of child support and how courts and legislatures sought to protect the financial integrity and independence of fathers but prevent impoverished children from becoming drains on public resources).

Danaya C. Wright, *De Manneville v. De Manneville: Rethinking the Birth of Custody Law Under Patriarchy*, 17 LAW & HIST. REV. 247 (1999) (presenting a history of child custody law in England in the eighteenth and early nineteenth centuries, with a focus on an 1804 case which affirmed that fathers were entitled to full and exclusive custody of children).

Child Protection

Lela B. Costin, *Unraveling the Mary Ellen Legend: Origins of the "Cruelty" Movement*, 65 SOC. SERVS. REV. 203 (1991) (discussing the mythical and simplistic conviction that a single case of child abuse in the late nineteenth century led to a spontaneous, global movement to protect children).

Edward Ross Dickinson, *Welfare, Democracy, and Fascism: The Political Crises in German Child Welfare, 1922-1933*, GERMAN

STUD. REV., Feb. 1999, at 43 (examining the complex ideological and organizational conflicts in German child welfare policy in the Weimer Republic era and how they contributed to the conditions that made Naziism an attractive alternative to the existing institutional arrangements).

Martin Guggenheim, *The History and Influence of the National Association of Counsel for Children – An Alternate Perspective*, 39 CHILD. LEGAL RTS. J. 12 (2019) (examining the history of the child welfare field and the advocacy work of the National Association of Counsel for Children).

John E.B. Myers, *A Short History of Child Protection in America*, 42 FAM. L.Q. 449 (2008) (discussing the evolution of child protection efforts in America, including the transition from nongovernmental child protection societies to government-sponsored child protective services).

DOROTHY ROBERTS, *SHATTERED BONDS: THE COLOR OF CHILD WELFARE* (2001) (arguing that the child welfare system has systematically and disproportionately harmed black families and children).

Patricia A. Schene, *Past, Present, and Future Roles of Child Protective Services*, FUTURE OF CHILD., Spring 1998, at 23 (looking at the historical origins and development of child protective services and arguing that this history reveals the unresolved tension between the aim of rescuing children from abusive homes and strengthening the care that children receive within their families).

David S. Tanenhaus, *Growing Up Dependent: Family Preservation in Early Twentieth-Century Chicago*, 19 LAW & HIST. REV. 547 (2001) (describing the dual track system, with an institution-based track and a home-based track, that shaped the experiences of children growing up dependent in early twentieth century Chicago).

Patricia Turner Hogan & Sau-Fong Siu, *Minority Children and the Child Welfare System: An Historical Perspective*, 33 SOC. WORK 493 (1988) (tracing the historical treatment of minority children in the child welfare system).

Sallie A. Watkins, *The Mary Ellen Myth: Correcting Child Welfare History*, 6 SOCIAL WORK 500 (1990) (debunking a historical myth, widely perpetuated in social work literature, about how a child

abused by a foster parent in the nineteenth century could be protected only if treated as a member of the animal kingdom and brought within the reach of animal cruelty laws).

Divorce

Norma Basch, *The Emerging Legal History of Women in the United States: Property, Divorce, and the Constitution*, SIGNS, Autumn 1986, at 97 (assessing the development of the field of women's legal history and discussing the need for further exploration of changes in women's relationships to family and state).

NORMA BASCH, FRAMING AMERICAN DIVORCE: FROM THE REVOLUTIONARY GENERATION TO THE VICTORIANS (1999) (examining divorce in America from 1770 to 1870 from multiple perspectives, including analysis of the legal and legislative aspects, accounts of individual cases and experiences, and the imagery of divorce through fictional and non-fictional narratives in popular culture).

Naomi Cahn, *Faithless Wives and Lazy Husbands: Gender Norms in Nineteenth-Century Divorce Law*, 2002 U. ILL. L. REV. 651 (analyzing trial reports of famous nineteenth-century divorce cases and examining the role that conformity with gendered expectations played in social and legal norms).

Andrew J. Cherlin, *The Origins of the Ambivalent Acceptance of Divorce*, 71 J. MARRIAGE & FAM. 226 (2009) (arguing that Americans have had a moral and legal ambivalence toward divorce since the colonial era and that this ambivalence accounts for the relatively greater acceptance of single parenthood resulting from divorce versus single parenthood resulting from nonmarital births).

Lawrence M. Friedman, *A Dead Language: Divorce Law and Practice Before No-Fault*, 86 VA. L. REV. 1497 (2000) (looking back at the legal doctrines and practices surrounding divorce in the era when divorces required proof of fault).

Kellen Funk, *"Let No Man Put Asunder": South Carolina's Law of Divorce, 1895-1950*, 110 S.C. HIST. MAG. 134 (2009) (discussing the history of divorce laws in South Carolina, which for seventy years was the only state in America that completely disallowed divorce).

Robert L. Griswold, *Law, Sex, Cruelty, and Divorce in Victorian America, 1840-1900*, 38 AM. Q. 721 (1986) (analyzing court decisions about false accusations of marital infidelity and how they shed light on the complicated connections among Victorian ideology, sexual behavior, and acceptable marital conduct).

SUZANNE KAHN, *DIVORCE, AMERICAN STYLE* (2021) (examining how divorced women and policymakers responded to the increase in divorce rates in the 1970s).

Saskia Lettmaier, *A Tale of Two Countries: Divorce in England and Prussia, 1670-1794*, 69 AM. J. COMP. L. 1 (2021) (discussing socio-cultural explanations for changes in the divorce laws of England and Prussia in the period from 1670 to 1794, when Prussia had Europe's most liberal divorce laws while England maintained a more restrictive approach).

HARRY MUNSINGER, *THE HISTORY OF MARRIAGE AND DIVORCE* (2019) (explaining the legal, economic, religious, evolutionary, and psychological issues surrounding marriage, divorce, and re-marriage).

RODERICK PHILLIPS, *PUTTING ASUNDER: A HISTORY OF DIVORCE IN WESTERN SOCIETY* (1988) (examining the evolution of divorce laws and the development of religious and social attitudes toward divorce).

Gail Savage, *Divorce and the Law in England and France Prior to the First World War*, 21 J. SOC. HIST. 499 (1988) (explaining the differences in legal rules and institutions that caused France to have a far higher divorce rate than England at the start of the twentieth century).

Danaya C. Wright, *The Crisis of Child Custody: A History of the Birth of Family Law in England*, 11 COLUM. J. GENDER & L. 175 (2002) (discussing the 1857 bill that reformed divorce law and created a matrimonial court in England).

Danaya C. Wright, "Well-Behaved Women Don't Make History": *Rethinking English Family, Law, and History*, 19 WIS. WOMEN'S L.J. 211 (2004) (examining the history of divorce in England based on a study of the records of the Court for Divorce and Matrimonial Causes, a domestic relations court created by Parliament in 1857).

Elder Law

W. Andrew Achenbaum, *From the Margins to Pacesetting: The Place of the Elderly in U.S. Legal History from a Historian's Perspective*, 7 MARQ. ELDER'S ADVISOR 93 (2005) (examining the history of old age in America and the proliferation of age-related legal regulations and entitlements).

Lawrence A. Frolik, *The Developing Field of Elder Law: A Historical Perspective*, 1 ELDER L.J. 1 (1993) (discussing the development of elder law as a field within law school curricula, legal scholarship, and legal practice).

HENDRIK HARTOG, *SOMEDAY ALL THIS WILL BE YOURS: A HISTORY OF INHERITANCE AND OLD AGE* (2012) (chronicling the history of lawsuits seeking to enforce commitments made in situations where aging parents use promises of inheritance to persuade their children to provide care for them).

William N. Myhill & Peter Blanck, *Disability and Aging: Historical and Contemporary Challenges*, 11 MARQ. ELDER'S ADVISOR 47 (2009) (examining forces that have affected the lives of aging persons, persons with disabilities, and returning war veterans since the Civil War era).

LAWRENCE R. SAMUEL, *DEATH, AMERICAN STYLE: A CULTURAL HISTORY OF DYING IN AMERICA* (2013) (analyzing how American's view of aging and death have evolved since the World War I era).

Family Law

Hannah Callaway, *A Contested Inheritance: The Family and the Law from the Enlightenment to the French Revolution*, 37 LAW & HIST. REV. 61 (2019) (examining how the theory and practice of family life changed dramatically in the nineteenth century in France, based on a detailed study of litigation about the estate of a wealthy tax collector who had a young wife and children from two marriages).

MICHAEL GROSSBERG, *GOVERNING THE HEARTH: LAW AND THE FAMILY IN NINETEENTH-CENTURY AMERICA* (1985) (analyzing the formation of legal policies relating to families, including the law regarding marriage, adoption, and children).

Jonathan L. Hafetz, “A Man’s Home Is His Castle?”: *Reflections on the Home, the Family, and Privacy During the Late Nineteenth and Early Twentieth Centuries*, 8 WM. & MARY J. WOMEN & L. 175 (2002) (examining the interplay of social factors that shaped legal doctrines concerning homes and families, including laws concerning marital violence, interspousal tort immunity, spousal evidentiary privileges, child welfare, and housing reform).

Herma Hill Kay, *From the Second Sex to the Joint Venture: An Overview of Women’s Rights and Family Law in the United States During the Twentieth Century*, 88 CAL. L. REV. 2017 (2000) (analyzing twentieth-century reforms of family law and women’s rights, including the evolution of laws concerning marriage and divorce).

Lynne Marie Kohm, *Tracing the Foundations of the Best Interests of the Child Standard in American Jurisprudence*, 10 J.L. & FAM. STUD. 337 (2008) (analyzing the historical origins and development of the best interests of the child doctrine).

Adam Lubow, Note, “... Not Related by Blood, Marriage, or Adoption”: *A History of the Definition of “Family” in Zoning Law*, 16 J. AFFORDABLE HOUS. & CMTY. DEV. L. 144 (Winter 2007) (examining how the term “family” has been defined for purposes of zoning laws).

Martha Minow, ‘*Forming Underneath Everything That Grows:*’ *Toward a History of Family Law*, 1985 WIS. L. REV. 819 (criticizing the traditional view of family law history, which portrays a steady line of progress from traditional patriarchal to egalitarian family values, and arguing that a better understanding of family law history requires looking beneath traditional conceptions of family law to uncover how women challenged the roles assigned to them and implemented alternative models of family governance and values).

Merril Sobie, *The Development of New York’s Family Court*, 17 JUD. NOTICE 26 (2022) (discussing the historical origins of New York Family Court).

LUKE TAYLOR, *CONSTRUCTING THE FAMILY: MARRIAGE AND WORK IN NINETEENTH-CENTURY ENGLISH LAW* (2023) (examining how legal conceptions of work and family relations changed in England in the nineteenth century and contributed to the development of family law).

Lee E. Teitelbaum, *Family History and Family Law*, 1985 Wis. L. REV. 1135 (arguing against the standard view of family law in the nineteenth century, which posits that the law in that era moved toward regarding families as private entities immune from judicial or governmental intervention, and arguing that the history of that time period actually demonstrates increased public interest and intervention in family matters).

Family Violence

Jeffrey R. Baker, *The Failure and Promise of Common Law Equity in Domestic Abuse Cases*, 58 LOY. L. REV. 559 (2012) (reviewing the history of equity and the law of domestic violence, from the Middle Ages to the modern era, and arguing that equity failed in the past as a means of protecting victims from abuse but equitable remedies should be part of law's response to domestic abuse today).

Astrid Cubano-Iguina, *Legal Constructions of Gender and Violence Against Women in Puerto Rico Under Spanish Rule, 1860-1895*, 22 LAW & HIST. REV. 531 (2004) (using court records of domestic violence and rape cases in the Arecibo Superior Court to examine the interactions among judges, prosecutors, police, witnesses, accused men, and plaintiff women).

Elsbeth Cypher et al., *The Impact of Dr. Lenore Walker on the Legal History of Domestic Violence*, 57 SUFFOLK L. REV. 1 (2024) (reviewing the history of domestic violence law and discussing the impact of Lenore Walker, who was the first psychologist to study and obtain reliable data about abused women).

FRANCES E. DOLAN, *MARRIAGE AND VIOLENCE: THE EARLY MODERN LEGACY* (2009) (comparing views of domestic violence in the early modern period and today, including its depiction in popular culture and the press as well as its treatment in the legal system, and arguing that marriage continues to be seen as an "economy of scarcity" in which one person becomes weaker if the other becomes stronger).

Jill Elaine Hasday, *Contest and Consent: A Legal History of Marital Rape*, 88 CAL. L. REV. 1373 (2000) (uncovering the forgotten debate over marital rape that occurred in the second half of the nineteenth century).

Nancy James, *Domestic Violence: A History of Arrest Policies and a Survey of Modern Laws*, 28 FAM. L.Q. 509 (1994) (examining the history of law enforcement responses to domestic violence).

Richard Johnson, *Changing Attitudes About Domestic Violence*, LAW & ORDER, Apr. 2002, at 60 (presenting a historical overview of the legal system's evolving approach to domestic violence).

Elizabeth Pleck, *Criminal Approaches to Family Violence, 1640-1980*, CRIME & JUST., 1989, at 19 (tracing the history of legal responses to family violence, from the measures undertaken by Puritans in the seventeenth century to the modern period of heightened interest in family violence).

Carolyn B. Ramsey, *A Diva Defends Herself: Gender and Domestic Violence in an Early Twentieth-Century Headline Trial*, 55 ST. LOUIS U. L.J. 1347 (2011) (assessing a case in which a jury acquitted a wife of murdering her abusive husband in Nevada in 1909).

Carolyn B. Ramsey, *Domestic Violence and State Intervention in the American West and Australia, 1860-1930*, 86 IND. L.J. 185 (2011) (analyzing domestic assault and homicide cases in the American West and Australia in the late nineteenth and early twentieth centuries, finding that arrests for domestic violence were common, and victims were often reluctant to cooperate with prosecutors, and husbands who killed their wives tended to be convicted of murder but women who killed their abusive husbands sometimes succeeding in establishing that they had legal justification for doing so).

Carolyn B. Ramsey, *The Exit Myth: Family Law, Gender Roles, and Changing Attitudes Toward Female Victims of Domestic Violence*, 20 MICH. J. GENDER & L. 1 (2013) (arguing that the criminal justice system was relatively sympathetic and responsive to situations involving family violence until at least 1930, but that shifted in subsequent decades as women gained rights and economic opportunities, which caused society and the legal system to stop viewing abused women as frail victims in need of protection and to assume that women were capable of leaving abusive situations and taking care of themselves).

Carolyn B. Ramsey, *Intimate Homicide: Gender and Crime Control, 1880-1920*, 77 U. COLO. L. REV. 101 (2006) (presenting research on the legal system's responses to murders of intimate partners in the late nineteenth and early twentieth centuries and finding that

men accused of killing their partners often received stern punishment while women charged with similar crimes were treated more leniently).

Stephen Robertson, *Seduction, Sexual Violence, and Marriage in New York City, 1886-1955*, 24 *LAW & HIST. REV.* 331 (2006) (examining the legal history of the crime of seduction, particularly situations in which a woman married the man accused of sexually assaulting her).

Riva B. Siegel, “*The Rule of Love*”: *Wife Beating as Prerogative and Privacy*, 105 *YALE L.J.* 2117 (1996) (explaining how courts in the nineteenth century repudiated the right of chastisement, which had meant that a husband could physically punish his wife as long as he did not inflict permanent injury, but nevertheless continued to treat cases about family violence differently from other cases about assault and battery and claimed that doing so would protect family privacy and promote marital harmony).

Lucy Williams & Sandra Walklate, *Policy Responses to Domestic Violence, the Criminalisation Thesis and ‘Learning from History,’* 59 *HOW. J. CRIME & JUST.* 241 (2020) (discussing historical examples of efforts to address domestic violence in England through social and legal measures other than criminal law and punishment of offenders).

Grandparents

Jane E. Atkinson, *Grandparents’ Visitation Rights: A Survey of Reciprocal Kinship-Ties Based in Historical Common Law and Legislative Policies*, 6 *MARQ. ELDER’S ADVISOR* 39 (2004) (discussing whether grandparents should have a legal right of access to their grandchildren and examining the historical foundations and traditions in common law that recognized the significance of enduring reciprocal kinship ties).

Jillian Jimenez, *The History of Grandmothers in the African-American Community*, 76 *SOC. SERVS. REV.* 523 (2002) (examining the role of grandmothers in African-American communities from Reconstruction through the New Deal and finding that they were central to the economic survival of families).

Daniel R. Victor & Keri L. Middleditch, *Grandparent Visitation: A Survey of History, Jurisprudence, and Legislative Trends Across the United States in the Past Decade*, 22 J. AM. ACAD. MATRIM. L. 391 (2009) (exploring the issue of grandparent visitation rights, including the history of the issue in common law and legislation).

Marriage

ELIZABETH ABBOTT, *A HISTORY OF MARRIAGE* (2009) (exploring the origins, development, and impact of marriage, with discussion of traditions including arranged marriages, dowries, and wedding ceremonies).

Deborah J. Anthony, *To Have, to Hold, and to Vanquish: Property and Inheritance in the History of Marriage and Surnames*, 5 BRIT. J. AM. LEGAL STUD. 217 (2016) (observing how customs concerning family surnames have been closely tied to views about property, describing how surname adoption was a highly variable and fluid cultural practice until about 1600, and arguing that diverse surname practices disappeared as women's property rights became severely restricted).

NORMA BASCH, *IN THE EYES OF THE LAW: WOMEN, MARRIAGE, AND PROPERTY IN NINETEENTH-CENTURY NEW YORK* (1982) (examining the changes in laws concerning married women's property rights in New York in the nineteenth century).

KRISTIN CELELLO, *MAKING MARRIAGE WORK: A HISTORY OF MARRIAGE AND DIVORCE IN THE TWENTIETH-CENTURY UNITED STATES* (2009) (arguing that rising divorce rates in the era after World War I caused deep anxiety about marriage, drove couples to seek advice about how to strengthen marriages, and cemented the idea of marriage as "work").

Kristin A. Collins, *Administering Marriage: Marriage-Based Entitlements, Bureaucracy, and the Legal Construction of the Family*, 62 VAND. L. REV. 1085 (2009) (investigating the legal construction of marriage as it relates to eligibility for marriage-based entitlements, based on a study of early nineteenth century applications for military subsidies for widows).

STEPHANIE COONTZ, *MARRIAGE, A HISTORY: HOW LOVE CONQUERED MARRIAGE* (2006) (tracing the history of marriage from ancient to modern times and arguing that the idea of marrying for love led marriage to thrive as a personal relationship but suffer as an institution).

NANCY COTT, *PUBLIC VOWS: A HISTORY OF MARRIAGE AND THE NATION* (2000) (exploring how marriage has always been a public matter, regulated and shaped by governments, with important implications for citizenship, immigration, equality, and governance).

J. Herbie Difonzo & Ruth C. Stern, *The Winding Road from Form to Function: A Brief History of Contemporary Marriage*, 21 J. AM. ACAD. MATRIM. LAW. 1 (2008) (analyzing ways in which marriage has changed and ways in which it has remained stable since the mid 1950s).

Ariela R. Dubler, Note, *Governing Through Contract: Common Law Marriage in the Nineteenth Century*, 107 YALE L.J. 1885 (1998) (explaining how the doctrine of common law marriage provided a way for judges in the nineteenth century to implement their views about proper relationships among the state, women, and men providing for women).

Ariela R. Dubler, *In the Shadow of Marriage: Single Women and the Legal Construction of the Family and the State*, 112 YALE L.J. 1641 (2003) (discussing the history of marriage in American law and how views about marriage and female economic dependency affected legal treatment of unmarried women).

Darlene C. Goring, *The History of Slave Marriage in the United States*, 39 J. MARSHALL L. REV. 299 (2006) (tracing the evolution of practices and beliefs about the right to marry for slaves and freed African-Americans in the antebellum and postbellum periods).

HENDRIK HARTOG, *MAN AND WIFE IN AMERICA: A HISTORY* (2000) (providing a detailed study of marriage in America in the nineteenth century, with a focus on separation and other non-legal ways of exiting marriages that demonstrated how husbands and wives did not necessarily act in ways that matched the expectations or assumptions of law).

Hazel D. Lord, *Husband and Wife: English Marriage Law from 1750: A Bibliographic Essay*, 11 S. CAL. REV. L. & WOMEN'S STUD. 1

(2001) (tracing the development of English statutory law concerning marriage).

Shelly Lundberg & Robert A. Pollak, *The Evolving Role of Marriage: 1950-2010*, FUTURE OF CHILD., Fall 2015, at 29 (examining the dramatic changes in marriage behavior since 1950, particularly the growing number of births taking place outside marriage, and considering why the decoupling of marriage and parenthood has been much less prevalent among college graduates).

Joanna Alexandra Norland, *When the Vow Breaks: Why the History of French Divorce Law Sounds a Warning About the Implications for Women of the Contemporary American Marriage Movement*, 17 WIS. WOMEN'S L.J. 321 (2002) (discussing developments in French divorce legislation between 1792 and 1816 and how they suggest that anti-divorce campaigns that purport to have the goal of protecting women may reinforce women's dependence on men within a hierarchical family structure).

Reva B. Siegel, *Home as Work: The First Women's Rights Claims Concerning Wives' Household Labor, 1850-1880*, 103 YALE L.J. 1073 (1994) (considering nineteenth-century women's claims that sought to reform the doctrine of marital service, which gave husbands property rights in their wives' labor, and gave wives joint rights in family assets).

Reva B. Siegel, *The Modernization of Marital Status Law: Adjudicating Wives' Rights to Earnings, 1860-1930*, 82 GEO. L.J. 2127 (1994) (analyzing the implementation of a prominent reform statute, enacted in New York in 1860, that gave wives property rights in their labor and earnings, and discussing the impact of decades of litigation over women's claims under earnings statutes).

NICHOLAS L. SYRETT, *AMERICAN CHILD BRIDE: A HISTORY OF MINORS AND MARRIAGE IN THE UNITED STATES* (2016) (exploring the history of marriages involving minors and examining why these marriages continue to receive legal and social approval while other forms of sexual activity with minors do not).

Arland Thornton, *Comparative and Historical Perspectives on Marriage, Divorce, and Family Life*, 1994 UTAH L. REV. 587 (discussing how European scholars studied marriage and family

life in various societies around the world, were unable to accept the enormous differences they observed as simply representing cross-cultural variations in family structure and form, and instead assumed that other societies' practices were at a lower or earlier stage of development but were gradually progressing toward the family structures and processes prevalent in Europe).

JOHN WITTE JR., *FROM SACRAMENT TO CONTRACT: MARRIAGE, RELIGION, AND LAW IN THE WESTERN TRADITION* (2d ed. 2012) (exploring the theological underpinnings of marriage and arguing that marriage was once a complex spiritual and social institution but has become a simpler matter of private contracting and choice).

MARCIA A. ZUG, *BUYING A BRIDE: AN ENGAGING HISTORY OF MAIL-ORDER BRIDES* (2016) (studying court cases about mail-order marriages in order to exploring the troubling legal issues raised by such marriages, including domestic abuse, immigration fraud, and human trafficking).

Parenthood

MARY FRANCES BERRY, *THE POLITICS OF PARENTHOOD: CHILD CARE, WOMEN'S RIGHTS, AND THE MYTH OF THE GOOD MOTHER* (1993) (assessing the history of child care policy in the United States in the nineteenth and twentieth centuries and arguing that mothers continued to have primary responsibility for child care even when the number of women in the work force increased dramatically).

PAULA S. FASS, *THE END OF AMERICAN CHILDHOOD: A HISTORY OF PARENTING FROM LIFE ON THE FRONTIER TO THE MANAGED CHILD* (2016) (looking at the history of childhood and parenting, from America's founding era to the modern day, and arguing that increased levels of parental oversight have undermined the independence and initiative of children).

STEPHEN M. FRANK, *LIFE WITH FATHER: PARENTHOOD AND MASCULINITY IN THE NINETEENTH CENTURY AMERICAN NORTH* (1995) (reconstructing the role of fathers in parenting in New England and the Midwest in the eighteenth and nineteenth centuries, based on personal documents, such as letters and diaries, as well as representations of fatherhood in popular culture).

ROBERT L. GRISWOLD, *FATHERHOOD IN AMERICA: A HISTORY* (1994) (tracing the fundamental shift from the nineteenth century father as “patriarch” to the late twentieth century “Dad” who shares responsibility for working and earning income with his wife).

Jill Elaine Hasday, *Parenthood Divided: A Legal History of the Bifurcated Law of Parental Relations*, 90 GEO. L.J. 299 (2002) (arguing that two different approaches to parents and children have coexisted in American law since the late nineteenth century, with one based on suspicion of parental autonomy and eagerness to reshape family relations, and the other based on extreme deference to parents and reluctance to intervene in family matters).

MOLLY LADD-TAYLOR, *MOTHER-WORK: WOMEN, CHILD WELFARE, AND THE STATE, 1890-1930* (1994) (examining how child welfare became a matter of national policy, rather than just private family responsibility, and arguing that women’s experience as mothers led them to become active in the development of public health, education, and welfare services).

RALPH LAROSSA, *THE MODERNIZATION OF FATHERHOOD: A SOCIAL AND POLITICAL HISTORY* (1997) (examining how the government and media affected the development of modern conceptions of fatherhood).

Steven J. Macias, *The Huck Finn Syndrome in History and Theory: The Origins of Family Privacy*, 12 J.L. & FAM. STUD. 87 (2010) (discussing the historical origins of the concepts of parents’ rights and family privacy, particularly in the Supreme Court’s decisions in *Meyer v. Nebraska* and *Pierce v. Society of Sisters*).

HELEN MCCARTHY, *DOUBLE LIVES: A HISTORY OF WORKING MOTHERHOOD* (2020) (looking at the dramatic transformation in Britain’s economy and society over the past century, as working mothers became the norm).

Carol Sanger, *Separating from Children*, 96 COLUM. L. REV. 375 (1996) (examining the social history of situations in which mothers have been separated from their children and arguing that mother-child separations were not seen as an abnormal or harmful aspect of mothering until the mid nineteenth century).

RICKIE SOLINGER, *PREGNANCY AND POWER: A SHORT HISTORY OF REPRODUCTIVE POLITICS IN AMERICA* (2005) (arguing about the role of social, racial, economic, and political forces in the history of motherhood and reproductive rights).

JODI VANDENBERG-DAVES, *MODERN MOTHERHOOD: AN AMERICAN HISTORY* (2014) (examining the historical evolution of motherhood and how American society continues to struggle with the conflicts between idealized beliefs about motherhood and practical realities).