

CONTENTS

Notes on Contributors viii

Preface xxi

Introduction 1

ELAINE E. SUTHERLAND AND LESLEY-ANNE BARNES
MACFARLANE

**PART I Best Interests, Welfare and Well-being:
A Contextual Overview** 19

- 1 **Article 3 of the United Nations Convention on the
Rights of the Child: The Challenges of Vagueness
and Priorities** 21

ELAINE E. SUTHERLAND

- 2 **The Best Interests of the Child: A Gateway to Children's
Rights?** 51

URSULA KILKELLY

- 3 **Conflict between Human Rights and Best Interests
of Children: Myth or Reality?** 67

JANYS M. SCOTT

- 4 **Final Appeal Courts and Article 3 of the United Nations
Convention on the Rights of the Child: What Do the
Best Interests of the Particular Child Have to
Do with It?** 81

MARK HENAGHAN

PART II Confronting the Challenges of Article 3 97

- 5 **Two Dimensions of the Best Interests Principle: Decisions
About Children and Decisions Affecting Children** 99

JOHN EEKELAAR

- 6 **A Developmental Equality Model for the Best Interests of Children** 112
NANCY E. DOWD
- 7 **A Long Lesson in Humility? The Inability of Child Care Law to Promote the Well-Being of Children** 131
ALISON CLELAND
- PART III Best Interests and Bestowing Parentage** 147
- 8 **Serving Best Interests in ‘Known Biological Father Disputes’ in the United Kingdom** 149
LESLEY-ANNE BARNES MACFARLANE
- 9 **Surrogacy in the United Kingdom: An Inappropriate Application of the Welfare Principle** 165
KENNETH MCK. NORRIE
- 10 **Baby Switching: What Is Best for the Baby?** 180
TRYNIE BOEZAART
- 11 **Primacy, Paramountcy and Adoption in England and Scotland** 197
BRIAN SLOAN
- 12 **Article 3 and Adoption in and from India and Nepal** 213
RICHARD W. WHITECROSS
- PART IV Parenting Disputes and the Best Interests of the Child** 231
- 13 **Canada’s Controversy over Best Interests and Post-Separation Parenting** 233
NICHOLAS BALA
- 14 **In Harm’s Way: The Evolving Role of Domestic Violence in the Best Interests Analysis** 249
D. KELLY WEISBERG
- 15 **The Best Interests of the Child When There Is Conflict About Contact** 265
LINDA D. ELROD

- 16 **Relocation Disputes Following Parental Separation:
Determining the Best Interests of the Child** 280
NICOLA TAYLOR
- PART V **Best Interests and State Intervention** 293
- 17 **Making Best Interests Significant for Children Who Offend:
A Scottish Perspective** 295
CLAIRE MCDIARMID
- 18 **The Child's Best Interests and Religion: A Case Study of the
Holy See's Best Interests Obligations and Clerical Child
Sexual Abuse** 310
IOANA CISMAS
- 19 **'Best Interests' in Care Proceedings: Law, Policy and
Practice** 326
JUDY CASHMORE
- 20 **Judicial Discretion and the Child's Best Interests:
The European Court of Human Rights on Adoptions
in Child Protection Cases** 341
MARIT SKIVENES AND KARL HARALD SØVIG
- Appendix I* **Convention on the Rights of the Child (1989)** 1577
U.N.T.S. 3 358
- Appendix II* **United Nations Committee on the Rights of the
Child: General Comment No. 14 (2013) on the
Right of the Child to Have His or Her Best
Interests Taken as a Primary Consideration
(art. 3, para. 1), CRC/C/GC/14** 381
- Index* 410