

## Parte I Dottrina

- CARLO RIMINI, *The day-by-day operation and enforcement of judgments relative to parental responsibilities. Some observations based on the Italian experience* ..... p. 321

Abstract. It is possible to identify two evolutionary pathways, common to Western family law: a) the affirmation of equal rights of both parents in the exercise of parental responsibilities after separation and b) the active search for alternative ways of resolving disputes relating to the exercise of parental responsibilities such as family mediation. These surely represent a sign of civility in family relationships after marital breakup. However they alone are not enough to guide the interests of minors and do not necessarily guarantee the rights of the children, nor the rights of the adults involved in a separation. When a dispute survives all attempts at mediation, the judicial system must be able to provide solutions. On the contrary sometimes – and at least in Italy, this happens more and more often – the judicial system reacts with annoyance to parental conflict and this reaction translates into an almost automatic determination that the problem lies with both parents and with their conflict so the parties cannot expect the judge to make decisions about the children's welfare given their inability to agree among themselves. Some measures are suggested to prevent conflict between parents turning into parental alienation.

- GIULIA TESI, *Il fondamento del rapporto di filiazione. Nuove tendenze* .....» 329

Abstract. Starting from some judgments of the Italian courts and the European Court of Human Rights, the article will try to think about the recent developments in order to identify the basis of the parent-child relationship. An analysis of that case law emerging new forms of parenting that are closely connected with the existence of different family models. The paper analyses contemporary transformations of the parent-child relationship. Therefore, as an alternative to more traditional positions – based on the absolute assimilation between filiation and procreation – will be considered the existence of forms of social parenthood based on the factual relationship between the child and those who consider themselves parent. In its final part, the article tackles issue the recognition methods of these relationships.

- PAOLO ROMEO, *Note sui contratti di convivenza* .....» 353

Abstract. This paper gives an overview of some of the issues related to the recent approval of the Law No. 76 of 2016, especially focusing on the regulation of the cohabitation contracts (contratti di convivenza). Such legal matter was already object of a lively debate even before its legislative recognition, but it was unanimously limited to the regulation of the economic relationships between the cohabitants. The Italian legislator seems to have done a step forward, introducing a series of rules concerning the – maybe not so justifiable – creation of a sort of a “younger brother” of the wedding. Indeed, the new legal model of the cohabitation contract follows the conception of “status” outlined by the Roman tradition, allowing in this way the validation of a pattern that gives the contracting partner a peculiar position, which goes beyond the adjustment of purely economic relationships.

- CARMINE LAZZARO, *Il diritto successorio tra antichi tabù e prospettive di riforma* .....» 377

Abstract. Nowadays, more than ever, there is the demand for a remodeling of existing legal categories, in order to adapt them to new social needs and the changed daily reality. The hereditary right, seemingly immune to any evolutionary reconstruction, is not immune from the contagion of the virus of complexity. In fact, it appears now, at a turning point, after the recent introduction in our system of U.E. Regulation 650/2012, which affect ancient taboos once considered, to say the least, intangible. Louder they bear instances of equality and freedom in the context of succession. An useful tool in this respect could be to give the testator more freedom in taking decisions and choices in hereditary matter, taking cues from the most advanced systems in order to standardize the disciplines related to succession of individual Member States, thus avoiding despicable phenomena of forum shopping.

PIETRO SIRENA, <i>Cointestazione dei conti correnti bancari e comunione legale dei beni: le ricadute nel trattamento successorio</i> .....»	411
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Abstract. The article analyses some problems related to banking accounts jointly assigned to spouses, in cases of death of one spouse. Challenging issues addressed by the contribution concern the application of the rules on forced heirship, on prohibition of succession pacts and on matrimonial property. The author suggests that the particular Italian rules on comunione de residuo may not be applied in favor of the death spouse (id est his/her heirs), but only in favor of the surviving spouse.

LUISA FERRARI, <i>Il giudice italiano e la Muddawana marocchina</i> .....	419
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Abstract. The Moroccan Family Law Reform of 2004 represents, above all, the most significant example of modernism within the country's legal system due to its similarity to Western legal models. The new Moroccan Family Code, known as "Mudawwanat al-usra", mainly aims to ensure stability into the family by the recognition of an equal role between spouses. Following that reform, Italian jurisprudence has often expresses its opinion about the Moroccan Mudawwana institutes regarding marriage, repudiation and polygamic union. Through the close examination of the judgements regarding these institutes, the article aims to evaluate whether the new Moroccan Family Code has been able to align with the main principles of the Western tradition and, in the meantime, to limit the automatic application of the public order policy, that the occidental legislator often applied in front of the Islamic law institutes. In that process, the Moroccan divorce (šiqāq) and the repudiation upon payment (bul) hold a decisive role.

## **Parte II** **Giurisprudenza**

MARIO SEGNI, <i>L'adozione nelle unioni civili. Smentita la Cassazione</i> .....	439
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Abstract. The absence of rules concerning adoptions of same-sex partners is the most evident lack of the new regulation on civil unions. On the issue there are diverging orientations in the Italian jurisprudence: a recent judgment of the Corte di Cassazione has been overruled by the judgment of the Tribunale per i minorenni di Milano which here is analyzed. The prevailing idea is applying by extensive means the article 44 of the regulation on adoptions. This conception appears wrong because the right to adopt has not been provided by the regulation on civil unions and is, therefore, not part of the legal system. An intervention of the legislator seems necessary in order to solve the aforementioned conflict.