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Maintenance and Child Support in Private International law by Lara Walker, Hart Publishing, 2015.

Cross border recovery of maintenance and child support is a technical area, subject to a complicated regulatory framework which has been the subject to a number of recent reforms. The Maintenance Regulation (Council Regulation (EC) 4/2009) applies to EU member states but refers the question of applicable law to the Hague Protocol of 23 November 2007 on the Law applicable to Maintenance Obligations which does not in apply in Denmark or the United Kingdom. This gives rise to two different procedures for recovery and enforcement within the EU. Further afield, the Hague Convention of 23 of November 2007 on the International Recovery of Child Support and other forms of Family Maintenance is applied in Albania, Bosnia-Herzegovina, Norway and Ukraine and has been ratified by the EU as a regional organisation. The Convention also has two different mechanisms for recognition and enforcement – a mainstream approach and an alternative procedure. To add to the layers of procedural complexity the Hague Convention has a narrower substantive scope than the Maintenance Regulation.

The international maintenance and child support system is administered by a network of national Central Authorities who co-ordinate with each other to resolve applications. They manage incoming claims where a state is asked to enforce an obligation against one of its residents. They also assist in outgoing applications where a resident is seeking to enforce a claim against an individual who lives in another country. Central Authorities also assist with other requests falling short of a full application for maintenance such as requests for information to locate a debtor or assistance in establishing a child's paternity.

Walker leads us through this labyrinthine structure with ease, looking in turn at issues of scope, jurisdiction, applicable law, recognition and enforcement procedures and actual recovery of payments. Every aspect of the Maintenance Regulation and the Hague Convention is explored in meticulous technical detail. Her critical premise is to investigate whether the initial aims of the Regulation and the Hague Convention have been met in implementation. Throughout the work she highlights the positive changes that have resulted from an increased focus on the actual enforcement of maintenance claims and identifies areas where further developments are required.

Walker opens with an examination of maintenance as a legal concept (p9-14) raising fascinating questions about the theoretical basis of family obligation. Should financial obligations be based on blood-ties or marriage? Is behaviour relevant? What level of maintenance is owed? To what extent should this relate to the standards of living of the debtor and creditor? Walker identifies divergences across national laws as illustrative of different national approaches to family structure. She highlights the strong national interests in recovering maintenance from private individuals to offset the drain on the public purse. However, her analysis of the concept of maintenance is limited to highlighting the existing risk of irreconcilable judgments from different national authorities and whether this would be preventable by introducing a definition of maintenance into the regulatory instruments. A greater analysis of some of the theoretical underpinnings of maintenance might have added more depth to the critical content of the work. However, Walker clearly outlines and justifies her pragmatic approach to the subject.

In Chapter 2, Walker takes us on a comprehensive tour of the history of international regulation of maintenance obligations, highlighting the rationale and limits of previous regimes. The genesis of the current regime lies in the reviews by the Hague Convention of Private International Law and the EU Commission. Both bodies highlighted the importance of co-ordination between national authorities and the availability of legal assistance to accelerate and simplify enforcement of decisions and guarantee effective recovery of maintenance. Walker engages in some initial discussion here (p28-29)

about whether the goals set by the EU commission have been achieved. Strangely, this analysis is relegated to the footnotes but each point is further developed in a subsequent chapter.

In Chapter 7, Walker examines the dual procedures for recognition and enforcement under the Maintenance Regulation. She locates her analysis of the appropriate balance between safeguards for debtors and efficiency of process within the greater debate about the abolition of exequatur processes (the opportunity for an enforcing state to review a foreign judgment) from EU private international law instruments. She specifically addresses the mitigation of exequatur abolition in maintenance proceedings (p120-129) but ultimately concludes that the abolition of exequatur processes under the Maintenance Regulation has gone too far (p144). Walker's strongest critique of the Maintenance Regulation is the unjustified decision to place decisions of the UK and Denmark in a separate category to the decisions of other Member States and make them subject to their own specific enforcement process.

The most exciting aspect of the work is the analysis of empirical data gathered from Central Authorities about the first year of operation of the Maintenance Regulation. This is dispersed throughout the book as a comment on the functioning of each examined aspect of the Regulation. Here, Walker is rather limited by the incompleteness of the data available, the inconsistencies of data collection between national authorities and the newness of the system. For example, many of the outcomes of applications and requests made in the first year were not yet known (p190-191). Yet, despite its limits, this empirical approach to analysing an international regulation in its operational context is to be applauded. The analysis of p30-36 of the incoming applications received by each member state sheds light on the impact of migration and emerging labour markets on the formation of cross-border families. The graph on p34 is particularly enlightening although due to the limits of the publication style, somewhat difficult to read. Walker also relies on quantitative research to evaluate whether the two different regulation procedures are understood by Central Authorities (p129-136). The length of time taken to process applications and the typical amounts of money recovered in the first year are also examined (p191-192). In Chapter 10 (p225-236) Walker investigates the 1463 requests made to Central Authorities, the most typical type being a request to locate the debtor.

Walker concludes by suggesting possible evidence-informed solutions for the problems she identifies in realising the aims of the Convention and Regulation. The solutions are, in general, presented as a series of tentative options which shows appropriate caution in light of the relative newness of the system and the limits of the operational data available. Walker calls for greater ratification of the Hague Convention and highlights the need for appropriate training of Central Authorities and the publication of general guidance in interpreting and applying the regulatory instruments.

The book, which is based on PhD research, is an excellent debut which sheds light on a difficult, rapidly changing and under-researched area of family law. It is rigorous and useful; taking a pragmatic approach to identifying real solutions to deal with specific legal problems. It is also realistic, querying whether it would even be possible to remove all obstacles to the recovery of maintenance without regulating every aspect of the process; an approach which is unlikely to lead to widespread international ratification.