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
# CONTENTS

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 II  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
# CONTENTS

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Relocation Disputes Following Parental Separation: Determining the Best Interests of the Child</td>
<td>280</td>
</tr>
<tr>
<td></td>
<td>Nicola Taylor</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Making Best Interests Significant for Children Who Offend: A Scottish Perspective</td>
<td>295</td>
</tr>
<tr>
<td></td>
<td>Claire McDiarmid</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>The Child’s Best Interests and Religion: A Case Study of the Holy See’s Best Interests Obligations and Clerical Child Sexual Abuse</td>
<td>310</td>
</tr>
<tr>
<td></td>
<td>Ioana Cismas</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>‘Best Interests’ in Care Proceedings: Law, Policy and Practice</td>
<td>326</td>
</tr>
<tr>
<td></td>
<td>Judy Cashmore</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Judicial Discretion and the Child’s Best Interests: The European Court of Human Rights on Adoptions in Child Protection Cases</td>
<td>341</td>
</tr>
<tr>
<td></td>
<td>Marit Skivenes and Karl Harald Søvig</td>
<td></td>
</tr>
</tbody>
</table>

**Appendix I**  

**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