

Parte I
Dottrina

- CARLO RIMINI, *Che cosa resta del matrimonio?*» 163
- Abstract. During the last decades, the number of marriages per year is constantly decreasing and Italy is now one of the States with the lowest marriage rate in the world. Two questions are focused on. What is the reason for the Italian situation? And is this a problem for the society as a whole? The answer to the first question is based on the analysis of the effects of the marriage that appears poor and unattractive to young people in Italy. Insofar as the second question, from a civil law point of view, the marriage essentially has to grant mutual protection between the spouses. Therefore a reform of the marriage – a kind of “Eberechtsmodernisierung” – is suggested to reach the aim of making the marriage still useful in contemporary society.*
- CARLOTTA DE MENECH e DANIELA M. FREMMA, *I mobili confini del diritto all’anonimato materno tra tutela della riservatezza e costruzione dell’identità*» 179
- Abstract. The Authors run over the legislative and case-law development on the Italian institution of anonymous birth, paying particular attention to the issue of the balance of conflicting interests of the mother and the biological son. In this perspective, this essay aims at analysing the main interests involved (like health, personal identity, confidentiality, oblivion), on the one side, and the methods, especially of “abstract balance” of interests, that the courts use to settle the conflict among opposite interests, in the direction of an ever increasing importance of the personal identity of the biological son. Nevertheless, a glimmer of change in the recent courts has been registered in the sense of more flexible and elastic decisions, on the way – that the Authors are wishing for – of a “concrete balance” of the interests.*
- CATERINA MURGO, *Diritti dei minori e allontanamento dalla famiglia di origine*» 223
- Abstract. The paper would like to talk about the situation of the children in the families within special needs, behavioral, economic or educational troubles, and about the rulings to take away the children, out of their natural family, in according to the latest national laws about the family’s process.*
- SALVATORE D’AGOSTINO, *Sulla domanda di rimborso da parte del genitore naturale che abbia provveduto da solo al mantenimento del figlio*.....» 235
- Abstract. The framing of the right to reimbursement of expenses, incurred in full by only one of the natural parents for the maintenance of the child as a (right of) recourse, requires the application of the discipline provided by Article 1299 of the Civil Code but this requires compliance with the time bar regulations applicable to this institution and, most importantly, cannot result in the qualification as “indemnity” to the reimbursement demanded from the defaulting parent. The article offers some reflections aimed at refuting these latest interpretative solutions adopted so far by the majority jurisprudence.*
- GIANFRANCO GABRIELE NUCERA, *The Best Interests of the Child as the Helmsman for State Legislation and Regulatory Measures with an Impact on Children: the Case of COVID-19 Emergency Response*» 261
- Abstract. The outbreak of COVID-19 has produced grave consequences on children. The pandemic response has been characterized by a plethora of legal and administrative acts which did not fully consider the interests of children. Within situations like this, the guiding light for the adoption of regulatory measures with an impact on minors should be the principle of the best interests of the child. The paper, through a reconstruction of the legal value of the best interest of the child in international law as well as its substantial and procedural implementation at the domestic level, argues for the importance to fully consider the correct implementation*

of the principle within the first emergency health responses, taking advantage of the lessons learned in the case of pandemics.

STEFANO PELLEGATTA, La funzione non “residuale” della comunione *de residuo*» 279

Abstract. The essay proposes a reflection on the relationship between “immediate communion” and “deferred communion”. The author examines whether it is possible to recognize to the latter an equal and complementary role with respect to the regime of immediate communion of purchases, often considered as the only instrument of protection of the weak spouse. The attempt moves from the awareness of the general dissatisfaction with the Italian solution as commonly interpreted. In this scenario, the enhancement of the nature of the residual communion – which has recently been the subject of a ruling by the Court of Cassation – allows for the reconstruction of a different system. The affirmation of this kind of communion as a general mechanism for sharing capital increases and the exclusion of its “co-ownership nature” allow to recognize a central role to the figure and to achieve a more efficient balance of values, capable of giving new light to the entire regulation of the patrimonial regime.

Parte II

Giurisprudenza

FRANCESCA CERA, Diritto degli ascendenti di mantenere rapporti «significativi» con il nipote e rifiuto della frequentazione da parte del minore (nota a Cass. civ., sez. I, ord. 31 gennaio 2023, n. 2881) ...» 309

Abstract. The Supreme Court’s ruling is an opportunity to return to the perimeter of the ascendants’ right to maintain meaningful relations with their underage grandchildren. This subjective position, in so far as it is instrumental to the pursuit of the minor’s interests, must be balanced against the latter’s will. It follows that in the event of a refusal by the minor (over 12 years old or, in any case, capable of discernment) to frequent the grandparents, no relationship can be imposed by the judicial authority, since at most incentive measures aimed at creating spontaneous family relations can be implemented.