
FAMILY CONSTITUTIONS AND THE (NEW) CONSTITUTION OF THE FAMILY

*Linda C. McClain**

A mission statement is . . . meant to be the literal constitution of your family life. And just as the United States Constitution has survived for more than two hundred sometimes turbulent years, your family constitution can be the foundational document that will unify and hold your family together for decades—even generations—to come. . . .

By creating and living by a mission statement, families are gradually able to build moral authority in the family itself. In other words, principles get built right into the very structure and culture of the family, and everyone comes to realize that principles are at the center of the family and are the key to keeping the family strong, together, and committed to its destination. Then the mission statement becomes like the Constitution of the United States—the ultimate arbiter of every law and statute. The principles upon which it is based and the value systems that flow out of those principles create a social will that is filled with moral or ethical authority.

Stephen R. Covey, *The 7 Habits of Highly Effective Families* 93, 142 (1997).

INTRODUCTION

If the United States is entering “a new constitutional order,” then what is the place of families in that order? Is it a different place than in the old constitutional order? Will the family continue to feature—in the rhetoric of constitutional law, as in broader public rhetoric about families—as a deeply rooted, fundamental social institution, a basic unit undergirding the social and political order? Familiar references to the family as a vital site for inculcating moral and cultural values and as a “seedbed of civic virtue” capture the formative role of families. Indeed, the topic for this panel,

* Rivkin Radler Distinguished Professor of Law, Hofstra University. An earlier version of this article was presented at the Conference, *A New Constitutional Order?*, held at Fordham University School of Law, March 24-25, 2006. I am grateful to Jim Fleming and to participants for comments. Thanks also to my colleagues at Hofstra for instructive comments during a Faculty Workshop, and especially to Norm Silber for discussion of the corporate law issues. Thanks to Hofstra research librarian Cindie Leigh and University of Pennsylvania research librarian Ronald Day (while I was a Visiting Professor of Law at the University of Pennsylvania School of Law) for valuable help with sources. Comments are welcome: Linda.C.McClain@hofstra.edu

Family Constitutions And The New Constitution Of The Family

Holger Fleischer, Stefan Prigge



Family Constitutions And The New Constitution Of The Family:

Gesellschaftsrechtliche Wirkungen einer Familienverfassung Sebastian Bong, 2022-11-17 Die moderne Familienverfassung ist eine schriftliche Abschlusserklärung zum Einigungs und Willensbildungsprozess einer Unternehmerfamilie hinsichtlich der Motive Leitlinien und Regelungen für das Zusammenwirken der Familien und Verbandsmitglieder Sie soll die Zusammengehörigkeit der Unternehmerfamilie stärken und das Vertragswerk einer Familiengesellschaft ergänzen In der Praxis haben sich beratergeprägte Erscheinungsformen einer Familienverfassung entwickelt die diese Funktionen stets aber in unterschiedlichem Masse umsetzen Rechtswissenschaftlich sind weder die Rechtsnatur einer Familienverfassung noch ihre Wirkungen im Vertragswerk eines Familienunternehmens umfassend untersucht Sebastian Bong ermittelt den üblichen Willen der Beteiligten einer Familienverfassung und ordnet ihn einer rechtlichen Handlungsform zu Für Personengesellschaften und GmbH erarbeitet er die gesellschaftsrechtlichen Wirkungen einer Familienverfassung auf das Organisationsstatut und die mitgliedschaftliche Rechtsposition der Gesellschafter

Family Business Law Declassified Jim Lopez, 2016-10-19 This book authored by three time National Book Award winner Jim V Lopez helps unveil the answers to the nagging conundrum Why do most family businesses experience a meltdown once they reach the third generation *Family Business Law Declassified How to Beat the Third Generation Curse* reveals numerous traps that cause family businesses to falter and eventually sink into the cesspool of irrelevance and insolvency It also offers best practices and countervailing measures to cushion the impact of the Buddenbrooks Phenomenon thus helping family businesses transcend the obstacles associated with the third generation

Contractualisation of Family Law - Global Perspectives Frederik Swennen, 2015-07-06 This volume presents global and comparative perspectives on the perpetual pendular movement of family law between status and contract It contributes to the topical academic debate on family law exceptionalism by exploring the blurred lines between public law private law and family law and sheds light on the many shades of grey that exist The contributions focus on both substantive and procedural family law on parents and children and on life partners with particular attention for contractual arrangements of family formations and of conflict resolution The hypothesis underlying all contributions was the trend towards contractualisation of family law A convergent research outcome resulting from the comparison of national reports was the ambivalent position of family law in legal systems worldwide That comparison shows that whereas family law is clearly moving towards contract with regard to old family formations the contrary is true for new family formations The movement towards contract is rarely considered to be contractualisation *pur sang* with civil effect The movement towards status finally does not necessarily witness family law exceptionalism vis vis private law in view of the increasing State interventionism in private law relations in general In sum as the volume shows the high permeability of the demarcations between the State the family and the market impedes a categorial approach This volume is based on the general and selected national reports on the topic Contractualisation of

Family Law that were presented at the XIXth International Congress of Comparative Law in Vienna in July 2014 Family Firms and Family Constitution Holger Fleischer, Stefan Prigge, 2023-12-14 The ebook edition of this title is Open Access and freely available to read online Family Firms and Family Constitution delves deeply into topics as diverse as ownership succession governance justice and more all from a managerial and legal perspective from around the world **The SAGE Handbook of Family Business** Leif Melin, Mattias Nordqvist, Pramodita Sharma, 2013-11-15 The SAGE Handbook of Family Business captures the conceptual map and state of the art thinking on family business an area experiencing rapid global growth in research and education since the last three decades Edited by the leading figures in family business studies with contributions and editorial board support from the most prominent scholars in the field this Handbook reflects on the development and current status of family enterprise research in terms of applied theories methods topics investigated and perspectives on the field s future The SAGE Handbook of Family Business is divided into following six sections allowing for ease of navigation while gaining a multi dimensional perspective and understanding of the field Part I Theoretical perspectives in family business studies Part II Major issues in family business studies Part III Entrepreneurial and managerial aspects in family business studies Part IV Behavioral and organizational aspects in family business studies Part V Methods in use in family business studies Part VI The future of the field of family business studies By including critical reflections and presenting possible alternative perspectives and theories this Handbook contributes to the framing of future research on family enterprises around the world It is an invaluable resource for current and future scholars interested in understanding the unique dynamics of family enterprises under the rubric of entrepreneurship strategic management organization theory accounting marketing or other related areas **The Family Business Guide** F. Lipman, 2010-08-30 A practical guide to best and worst practices for family businesses from drawing up incorporation documents to succession planning to selling the business The book also includes examples from actual court cases and presents these lessons in an accessible manner Sample legal agreements are included which help to avoid some of the major risks to the family business **Warum Erbrecht?** Anatol Dutta, 2014-05-13 Die Arbeit behandelt aus rechtsvergleichender und interdisziplinärer Perspektive die Frage nach dem Sinn und Zweck des Erbrechts und seiner Ausgestaltung Anlass sind Vermögensbindungsmechanismen die es dem Einzelnen zunehmend gestatten sein Vermögen dem Erbrecht zu entziehen Die privatnützige Stiftung in Deutschland Österreich Liechtenstein und in einer wachsenden Zahl weiterer kontinentaler Rechtsordnungen aber auch der dynastic trust in den Vereinigten Staaten und zahlreichen offshore Jurisdiktionen ermöglichen es dem Vermögensinhaber sein Vermögen generationenübergreifend eigenen Regeln einem privaten Erbrecht zu unterwerfen Diese Mechanismen unterscheiden sich im Ergebnis kaum von längst überwunden geglaubten Rechtsinstituten wie dem deutschen Familienfideikommiss oder dem entail des common law Anatol Dutta untersucht ob das Erbrecht einschliesslich des Erbschaftsteuerrechts heute noch Funktionen in Gesellschaft Wirtschaft und Familie erfüllen kann und auf welche Weise diese Funktionen durch Grenzen einer

generationenubergreifenden Vermögensbindung geschützt werden können Written Constitutions G. van der Tang, H. van Maarseveen, 2024-10-28

The Quest for Japan's New Constitution Christian G. Winkler, 2012-08-21 This book examines the many attempts over the last three decades to revise Japan's constitution. As the book shows, these attempts at revision have been relatively conservative, aiming to embed in the constitution visions of a different future for Japan. Specific reforms advocated include enabling Japan to have a more proactive foreign policy, more independent of the US-Japan alliance; strengthening the role of the Emperor and excluding female succession to the throne; and emphasising more citizens' duties rather than their rights in order to strengthen community and societal cohesion. By far, the most comprehensive analysis of constitutional reform debate in Japan to be published to date, it offers translations and analysis of more than two dozen amendment proposals. The book provides a comprehensive analysis of the details of the reform proposals, charts the so far unsuccessful attempts to bring about the reforms, discusses the different groups arguing for reform, and assesses the nature of the proposed reforms. It categorises different versions of the vision for Japan's future and shows that only a few campaigners are advocating anything like a return to Japan's pre-war constitution.

First Amendment Institutions Paul Horwitz, 2013-01-07 Addressing a host of hot button issues, Horwitz argues that rigidly doctrinal interpretation renders First Amendment law inept in the face of messy real-world situations. Courts should let institutions with a stake in these freedoms do more work to enforce them. Self-regulation and public criticism should be the key restraints, not judicial fiat.

Taking Responsibility, Law and the Changing Family Heather Keating, 2016-04-01 This volume considers the impact that changing family norms have had on the responsibilities that the law allocates to people in family relationships. Contributions are drawn from a wide variety of jurisdictions in which scholars, lawyers, judges, and policy makers have been trying to discern what the appropriate correlation should be between the responsibilities that people undertake in family settings and the law that regulates family responsibilities. Part I looks at the changes that have occurred in adult relationships and what they have done for our sense of the family responsibilities that adults take for one another. Part II reflects on the changing nature of the parental relationship in order to reconsider the way in which changing family structures affect the responsibilities we think people raising children should have. The third part brings the rights discourse that has dominated jurisprudence for much of the last fifty years into the discussion of family transformation and the responsibilities to which it gives rise. In the final section, the authors reflect on the difficulties of trying to resolve the meaning of responsibility in a world of changing families. The collection brings together some of the most eminent and imaginative scholars and judges working in this area. It will be a valuable resource for all those interested in the legal regulation of the transforming family.

Pluralist Constitutions in Southeast Asia Jaclyn L. Neo, Ngoc Son Bui, 2019-04-04 This book examines the presence of ethnic, religious, political, and ideational pluralities in Southeast Asian societies and how their respective constitutions respond to these pluralities. Countries covered in this book are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand,

and Vietnam The chapters examine first the range of pluralist constitutional values and ideas embodied in the constitutions secondly the pluralist sources of constitutional norms thirdly the design of constitutional structures responding to various pluralities and fourthly the construction and interpretation of bills of rights in response to existing pluralities The pluralist constitution is thus one that recognises internal pluralities within society and makes arrangements to accommodate rather than eliminate these pluralities

Wise Family Business Joachim Schwass, Anne-Catrin Glemser, 2016-08-18 *Wise Family Business* aims to help families in business to identify new and better ways of achieving longevity sustainability and performance The book presents ground breaking new insights and practical examples from a range of growing family businesses in which the owning families are visible and in most cases have branded the business with their family name This comprehensive and important study explores how family identity has the power to tie together families in business and leverage their values when developing and sharing the owner's vision with their stakeholder communities Developing a family business identity is key when building and managing an authentic recognizable and trusted brand It argues that family businesses that have successfully translated strong identities into strong brands are not only perceived as attractive employers but also add meaningful value to the business over generations

Philosophy of History and Social Evolution Hugh Doherty, 1874

Constitutions in the Global Financial Crisis Xenophon Contiades, 2016-05-23 This book is the first to address the multi faceted influence of the global financial crisis on the national constitutions of the countries most affected By tracing the impact of the crisis on formal and informal constitutional change sovereignty issues fundamental rights protection regulatory reforms jurisprudence the augmentation of executive power and changes in the party system it addresses all areas of the current constitutional law dialogue and aims to become a reference book with regard to the interaction between financial crises and constitutions The book includes contributions from prominent experts on Greece Hungary Iceland Ireland Italy Latvia Portugal Spain the UK and the USA providing a critical analysis of the effects of the financial crisis on the constitution The volume's extensive comparative chapter pins down distinct constitutional reactions towards the financial crisis building an explanatory theory that accounts for the different ways constitutions responded to the crisis How and why constitutions formed their reactions in the face of the financial crisis unravels throughout the book

Unconventional Wisdom John Ward, 2006-02-03 Family businesses prosper by pursuing unconventional strategies Because they are values driven and think very long term they take approaches not popular with current management fashion or most companies That is the key to their competitive advantage However family businesses must find ways to simultaneously serve business needs and family goals which require very different priorities and principles As a result they must think paradoxically and find insights that single purpose enterprises need not contemplate They must dare to be different Family business requires a different governance system but it must nevertheless be one that can be controlled Building on insights from the world's premier family business executive education course this book offers the Unconventional

Wisdom needed to leverage the strategic and cultural uniqueness of a family business for enduring success **FAMILY BUSINESS** MOHANAKRISHNAN RAMAN,2020-09-08 Understanding the family business is important for business families Several aspects of running a family business from the values vision building relationship building through reciprocity and gratitude succession planning family constitution family governance and family health and wellness are important areas of knowledge the family members must know and practice This book is written for anyone who works in a family business Dr Mohanakrishnan has summarized many years of real world experience and explores the family tensions and issues that often plague these companies Following the clear and practical suggestions set forth in this book will surely add to the success of your family owned business John D Adams Ph D Emeritus Professor of Organizational Systems Saybrook University USA Dr Mohanakrishnan has written this book with pragmatic style with many practical examples to make the reader to understand the complex family business issues and challenges The solutions discussed are also of high learning value Santhiran Ramasamy Group Senior Director Business Development and Strategic Alliances Mahsa Education Group Malaysia The Complete Family Office Handbook Kirby Rosplock,2014-01-08 Everything you need to know for successful wealth management for families Although the family office concept is not new it is a phenomenon that is changing the wealth management landscape With celebrities and business moguls investment gurus and family business icons establishing private wealth management advisory firms more and more individuals are asking what exactly is a family office and how does it operate Family offices either serve one family exclusively or typically manage the wealth of a number of affluent families If you re like most families and advisors you re familiar with family offices but may not know exactly how they work or why the family office is right for you or your clients Dr Kirby Rosplock an expert on the family office concept provides insights to some of the most common questions and even misperceptions in this handbook The Complete Family Office Handbook explains how family offices operate who should consider forming or joining one and how to craft and set up a structure purpose and vision for the office that fully serves a family s particular needs and investment goals Whether you re a wealth creator a member of a wealthy family considering forming or joining a family office or a professional contemplating a career in this growing segment of the wealth management industry this comprehensive guide provides insights to some of the most common questions and misperceptions **The Routledge Companion to Asian Family Business** Ho-Don Yan,Fu-Lai Tony Yu,2021-04-27 This companion provides broad and in depth insights into family business in Asia and how Asian family firms navigate in the digital economy The first part of the book looks at key concepts of family business while the second part presents Asian family firms cases from Japan South Korea China Taiwan Hong Kong Thailand Malaysia and other Asian economies This comprehensive reference will help readers understand how family firms in Asia compete and survive in the world market especially in the digital age and why and how Asian economies can emerge as one of the most dynamic regions in the world Tax and Financial Planning for the Closely Held Family Business Gary A. Zwick,James John Jurinski,2019 Tax

and Financial Planning for the Closely Held Family Business serves as a manual to help business advisers devise strategies for clients dealing with family issues Guiding family businesses through the complex maze of organizational tax financial governance estate planning and personal family issues is a complex time consuming difficult and sometimes emotional process This book focuses not only on identifying the problems family businesses face but on devising solutions and planning opportunities for both family businesses and their owners Each chapter of this book contains creative planning opportunities that advisers can suggest and help implement in order to solve real problems in the family business

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