

ELAINE E. SUTHERLAND: Curriculum vitae

PART I: PERSONAL DETAILS AND EMPLOYMENT HISTORY

PRESENT APPOINTMENTS: Professor of Law
Lewis & Clark School of Law
Portland, OR
U.S.A.
2005 – present

Professor of Child & Family Law
School of Law
University of Stirling
2006 - present

DATE OF BIRTH: 1 June 1957

PLACE OF BIRTH: Dundee, Scotland

NATIONALITY: United Kingdom

DEGREES:

1978: LL.B., First Class Honours in Private Law (*summa cum lauda*)
University of Glasgow

1985: LL.M.
University of British Columbia, Canada

BUSINESS ADDRESSES: *July – December*

Lewis & Clark Law School
10015 S.W. Terwilliger Blvd.
PORTLAND, OR 97219
USA
Telephone: (011) 503 768 6862
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January - June

School of Law
The University of Stirling
STIRLING
FK9 4LA
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HOME ADDRESSES:

July – December

157 Oswego Summit
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USA
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January - June

87 Warrender Park Road
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PAST APPOINTMENTS:

| | |
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| Reader in Private Law | 2000-2006 |
| Senior Lecturer in Private Law | 1992 - 2000 |
| Lecturer | 1989 - 1992 |
| School of Law | |
| University of Glasgow | |
| Visiting Professor | |
| Lewis and Clark Law School | |
| Portland, Oregon, USA | 1999- 2004 |
| Safeguarder (appointed by the Sheriff Principal of Lothian and Borders under the Social Work (Scotland) Act 1978 to report on child care cases) | 1991 - 1995 |
| Visiting Adjunct Professor | |
| Lewis and Clark Law School | Summer 1995 |
| Portland, Oregon, USA | August-December 1984 |
| Lecturer | |
| Department of Scots Law | |
| University of Edinburgh | 1980 - 1988 |
| Lecturer | |
| Visiting European Lawyers Programme | |
| University of Edinburgh | 1982 - 1988 |
| Professor | |
| McGeorge School of Law | |
| University of the Pacific | |
| Sacramento, California, U.S.A. | Summer 1985 |
| Tutor in Scots Law I | |
| Department of Scots Law | |
| University of Edinburgh | October 1979 - May 1980 |
| Apprentice Solicitor | |
| Drummond & Co. W.S. | |
| 31-33 Moray Place, Edinburgh | October 1979 - October 1980 |
| Researcher | |
| Scottish Law Commission | Summer 1978 and 1979. |

PART II: RESEARCH AND PUBLICATIONS

(a) *Work in progress*

CHILD AND FAMILY LAW (2nd ed., W. Green, forthcoming 2007);

FAMILY LAW, LawBasics Series (2nd ed., W. Green, forthcoming 2008);

The Scottish chapter for the INTERNATIONAL SURVEY OF FAMILY LAW 2008 (Bill Atkin, ed., forthcoming 2008);

Research on the issue of “the veil” and other religious dress by school pupils. This fits in very well with the work I have already done on domestic children’s rights (two edition of CHILDREN’S RIGHTS IN SCOTLAND (1996 and 2001) and the international and comparative aspects of the issue (e.g. “Can International Conventions Drive Domestic Law Reform? The Case of Physical Punishment of Children”, in John Dewar and Stephen Parker (eds), FAMILY LAW: PROCESSES, PRACTICE AND PRESSURES (Hart Publishing, 2003), pp.475-489). It will form the basis of my Inaugural Lecture at Stirling University and an article.

Beginning work on the third edition of CHILDREN’S RIGHTS IN SCOTLAND (2nd ed, 2001; 1st ed, 1996). I will be co-editing the work with Alison Cleland and writing the chapters:

Children’s Rights: *plus ça change, plus c’est la même chose* (with Alison Cleland);

The international legal dimension (with John P. Grant);

Care of the child within the family;

The child in conflict with the law.

(b) ***Publications***

Separately Published Works

CHILDREN RIGHTS IN SCOTLAND, 2nd ed (1st ed, 1996), Edinburgh, W. Green, (edited with Alison Cleland), 2001.

CHILD AND FAMILY LAW, T. & T. Clark/Butterworths, 1999 (2nd ed, forthcoming 2007).

FAMILY LAW, Edinburgh, W. Green, 1999 (2nd ed, forthcoming 2007).

GRANDPARENTS AND THE LAW IN SCOTLAND, Edinburgh, Age Concern (Scotland), 1993.

FAMILY RIGHTS AND MEDICO-LEGAL ADVANCE, Edinburgh, Edinburgh University Press, 1990 (edited with R.A. McCall Smith).

Works Published As Part of a Collection

Family Law in Europe: From Mutual Recognition and Enforcement to Harmonisation of Substantive Law? International Family Law Journal 167-169 (2006).

Undue Deference to Experts Syndrome?, 16 Indiana International and Comparative Law Review, 375-421 (2006).

*Is There a Right **Not** to Procreate?* in FIRST DO NO HARM (festschrift in honor of Professor Emeritus J. Kenyon Mason, Sheila A.M. McLean (ed), 2006) pp. 319-336.

Scotland: Offending and Offensive Young People: Why Mandatory Parenting Education is Not the Answer, Andrew Bainham(ed), International Survey of Family Law: 2005 Edition, Bristol, Family Law, 2005.

Child Law section of Child and Family Law in The Laws of Scotland: Stair Memorial Encyclopaedia, 2nd ed (1st ed, 1990), Edinburgh, Butterworths, 2004, pp.6-39 and 63-253.

'Parenting Orders: A Culturally-Alien Response of Questionable Efficacy' 49 Juridical Review 105-132 (2004).

'Procreative Freedom and Convicted Criminals in the United States and the United Kingdom: Is Child Welfare Becoming the New Eugenics?' 82 Oregon Law Review 101-132 (2003).

Can International Conventions Drive Domestic Law Reform? The Case of Physical Punishment of Children, John Dewar and Stephen Parker (eds), Family Law: Processes, Practices and Pressures, London, Hart Publishing, 2003, pp.475-489.

'Man Not Included'- single women, female couples and procreative freedom in the UK, 15 Child and Family Law Quarterly 155 (2003).

Scotland: Some Dreams Realised, Some Disappointments, Andrew Bainham (ed), International Survey of Family Law: 2003 Edition, Bristol, Family Law, 2003, pp. 379-402.

Criminal Justice for the Scottish Child?, Andrew Bainham (ed), International Survey of Family Law: 2002 Edition, Bristol, Family Law, 2002.

The An Age of Reason or The Reasons for An Age? Criminal responsibility in Scots Law Scots Law Times (News) p.1, 2002.

Parentage and Parenting, in Jane Scoular (ed), Family Dynamics: Contemporary Issues in Family Law, p.49, Edinburgh, Butterworths, 2001.

How Children Are Faring In The 'New Scotland', Andrew Bainham (ed), International Survey of Family Law: 2001 Edition, p.363, Bristol, Family Law, 2001.

Can International Conventions Drive Domestic Law Reform? The Case of Physical Punishment of Children, Scottish Law and Practice Quarterly, 6, p.22, 2001.

How Real are Children's Rights in Scotland?, (with Alison Cleland), Alison Cleland and Elaine E. Sutherland (eds), Children Rights in Scotland, p.1, 2nd ed, Edinburgh, W. Green, 2001.

Children's Rights and International Instruments, (John P. Grant), Alison Cleland and Elaine E. Sutherland (eds), Children Rights in Scotland, p.29, 2nd ed, Edinburgh, W. Green, 2001.

Care of the Child within the Family, Alison Cleland and Elaine E. Sutherland (eds), Children Rights in Scotland, p.91, 2nd ed, Edinburgh, W. Green, 2001.

The Child in Conflict with the Law, Alison Cleland and Elaine E. Sutherland (eds), Children Rights in Scotland, p.263, 2nd ed, Edinburgh, W. Green, 2001.

The Future of Family Law Reform, Green's Family Law Bulletin, 50, p.2, 2001.

Scotland: Consolidation and Anticipation, Andrew Bainham (ed), International Survey of Family Law: 2000 Edition, p.329, Bristol, Family Law, 2000.

Improving Scottish Family Law?, Journal of the Law Society of Scotland, 44, p.24, 1999.

Time to Recognise Diversity in Adult Relationships, Green's Family Law Bulletin, 38, p.2, 1999.

Scotland: From Birth to Death, Andrew Bainham (ed), International Survey of Family Law 1996, p.383, The Hague, Martinus Nijhoff, 1998.

Parental Responsibilities and Rights Agreements: Better half a loaf than none at all? Scottish Law and Practice Quarterly, 3, p.265, 1998.

The Unequal Struggle: Fathers and Children in Scots Law, Child and Family Law Quarterly, 9, p.191, 1997.

Roy Breustedt, Brian Kearney, Alex Stevens and Elaine E. Sutherland, *Scotland's Children: The Evolution of the Children's Hearings System over the last 25 years*, Scottish Law and Practice Quarterly 8, p.73, 1997.

Scotland: Child Law Reform - at last!, Andrew Bainham (ed), International Survey of Family Law 1995, p.435, The Hague, Martinus Nijhoff, 1997.

Another unfounded assumption laid to rest? - T, Petitioner, Juridical Review, 42, Curriculum vitae: Elaine E. Sutherland
May 2007

p.373, 1997.

It is a wise father that knows his own child - Sanderson v McManus, Juridical Review, 42, p.195, 1997.

Parental Rights and Adoption: D v Grampian Regional Council, Scottish Law and Practice Quarterly, 1, p.159, 1996.

The Convention Comes to Scotland, Alison Cleland and Elaine E. Sutherland (eds), Children Rights in Scotland, p.21, Edinburgh, W. Green, 1996.

Care of Children within the Family, Alison Cleland and Elaine E. Sutherland (eds), Children Rights in Scotland, p.69, Edinburgh, W. Green, 1996.

The Maternal Preference: Neither a Principle nor a Presumption?, Juridical Review, 41, p.414, 1996.

A Voice for the Child: The Children (Scotland) Act 1995, Part I, Journal of the Law Society of Scotland 391, 41, p. 391, 1996.

The Children (Scotland) Bill - What is in and what is not, Juridical Review, 40, p.306, 1995.

Family Law in Scotland, Caroline Yates and Kate Standley (eds), Family Law in Europe, p.399, London, Butterworth and Co., 1995.

Scotland: Children to the Fore, 33 University of Louisville Journal of Family Law, 33, p.477, 1994-95.

Mother Knows Best or, 'When is a presumption not a presumption?' Scots Law Times (News), p.375, 1994.

Grandparents and the Law, Green's Family Law Bulletin, 33, p.3, 1994.

Adoption: The Child's View, Scots Law Times (News), p.37, 1994.

Scotland: Towards a Child and Family Code, University of Louisville Journal of Family Law, 32, p.405, 1993-94.

A Solution to the Traineeship Crisis?, Journal of the Law Society of Scotland, 38, p.400, 1993.

Clyde and Beyond: The Report of the Inquiry into the Removal of Children from Orkney in February 1991, Juridical Review, 38, p.178, 1993.

The Orkney Case, Juridical Review, 37, p.93, 1992.

The Role of Children in the Making of Decisions which Affect Them, in Freeman and Curriculum vitae: Elaine E. Sutherland

May 2007

Veerman (eds.), *The Ideologies of Children's Rights*, p.155, The Hague, Martinus Nijhoff, 1992.

Parental Rights: Some Recent Developments, Scots Law Times (News), p.359 and 369, 1992.

Children's Charters, Journal of the Law Society of Scotland, 37, p.435, 1992.

Child Law: Radical Change or Woeful Neglect?, Scots Law Times (News), p.447, 1991.

Child Custody in Context, Journal of the Law Society of Scotland, 36, p.289, 1991.

The United Nations Convention on the Rights of the Child: Does Scots Law Measure Up?, Scots Law Times (News), p.198, 1991.

Regulating pregnancy: should we and can we?, Family Rights and Medico-Legal Advance, p.100-119, Edinburgh, Edinburgh University Press, 1990.

Parent and Child, Sir Thomas Smith, Robert Black and J.M. Thomson (eds), The Laws of Scotland: Stair Memorial Encyclopaedia, Volume 10, paras. 1012-1312, Butterworth and Co. and the Law Society of Scotland, 1990.

The Law Protecting Children in the United Kingdom, in J.K.Mason (ed), Paediatric Forensic Medicine and Pathology, p.441, London, Chapman and Hall, 1989.

Child Protection North and South of the Border, Journal of the Law Society of Scotland, 33, p.206, 1988.

Scotland: Financial Provision, The Status of Children and Child Protection, University of Louisville Journal of Family Law, 28, p.588, 1987-88.

Scotland: The Reform Process Continues, University of Louisville Journal of Family Law, 26, p.175, 1987-1988.

Remedying an Evil? Warrantice of Quality at Common Law in Scotland, Juridical Review, 32, p.24-37, 1987.

A.B. Petitioner, Journal of the Law Society of Scotland 32, p.274, 1987.

The Family Law (Scotland) Act 1985, Scots Law Times (News), pp.85 and 93, 1986.

Scotland: Developments in Scots Family Law, M.D.A. Freeman (ed), Annual Survey of Family Law 1984, p.125, International Society on Family Law, 1985.

Scotland: Developments in Scots Family Law, University of Louisville Journal of

Family Law, 25, p.211.

Child Law and Family Law, R.A. McCreadie and I. Willock (eds), *You and Your Rights in Scotland*, London, 1984.

Scotland: Developments in Scots Family Law, M.D.A. Freeman (ed), *Annual Survey of Family Law 1983*, p.37, *International Society on Family Law*, 1984.

Matrimonial Homes (Family Protection)(Scotland) Bill, *Scots Law Times (News)*, p.165, 1981.

(c) **Responses to law reform proposals**

An essential part of the law reform process is consultation and academic contributions are welcomed by the relevant bodies. The Scottish Law Commission issues Discussion Papers and invites comment on its proposals. Over the years, I have submitted some 40 detailed papers in response. Most recently, these have included responding to the *Discussion Paper on the Age of Criminal Responsibility* (No 115, 2001) and the *Discussion Paper on Title to Sue for Non-Patrimonial Loss* (No 116, 2001). The Scottish Law Commission does not give access to the comments it receives, although it does list respondents in an appendix to the resulting final report. One of the external assessors I have suggested, Professor Eric M. Clive, was a Law Commissioner for nineteen years and he will be able to speak to the full extent of my contributions.

The Scottish Executive gives access to responses it receives on some consultations, unless requested not to do so by the respondent. In other cases, responses to consultation can be viewed by contacting the Justice Department Civil Division family law team at family.law@scotland.gov.uk My responses to selected papers can be found as indicated below.

Consultation Paper, *Improving Scottish Family Law* (Scottish Office, 1999). My response can be found at:
<http://www.scotland.gov.uk/justice/familylaw/response.pdf> at pp. 349-539.

Consultation Paper, *Physical Punishment of Children* (Scottish Executive, 2000)
My response can be found at:
<http://www.scotland.gov.uk/justice/familylaw/response/physpunS-Z> at pp. 140-153

Consultation Paper, *Parents and Children: Improving Scottish Family Law* (Scottish Executive, 2000). It appears that the only way to view my response (apart from contacting me) is by contacting the Justice Department Civil Division.

Consultation Paper, *Civil Partnership Registration: A Legal Status for Committed Same-Sex Couples in Scotland* (Scottish Executive, 2003). It appears that the only way to view my response (apart from contacting me) is by contacting the Justice Department Civil Division.

Written Consultation: *Improving Scottish Family Law* (Scottish Executive). My response can be found at:
<http://www.scotland.gov.uk/library5/society/fmc012.pdf>

(d) **Conference Papers**

International/overseas conferences

“The Danger of Not Knowing What We Don’t Know”, 12th International Conference of the International Society of Family Law, July 2005, Salt Lake City, Utah, USA.

“Procreative Freedom: Is Child Welfare Becoming the ‘New Eugenics’?”, North American Regional Conference of the International Society of Family Law, June 2003, Eugene, Oregon.

“What a difference a Convention makes: The United Kingdom experience of the United Nations Convention on the Rights of the Child”, 23rd Conference of the National Association of Counsel for Children, November 2000, Washington, D.C.. Conference proceedings published: Laoise King and Marvin Ventrell (eds), *Improving the Professional Responses to Children in the Legal System* (National Association of Counsel for Children, Children’s Law Manual Series, 2000 edition), pp.167-191.

“Conventional or Domestic Wisdom in Scotland: Can international conventions result in law reform when pressure at home fails?”, 10th International Conference of the International Society of Family Law, July 2000, Brisbane, Australia. Resulting publication: John Dewar and Stephen Parker (eds), *Family Law: Processes, Practices and Pressures*, (Hart Publishing, 2003), pp.475-489.

“Lessons from Orkney: Child Protection in Scotland”, 4th International Conference on the Child, Organization for the Protection of Children’s Rights, *Children and Violence: Our Individual, Family and Collective Responsibilities*, October 1999, Laval, Canada

“Child Protection and Juvenile Justice in Scotland: The Children’s Hearings System”, Juvenile Rights Inc., February 1998, Portland, Oregon.

“Changing Family Structures in Scotland: The Legal System’s Response”, International Society of Family Law 9th World Conference, July 1997, Durban, South Africa.

“A Brave Heart? Defining Parenthood in Scots Law”, Law and Society Association, International Conference, July 1996, Glasgow.

“Scotland’s Children: The Evolution of the Children’s Hearings System over the last 25 years”, DCI International Conference on Juvenile Justice, March 1995, Israel.

“The Role of Children in the Decision-Making Process”, 1st International Interdisciplinary Study-Group on the Ideologies of Children’s Rights, December 1990, Israel. Resulting publication: in M.D.A. Freeman and P. Veerman (eds.), *The Ideologies of Children’s Rights* (Martinus Nijhoff, 1992), pp.155-166.

Domestic conferences (Scotland)

“The Impact of Domestic Abuse on Children: Now A Special Factor?”, Law Society of Scotland, May 2006, Dunblane.

“Recognising Diversity in Family Structures”, Marriage Counselling Scotland, February 1999, Glasgow.

“A Voice for the Child”, Family Mediation Scotland Conference, November 1996, Glasgow.

“Access: the Children (Scotland) Act 1995 and the U.N. Convention on the Convention on the Rights of the Child”, Law Society of Scotland and Scottish Courts Administration, International Child Abduction Conference, November 1996, Edinburgh.

“The Role of the Safeguarder”, Scottish Child Law Centre Conference on Representing Children: Listening to the Voice of the Child, November 1995, Glasgow. Conference proceedings published: *Representing Children: Listening to the Voice of the Child* (Scottish Child Law Centre, 1996). pp.28-35.

“Reproduction involves children too”, Reproductive Law and Ethics Conference, October 1995, Keele University.

“The Role of the Safeguarder”, Legal Services Agency Conference on Children’s Hearings, Lawyers, the Courts and the Children (Scotland) Act 1995, October 1995, Glasgow.

“Rights and Opportunities for Grandparents”, Age Concern (Scotland) Conference, May 1994, Glasgow.

“The United Nations Convention on the Rights of the Child”, Scottish Universities Law Faculties Conference, March 1994, Pitlochry.

“Families in the 1990's - The Challenge for the Education Service”, Family Mediation Scotland Conference, May 1993, Edinburgh.

“Dilemmas in Dealing with Child Abuse”, Second Annual Conference of the United Kingdom Forum on Health Care Ethics and Law, April 1993, Edinburgh.

“The Child's Involvement in Decision-making”, May 1991, Conference on Children's Right to Legal Services, Scottish Child Law Centre, Glasgow.

“Young Persons and Consent to Medical Treatment”, Child Care Law Group Conference, July 1989, Glasgow.

“Contrasting Legal Approaches to Child Protection”, National Children's Bureau Conference, March 1988, Peebles.

PART III: TEACHING AND SUPERVISION.

Lewis & Clark Law School

Family Law (survey course).

Contemporary Issues in Family Law (seminar, offered alternate years)

Juvenile Justice (seminar, offered alternate years)

Independent study (supervision offered regularly, as required).

School of Law, University of Stirling

At present, my teaching at the University of Stirling is confined to the Family Law course (lectures and tutorials).

The Academic Affairs Committee has approved an Honours-level course (seminar equivalent) on Domestic Relations Law to begin in the spring semester of 2008. Approval will be sought for an Honour-level course on Child Law with a view to it being taught in 2009. In the longer term each of the seminars will be offered in alternate years.

Previously in Scotland, I have taught Aspects of Banking Law, Business Organisations, Contracts, Criminal Law and Legal System and have supervised student research at Masters and Doctoral level.

PART IV: RELATED ACTIVITIES

Contributions to the Law Reform Process:

In the course of developing recommendations for reform of the law various government and other agencies, including, the Scottish Law Commission, the Scottish Executive and the Lord Chancellor's Department, produce consultation documents and invite comment from lawyers and others. Since I believe that academics have much to offer in this process, I respond to all papers where I feel I can make a contribution. Only recently have these bodies made responses to consultation available and this is done so via their websites. For the website citations to a number of my recent responses, please see p.13. In addition, I am an active member of the Family Law Committee of the Law Society of Scotland.

Continuing Legal Education:

The legal profession is committed to ensuring that its members participate in continuing legal education and organises courses and seminars. The Universities and other organisations also offer courses and seminars with this audience primarily in mind, although these are usually open to other interested persons from related professions. I have been involved in designing, running and presenting a number of such courses and seminars, usually in the areas of child and family law.

The Media:

It is essential that members of the public should be presented with accurate information on the law and legal system. Accordingly, it has always seemed to me that I should assist the press by providing them with background information and giving comment on radio and television on matters in which I have expertise.

Safeguarder:

I was appointed as a safeguarder by the Sheriff Principal of Lothian and Borders, in 1991 and served until 1995. The safeguarder's role is to report to the courts and the children's hearing on difficult cases involving concern for a child's welfare. Often, there may be a conflict of interest or opinion between the child and the parents, the child and the social worker or the social worker and the parents. In completing over twenty reports, I have had the opportunity to use my legal, communication and assessment skills to make some contribution to our child protection system and apply the law to practical situations.

Memberships:

International Bar Association
Institute for Learning and Teaching in Higher Education
International Society of Family Law
Law Society of Scotland, Committee on Family Law
National Association of Council for Children (U.S.A.)
Scottish Child Law Centre
Scottish Family Conciliation Service
Scottish Legal Action Group
Society of Legal Scholars (formerly Society of Public Teachers of Law).