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探望权制度法律文献检索报告

1. 引言 (Introduction)

1.1 主体摘要 (abstract)

近年来,随着离婚案件的不断增加,离婚后不与子女共同生活的一方要求探望子女而引发的纠纷亦越来越多,大陆婚姻法虽然有明确的关于离婚后探望权的规定,但实践中有关探望权的纠纷不断。

探望权,是父母离婚后不直接抚养子女的父或母享有的与未成年子女的联系、会面、交流等权利。在日本实务中称为见面交流权,中国大陆婚姻法中称为探望权,台湾地区称为见面交往权。有学者将探望权定义为:不任亲权行使之父或母一方,与其未成年子女进行会面、通信的权利或其他权利,包括电话交谈、寄送照片、度假旅行或对有亲权一方询问子女近况等情形。探望权是基于血统关系而产生的权利,是亲子关系自然流露的权利,属于父母照顾权(亲权、监护权)中人身照顾权的一部分,但又与人身照顾权分离成为并存的权利,具有高度的专属性。

1.2 关键字 (keywords)

- ¶ 探望(visitation, visiting)
- ¶ 探望权(right of visitation, right of visiting, visitation rights)
- ¶ 未成年人利益(the interest of child)
- ¶ 家庭法 (family law)
- ¶ 访问权 (Visitation rights)
- ¶ 儿童监护权 (custody of children)
- ¶ 家庭关系 (domestic relations)
- ¶ 孩子的最大利益 (the best interests of children)
- ¶ 父母离婚 (parents are divorced)
- ¶ 父母分居 (parents are separated)
- ¶ 保护儿童 (protect the child)
- ¶ 家庭单位 (family unit)

1.3 检索词句与检索资源 (Boolean connectors and sources)

1.3.1 检索词句 (Boolean connectors)

关键词: 探望、探望权、探视权

检索条件: 全文、精确匹配

(“visitation right” or “right of visitation”)

1.3.2 检索资源 (sources)

中文资源: 北大法宝、中国裁判文书网、中国知网、浙江大学光华法学院图书馆

外文资源: Westlaw, Heinonline, Lexisnexis

1.4 本法律检索报告受众 (Object of Reading)

本法律检索指南的主题是探望权制度,可以为法官群体提供相关智识,为研究相关课题的

学者提供参考。此外，本法律检索指南对其他希望了解探望权制度的律师、法科学生以及普通公众也有所帮助。

2. 中文法律资源 (Chinese Legal Sources)

2.1 一次资源 (primary sources)

2.1.1 法律 (statutes)

【检索路径】北大法宝——中央法规司法解释

【检索结果】

《中华人民共和国婚姻法》——第三十八条

第三十八条 离婚后，不直接抚养子女的父或母，有探望子女的权利，另一方有协助的义务。行使探望权利的方式、时间由当事人协议；协议不成时，由人民法院判决。

父或母探望子女，不利于子女身心健康的，由人民法院依法中止探望的权利；中止的事由消失后，应当恢复探望的权利。

第四十八条 对拒不执行有关抚养费、抚养费、赡养费、财产分割、遗产继承、探望子女等判决或裁定的，由人民法院依法强制执行。有关个人和单位应负协助执行的责任。

2.1.2 行政法规、部门规章、地方司法文件 (Regulations)

【检索路径】北大法宝——地方法规规章

【检索结果】

《福建省老年人权益保障条例》——第十五条

第十五条 赡养人应当履行精神上慰藉老年人的义务，满足老年人健康的精神文化需要。对入住养老机构或者与其分开居住的老年人，赡养人应当经常探望；对较长时间未探望老年人的，赡养人所在的工作单位、村（居）民委员会或者养老机构应当督促其探望。

《浙江省未成年人保护条例(2016修正)》——第十四条

第十四条 未成年人父母离异的，离异双方应当依据协议、判决或者裁定，履行对未成年子女的监护职责和抚养义务。离婚后，不直接抚养子女的父或母，有探望子女的权利，另一方有协助的义务。

山西省实施《中华人民共和国老年人权益保障法》办法(2016修订)——第十一条

第十一条 赡养人以及其他家庭成员应当关心老年人的精神需求，尊重老年人健康有益的生活方式，尽量满足老年人精神文化生活需要。

鼓励赡养人所在单位在老年节、老年人生日以及生病住院时，为赡养人探望老年人提供便利。

江西省实施《中华人民共和国老年人权益保障法》办法(2016修订)——第十三条

第十三条 赡养人应当定期探望入住养老机构的老年人。老年人要求赡养人探望的，养老机构可以协助老年人联系，或者向赡养人所在的工作单位、村（居）民委员会反映。

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《上海市老年人权益保障条例(2016)》——第十四条

第十四条 老年人的家庭成员应当关心老年人的精神需求，给予精神上的慰藉，营造和睦关爱的家庭氛围，不得忽视、冷落老年人。

与老年人分开居住的家庭成员，应当经常看望、问候老年人。

对入住养老机构的老年人，家庭成员应当经常探望；对较长时间未探望老年人的家庭成员，养老机构可以提出建议，督促其前往探望。

《苏州市华侨归侨侨眷权益保护办法》——第二十五条

第二十五条 归侨、侨眷职工出境探望配偶、父母的，其假期、工资等待遇按照国家规定执行。

本市在职职工探望出境定居子女的，所在单位可以参照职工出境探望父母的规定给予适当假期。

《武汉市出境定居人员权益保障规定》——第二十条

第二十条 本市在职职工，探望出境定居的子女，每4年给假1次，假期40日（不含公休假日和法定节日）。其出境假期工资应予发放，境内外费用自理。

△检索地方性法规 71 篇，主要为各省老年人权益保障条例与各省未成年人保护条例；
地方政府规章 23 篇，主要为职工探亲待遇规定与出境定居人员权益保障；
此外，地方规范性文件 193 篇，地方司法文件 12 篇。

2.1.3 法律解释：立法解释、司法解释、行政解释（Legal Interpretations: legislative, Judicial and administrative Interpretations）

【检索路径】北大法宝—中央法规司法解释

【检索结果】

全国人大常委会关于修改《中华人民共和国婚姻法》的决定(2001)——第二十五条

二十五、增加一条，作为第三十八条：“离婚后，不直接抚养子女的父或母，有探望子女的权利，另一方有协助的义务。

“行使探望权利的方式、时间由当事人协议；协议不成时，由人民法院判决。

“父或母探望子女，不利于子女身心健康的，由人民法院依法中止探望的权利；中止的事由消失后，应当恢复探望的权利。”

全国人大常委会关于批准《国务院关于职工探亲待遇的规定》的决议——第二条、第三条、第六条

第二条 凡在国家机关、人民团体和全民所有制企业、事业单位工作满一年的固定职工，与配偶不住在一起，又不能在公休假日团聚的，可以享受本规定探望配偶的待遇；与父亲、母亲都不住在一起，又不能在公休假日团聚的，可以享受本规定探望父母的待遇。但是，职工与父亲或与母亲一方能够在公休假日团聚的，不能享受本规定探望父母的待遇。

第三条 职工探亲假期：

（一）职工探望配偶的，每年给予一方探亲假一次，假期为三十天。

（二）未婚职工探望父母，原则上每年给假一次，假期为二十天。如果因为工作需要，本单位当年不能给予假期，或者职工自愿两年探亲一次的，可以两年给假一次，假期为四十五天。

（三）已婚职工探望父母的，每四年给假一次，假期为二十天。

探亲假期是指职工与配偶、父、母团聚的时间，另外，根据实际需要给予路程假。上述假期均包括公休假日和法定节日在内。

第六条 职工探望配偶和未婚职工探望父母的往返路费，由所在单位负担。已婚职工探望父母的往返路费，在本人月标准工资百分之三十以内的，由本人自理，超过部分由所在单位负担。

国务院关于工人、职员回家探亲的假期和工资待遇的暂行规定[失效]

2.1.4 案例（Cases）

【检索路径】北大法宝、中国裁判文书网

【检索结果】

《**陈某与范某甲探望权纠纷一案一审民事判决书**》，（2012）嘉平民初字第834号。

（1）案件事实

原、被告原系夫妻关系，育有一子。原、被告协议离婚后，双方约定儿子范某乙跟随原告生活。2012年2月5日，被告向本院提起变更抚养关系之诉，要求儿子随被告生活，经本院调解，双方均同意儿子随被告范某甲生活，由范某甲承担其全部的抚养费，原告陈某可每月探望儿子四次。现原告认为被告未积极协助以及配合其行使对儿子的探望权，影响了其与儿子之间的感情，故双方再次酿成纠纷。

（2）案例讨论

离婚后，不直接抚养子女的父或母，有探望子女的权利，另一方有协助的义务；行使探望权的方式、时间由当事人协商，协议不成时，由法院依法判决。原告虽有探望权，但出于有利于孩子成长角度考虑，探望次数与探望方式由法院酌情确定。

《**徐某、李某诉倪某隔代探望权纠纷案**》，（2015）锡民终字第01904号。

（1）裁判摘要

祖父母、外祖父母对父母一方死亡的未成年孙子女、外孙子女进行探望的权利应当得到尊重，探望权的行使方式可由当事人协议；协议不成的，由人民法院从有利于未成年人健康成长和家庭和谐的角度，在不影响法定监护人履行监护职责的前提下，根据案件具体情况予以确定。

（2）案例讨论

法院认为其他成年近亲属的精神关怀与物质支持对未成年人人格健全、身心发育成长有着积极意义，符合《未成年人保护法》的保护原则。代替已经死亡或者丧失行为能力的子女对孙子女或外孙子女进行探望是必要的。由《老年人权益保障法》中相关规定可知，探望孙辈是失独老人获得精神慰藉的重要途径之一，应视为老年人应有之权益，且可与孙辈享有代位继承权利之法律原理相对应，亦是对失独老人的特殊保护和关心。

此外，允许失独老人隔代探望、和谐共处履行监护职责与公序良俗、社会公德相符，亦是对中华民族传统美德的继承与发扬。在有利于未成年人健康成长、有利于亲属间感情融合的基础上，在不影响监护人履行法定监护职责的前提下，应当支持祖父母、外祖父母对孙辈的合理探望。

2.1.5 中国法律网站（Chinese Legal websites）

【检索路径】北大法宝——English

【检索结果】

Interpretation No.I of the Supreme People's Court on Several Issues in the Application of Marriage Law of the People's Republic of China——Article24、Article25

Article 24 If a valid judgment of divorce made by the people's court does not involve the visit right and if the parties concerned bring a separate lawsuit over the visit right, the people's court shall accept the case.

Article 25 During the course when the parties perform the valid judgment, ruling or mediation document, if a party concerned requests for suspending the exercise of the visit right, the people's court shall make a ruling if it believes it is necessary to suspend the exercise of the visit right after it consults the opinions of both parties. After the circumstance for the suspension of the visit right disappears, the people's court shall, upon application of the party concerned, inform him (her) that he (she) may resume the exercise of the visit right.

Marriage Law of the People's Republic of China (2001 Amendment)——Article38

Article 38 After divorce, the parent that does not directly bring up the children has the right to visit

the children, and the other party has the obligation to give assistance.

The way and time for exercising the right of visiting children shall be agreed upon by the parties concerned. In case no agreement is achieved, they shall be decided by the people's court.

If the visit of either the father or mother is harmful to the soundness of the body and mind of the children, the said right shall be terminated by the people's court. When the reasons for terminating the said right disappear, the right shall be resumed.

14 Model Cases on the Trial of Minors Circulated by the Supreme People's Court

4. Zhang v. Guo (a case of dispute over visitation right)

In this case, the introduction of the visitation supervisor system to the hearing of cases regarding disputes over visitation right was conducive to identifying the true situations of the parties and their families, resolving conflicts and disputes, reflecting judicial fairness and openness, and ensuring that the person entitled to visitation properly fulfill visitation right according to the law so as to protect the lawful rights and interests of the minors and make them healthily grow. According to follow-up tracking, the enforcement of this case was normal and the tension between both families was eased. This case is the first case that applies the system of visitation supervisor across the country. It is a beneficial practice in which the people's court engages in social administration innovation, integrates resources from various parties and on the basis of social forces, resolves case conflicts and disputes, and maintains and safeguards the lawful rights and interests of the minors and it also provides new experience for further improving the system of trial of minors.

Measures of Jiangsu Province on Implementation of the Law of the People's Republic of China on Protection of the Rights and Interests of Women (2008 Amendment)——Article 35

Article 35 Women's right of self-determination in marriage and divorce shall not be interfered with. During the litigation for divorce, the husband and his relatives shall not infringe upon and restrict the wife's personal freedom, and shall not infringe upon her right of residence.

Where a conjugal relation is rescinded according to law, no one may interfere with the wife's normal life; no one shall obstruct her from visiting her offspring(s).

2.1.6 相关的政府主管部门 (Government Agencies in charge)

【检索路径】中国政府网——国家卫生和计划生育委员会——政策文件

【检索结果】

中华人民共和国婚姻法

抚养子女的父或母，有探望子女的权利，另一方有协助的义务。行使探望权利的方式、时间由当事人协议；协议不成时，由人民法院判决。父或母探望子女，不利于子女身心健康的，由人民法院依法中止探望的权利。

全国城市社区卫生工作会议交流材料——妇幼保健与社区卫生司

在他生前治疗的2年多的时间里，中心有600多天安排人员到他家探望，制定治疗方案，教他老伴如何注意他的饮食。

2.2 二次资源 (Secondary Sources)

2.2.1 图书：学术与实务 (books: scholarly and practicing materials)

【检索路径】浙江大学图书馆、搜索引擎

【检索结果】

△ 由于就书名搜索无相关书籍，故仅检索到在章节上与之相关的书籍。

(1) 卓冬青, 郭丽红, 白云. 婚姻家庭法(第四版) [M]. 广州: 中山大学出版社出版社, 2002.

该书第二编婚姻关系法中就“离婚后不直接抚养子女的一方的探望权”进行了解读。主要从探望权概念及特征、探望权的行使、探望权的中止与恢复三部分进行分析。并结合《德国民法典》、《美国统一结婚离婚法》、台湾香港地区的相关立法进行比较研究。并从《预防未成年人犯罪法》第14条就“不利于子女身心健康”事由进行了明确。

(2) 蒋月. 婚姻家庭法前沿导论[M]. 北京: 科学出版社, 2007.

本书从探望权制度的由来与性质、探视权的主体、探视权的行使、探视权的强制执行、完善探视权制度的建议五部分就“探望权制度”进行研究分析。该部分将“探望权”与“探视权”相等同, 作者认为, 设立探视权制度的目的在于保护未成年子女的利益, 使其不因父母离婚而中断与父母中一方的正常联络与情感。在司法裁判探望权争议时, 有以下原则: ①协商优先原则; ②未成年子女最大利益原则; ③便于司法执行原则。此外, 探望权人范围也一直饱受争议, 作者建议将享有探望权的主体扩大到祖父母、外祖父母、兄弟姐妹等近亲属, 应使未成年人与父母以外的诸多近亲属保持长久联络, 保障情感上的充沛。

(3) 沈志先主编. 婚姻家庭案件审判摘要[M]. 北京: 法律出版社. 2013.

实践中有关探望权的纠纷十分常见, 处理探望权纠纷, 不仅要考虑对离婚后夫妻探望权利的保护, 还要注重对未成年子女权利的保护。就探望权的主体范围问题, 作者认为由于《婚姻法》第三十八条规定探望权的主体, 只是离婚后不直接抚养子女的父或母, 不应采取将范围扩大的处理办法。但考虑到我国传统习惯, 可以告知其在该未成年的父或母行使探望权时, 探望该未成年人。此外, 因为探望权的本质是为了更好地照顾子女的生活, 有利于子女良好人格的培养, 因此, 父母行使探望权, 要遵循有利于子女身心健康的原则。该书结合各类案例, 就探望权中存在的诸多问题“以案说法”, 具有实践意义。

2.2.2 学位论文 (Dissertations)

【检索路径】中国知网

【检索结果】

王玲. 探望权制度研究[D]. 西南政法大学, 2012 级硕士论文.

曾钦骏. 探望权制度之完善[D]. 西南政法大学, 2014 级硕士论文.

包丽娟. 探望权相关法律问题研究[D]. 中央民族大学, 2012 级硕士论文.

蒋春燕. 婚姻家庭法中探望权问题研究[J]. 对外经济贸易大学, 2006 年硕士论文.

张婧. 我国探望权法律制度研究[D]. 华东政法大学. 2012 级硕士论文.

本文主要论述了探望权制度的基本理论。从学界对探望权不同的定义入手, 结合亲权、监护权及抚养权相关概念, 对探望权的概念作界定。再从探望权的概念引伸其具有的法律特征及价值。分别从立法和实务两个层面来研究我国探望权制度的现状。一方面, 从现行的立法出发, 剖析探望权主体、客体、行使、中止与恢复、执行等基本内容, 同时指出立法背后的学理争议。另一方面, 立足实然角度, 结合司法实务, 归纳和概括探望权制度 10 余年来在司法适用中的形势变化。

此外, 英美法系国家和大陆法系国家关于探望权制度的相关立法例进行罗列, 从中梳理出值得我国借鉴和吸收的内容。最后介绍了我国探望权制度的立法原则及子女最佳利益原则的相关内容。

张海燕. (外) 祖父母探望权研究[D]. 西南政法大学, 2015 级硕士论文.

本文以案例为切入点,首先通过评析我国首个隔代探望权纠纷案件等三个经典案例,引出我国(外)祖父母探望纠纷案件的司法现状,指出此类案件亟需统一裁判标准。其次,作者从主体、客体、内容三个方面讨论了探望权的界定,分析哪些情况下(外)祖父母享有探望权;讨论探望权的性质,得出探望权是一种权利义务相统一的身份权。再者,就域外相关立法例进行考量。通过分析国外立法,找出我们国家关于(外)祖父母探望权可以借鉴的东西。然后,就我国探望权主体的立法现状及评析。在这部分,介绍了我国单一的探望权主体,我国探望权行使的限制,通过对主体的评析,进一步阐述(外)祖父母探望权的合理性。

最后,笔者就我国(外)祖父母探望权制度做出了自己的构建。在本部分,主要内容为探望权对于离婚后祖孙关系的维系起到重要作用,在特定条件下赋予(外)祖父母探望权合情合理。当然,这一制度的设立需要遵循一定的原则。在这些原则的基础上,提出了我国(外)祖父母探望权制度的具体设立。

王希元.我国探望权制度研究[D].吉林大学,2015 级硕士论文.

本文在结构上可分为五部分。本文以我国探望权制度的性质和功能作为逻辑起点,对探望权的概念、特点进行梳理,通过对探望权基本理论的探讨,在性质和功能上本文将探望权界定为主张精神慰藉的权利。继而对我国探望权制度从探望权行使原则、探望权主体资格、探望权行使方式、探望权的中止和恢复、强制执行五个方面分析立法现状,为后文立法完善的提出奠定基础。在对当前立法有了清晰把握之后,对司实践中探望权制度遇到的问题进行观察。通过筛选三个经典案例说明该制度在当前遇到的困境,指出儿童最大利益原则在探望权制度中具有普适意义。在发现问题的基础上,本文对案例中问题存在的成因从立法和司法的角度给予解释,完成对问题的分析。在论文的最后,从立法和司法完善的角度,结合在前一部分中对问题存在原因的分析的基础上提出完善我国探望权制度的建议。

2.2.3 法学评论文章(Law Review Articles)

【检索路径】中国知网

【检索结果】

王玮.探望权及其相关问题研究[J].河北法学, 2003 年第 4 期。

笔者认为婚姻法修正案设立了探望权制度,填补了婚姻家庭制度的空白,但从探望权产生的法律基础父母子女关系即权利义务关系分析,探望权是非常态父母子女关系中的一项权利,不限于离婚父母;同时它不仅是父母的权利也是父母的义务,即子女也有要求父母探望的权利。探望权制度应在坚持以子女利益为重兼顾父母利益的原则下进一步完善。

景春兰,殷昭仙.探望权及其主体扩展的立法思考——以“儿童最大利益”原则为视角[J].法学杂志.

倪春南,闵振华.探望权执行中的问题及对策[J].人民司法,2002 年第 9 期。

黄新,张冰.国外、域外探望权制度比较[J].山东省经济管理干部学院学报,2004 年第 1 期。

陈苇.离婚后父母对未成年子女监护权问题研究——兼谈我国婚姻法相关内容的修改与补充[J].中国法学,1998 年第 3 期。

杨晋玲.试论探望权[J].学术探索,2003 年第 2 期。

许尧辉.对婚姻法中有关探望权规定的思考[J].天津市政法管理干部学院学报,2002 年第 3 期。

王丽萍.中日探望权制度研究[J].山东大学学报(哲学社会科学版),2004 年第 6 期。

父母离婚后不与子女共同生活的一方享有探望子女的权利。与子女共同生活的一方应为对方行使探望权提供便利。探望权的行使应符合子女的最佳利益。当探望权的行使不利于子女身心健康时,应中止探望权。探望权中止后,不与子女共同生活的一方仍有支付抚育费的义务。

2.2.4 中国法律网站 (Chinese Websites)

【检索路径】北大法宝——English

【检索结果】

Chu Xuefei, Xu Tengfei. Analysis of the Perfection of Visitation Right System in China[J]. Journal of Heilongjiang Administrative Cadre Institute of Politics and Law. 2013(5)

The marriage law of China(2001) first proposed the concept of visitation, and then established the system of visitation right. It is not only good for maintenance the minor children' physical and mental health, but also good for balance the interests of both sides of divorced parents. The establishment of the visitation right system is also a great progress of the marriage and family law in our country, making China's marriage and family law system more perfect. However, there are many problems of the visitation right in the exercise that should be improved in practice.

Cai Yongming, Zhang Zhiyuan. A Legal Principle Analysis of The Legislation of Visitation Right and How to Perfect It[J]. Journal of Gansu Political Science and Law Institute. 2006(5).

The amendment of marriage law has established the system of visitation right which was not founded in marriage and family system before. However, it is very difficult to realize the visitation right in the practice since then. Personal right has its own characteristics, sharply different with other legal rights such as real right. Under the principles of fully considering the affects of traditional culture and the characteristics of visitation right, the visitation right system should be further perfected.

Wang Wei. On Problem of Visitation Right and Relating item[J]. Hebei Law Science. 2003(4).

In the amendment of marriage law is established the system of visitation right, with makes up a gap in the marriage Law. In the legal provisions, visitation right is parent's right when not acquiring direct fostering right after their divorce. From the legal in the relation between parents in the children. We can know that visitation right is one existed in the non—normal relation between parents and children. Not limited to the divorce parents. At the meantime, it is the parents' right and obligation. Or children have also the rights demanding their parent to visit them. The visiting system should be further perfected in the principle of persisting heavily in the children' benefits and giving considerations to parent.

2.2.5 相关的非政府组织 (NGO)

【检索路径】中国妇联网

【检索结果】

立法完善共同监护优先制度——中国妇联报 (2015.9.11)

立法中须明确一方违反抚养权和探望权相关规定所应承担的民事责任和严重侵害他方权利时应承担的相应责任和惩治措施,如可借鉴国外的禁止出境、签发人身保护令等等,增强抚养权和探望权执行的强度和效果,禁止干涉和侵害监护权正当行使的行为,保障共同监护的实现。

制定家庭暴力防治法 促进社会和谐——反对家庭暴力,我们共同的责任 (2014.11.27)

各种保护令的内容均较为多样,其涵盖包括了禁制令(包括命令禁止施暴及禁止接触)、迁出令(命令相对人迁出住居所)、远离令(命令加害人远离被害人住居所或工作场所)、决定令(定动产暂时占有权、子女暂时监护权、探望权)和给付令(如命令施暴人给付租金、抚养费等)。

2.3 结论 (conclusion)

家庭是社会的细胞, 婚姻家庭关系的稳定, 是社会稳定的基础。新婚姻法的颁布和实施是我国政治生活中的一件大事, 揭开了新世纪婚姻立法的新篇章。探望权制度的设立为婚姻法的制度作了补充和细化, 它在弘扬社会主义道德风尚, 解决离异父母对子女的抚养教育关系, 以及积极营造有利于未成年人健康成长环境等方面都发挥了举足轻重的作用, 为构建社会主义和谐社会, 巩固和发展社会主义婚姻家庭制度建设都具有积极重要的现实意义。但是由于起步较晚, 探望权制度的规定还不成熟、不完善, 可操作性比较差, 影响了其应有功能的发挥, 因此, 在立法和司法实践中有待于进一步改进和完善的地方还很多。如何完善探望权、有效解决执行探望权纠纷案件, 使其成为更能符合立法旨趣、更能保护未成年人权益的制度, 将是学术界和司法实践中必须深入探究的一个新课题。这也注定我们在落实探望权, 保障探望权的实现上还有很长的路要走。

3. American legal sources

3.1. Primary Source

3.1.1 Statutes

3.1.1.1 Federal Statutes

【检索路径】 Westlaw—Home > Statutes & Court Rules > United States Code Annotated (USCA) > ("visitation right" /p child) or "right of visitation" > Statues > Federal

【检索结果】

U.S.C.A. Const. Amend. XIV, § 1-Due Proc

DOMESTIC RELATIONS—Visitation, grandparent rights, domestic relations

Washington statute providing that any person may petition court for visitation at any time, and that court may order visitation rights for any person when visitation may serve best interest of child, violated substantive due process rights of mother, as applied to permit paternal grandparents, following death of children' father, to obtain increased court-ordered visitation, in excess of what mother had thought appropriate, based solely on state trial judge's disagreement with mother as to whether children would benefit from such increased visitation; at minimum, trial judge had to accord special weight to mother's own determination of her children' best interests.

家庭关系——探望, 祖父母权利, 家庭关系

华盛顿州法规规定, 任何人可随时向法院提出呈请, 而且当访问可能有利于儿童最佳利益时, 法院可以命令访问权, 违反母亲的实际正当程序权利, 适用于允许父亲的祖父母遵循 死亡的孩子的父亲, 获得更多的法院命令的访问, 超过母亲认为适当的, 完全基于州法官与母亲的分歧, 是否孩子将从这种增加的访问中受益; 至少审判法官必须特别重视母亲自己对子女最大利益的决心。

Custody of children, domestic relations—Generally

Alleged conduct by county department of social services and its staff in encouraging and assisting in a surreptitious relocation of non-custodial father's minor children to another state with their custodial mother, and procuring taxpayer money to do so through a voucher from the local government on behalf of the children' mother, after state family court determined that father had neglected the children and awarded sole custody to the mother, was not so arbitrary, shocking, or egregious as to deprive father of substantive due process; father was free to travel to see his children in order to exercise his visitation rights.

保护儿童, 家庭关系——总体上

由县级社会服务部门及其工作人员组织的行为, 鼓励和协助将非监禁父亲的未成年子女秘密搬迁到其监护的母亲的另一个国家, 并通过地方政府的代理人代收纳税人的钱 的子女母亲后,

国家家事法庭裁定父亲忽视了子女并给予母亲独家监护权,并不是那么随意,令人震惊或恶劣,以致剥夺了父亲的实质性正当程序;父亲为了行使他的访问权利,可以自由去看望他的孩子。

——Visitation rights, custody of children, domestic relations

——Protective order, abuse or neglect, domestic relations

——访问权, 儿童监护权, 家庭关系

——保护秩序, 虐待或忽视, 家庭关系

U.S.C.A. Const. Art. IV §1

Section1. Full Faith and Credit

MATRIMONIAL AND FAMILY RELATIONS

——Final nature of judgment to be enforced, child custody, matrimonial and family relations

Action for construction of provisions of Connecticut divorce decree providing for custody of minor children and rights of visitation did not, in view of Connecticut statute permitting modification of custody decree by courts of that state and fact that Connecticut court had expressly reserved jurisdiction in case, raise full faith and credit issue.

家庭与家庭关系——执行判决的最终性质, 子女监护权, 婚姻关系和家庭关系

根据康涅狄格州的法令允许修改该州法院的监护权法令, 以及康乃迪克州法院明确保留管辖权的情况下, 提起监护未成年子女的康涅狄格州离婚法令规定的诉讼行为并没有提起充分的信念和信用问题。

FORCE AND EFFECT OF JUDGMENTS GENERALLY

Child visitation rights, force and effect of judgments generally

Where Florida divorce decree awarding custody of child to wife was entered by default without hearing of evidence presented on husband's behalf concerning his fitness or his claim to enjoy the association of his child, the Florida court if applied to would have had power, upon application by husband, to modify the decree in interests of the child by granting the husband the right of visitation, and hence New York court in which matter of custody was presented had power after full hearing to grant such right of visitation, and so doing did not offend full faith and credit requirements; it not being shown that the New York court exceeded limits permitted under F.S.A.

一般判决的效力和影响

儿童访问权, 一般判决的力量和效果

如果佛罗里达州离婚法令将儿童羁押给妻子, 则在没有听取丈夫代表他所提供的证据适用证据或者享有其子女协会的索赔的情况下, 依照法律规定, 佛罗里达州法院如果申请将有权力, 丈夫通过给予丈夫访问权利修改儿童利益的法令, 因此纽约法院在提出监护权后, 有权力在全面聆讯后给予这种访问权, 而且没有冒犯充分的信念和信用要求; 没有显示纽约法院超出了美国法院允许的限制。

3.1.1.2 State Statutes

【检索路径】 Westlaw—State Material > Washington >("visitation right" /p child) or "right of visitation"

【检索结果】

26.09.240. Visitation rights—Person other than parent—Grandparents' visitation rights

(10) The court may modify or terminate visitation rights granted pursuant to this section in any subsequent modification action upon a showing that the visitation is no longer in the best interest of the child.

26.09.260. Modification of parenting plan or custody decree

(12) If a parent receives military temporary duty, deployment, activation, or mobilization orders that involve moving a substantial distance away from the military parent's residence or otherwise

have a material effect on the military parent's ability to exercise residential time or visitation rights, at the request of the military parent, the court may delegate the military parent's residential time or visitation rights, or a portion thereof, to a child's family member, including a stepparent, or another person other than a parent, with a close and substantial relationship to the minor child for the duration of the military parent's absence, if delegating residential time or visitation rights is in the child's best interest. The court may not permit the delegation of residential time or visitation rights to a person who would be subject to limitations on residential time under RCW 26.09.191. The parties shall attempt to resolve disputes regarding delegation of residential time or visitation rights through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown. Such a court-ordered temporary delegation of a military parent's residential time or visitation rights does not create separate rights to residential time or visitation for a person other than a parent.

3.1.2 Regulations

3.1.2.1 Federal Regulations

【检索路径】 Westlaw—Regulations > Code Of Federal Regulations > ("visitation right" /p child) or "right of visitation" > Federal

【检索结果】

Code of Federal Regulations > Title 32. National Defense > Subtitle A. Department of Defense > Chapter V. Department of the Army > Subchapter F. Personnel > Part 584. Family Support, Child Custody, and Paternity

§584.2 Family support and child custody.

(a) General.

(1) This chapter requires soldiers to provide financial support to family members and to obey court orders on child custody. It also provides guidance and policy to commanders to follow when resolving nonsupport and child custody issues. Consistent with specific provisions below, a soldier will—

(i) Furnish financial support to family members that meets at least the minimum support requirements of this regulation (§584. 2(d)).

(ii) Provide such additional support within his or her financial ability to meet the financial needs of family members (§584. 2(j)).

(iii) Comply with all court-imposed obligations (§584. 2(c)(3)).

(iv) Obey court orders and this regulation on child custody and visitation rights (§584. 2(e)). (a)

概述

(1) 本章要求士兵向家庭成员提供财政支援, 并服从法庭下令监禁子女。 在解决不支持和儿童监护问题时, 还向指挥官提供指导和政策。 符合下列具体规定, 士兵将 -

(i) 为符合本规定的至少最低支持要求的家庭成员提供财政支持 (第 584.2 (d) 条)。

(ii) 在其经济能力范围内提供额外支持以满足家庭成员的财务需求 (第 584.2 (j) 条)。

(iii) 遵守所有法院强制的义务 (第 584.2 (c) (3) 条)。

(iv) 遵守法庭命令和关于儿童监护和访问权利的条例 (第 584.2 (e) 条)。

3.1.2.2 State Regulations

【检索路径】 Westlaw—Regulations > Nevada > ("visitation right" /p child) or "right of visitation"

【检索结果】

NAC 127.465 Relinquishment of child for adoption. (NRS 127.230)

1. Before an agency which provides child welfare services accepts a relinquishment of a child for adoption by a biological parent, the agency shall comply with the requirements of NAC 127.425 and,

if the agency determines that the child is not an Indian child:

(a) Discuss with the parent the alternatives for keeping the child, and determine that the parent is prepared to relinquish his or her rights and responsibilities regarding the child.

(b) Assist the parent in reaching a decision regarding the most favorable plan of action for both the parent and the child, and determine the services necessary to carry out that plan.

(c) If appropriate, inform the parent that rights of visitation may be granted to certain relatives pursuant to NRS 125C.050.

1.在提供儿童福利服务的机构接受放弃子女通过生物学父母的机构之前, 该机构应符合 NAC 127.425 的要求, 如果该机构认定该孩子不是印度孩子:

(a) 与家长讨论保留儿童的方法, 并确定父母准备放弃对儿童的权利和责任。

(b) 协助家长就父母和孩子最有利的行动计划作出决定, 并确定执行该计划所需的服务。

(c) 如适用, 应通知家长根据第 125C.050 号 NRS 向某些亲属授予访问权。

3.1.3 Cases

【检索路径】 Westlaw—cases > "visitation right" > family law

【检索结果】

Brittain v. Hansen, 451 F.3d 982 (9th Cir., 2006).

United States Court of Appeals, Ninth Circuit. June 22, 2006 451 F.3d 982 2006 WL 1702721

CIVIL RIGHTS - Due Process. Officer's interference with non-custodial mother's exercise of visitation rights did not violate substantive due process.

U.S. v. Alahmad, 28 F.Supp.2d 1273 (D. Colorado., 1998).

United States District Court, D. Colorado. December 08, 1998 28 F.Supp.2d 1273 28 F.Supp.2d 1273 1998 WL 865589

Father of out-of-wedlock child, who was charged with interference with maternal grandmother's visitation rights, in violation of International Parental Kidnapping Crime Act (IPKCA), moved to dismiss indictment. The District Court, Weinshienk, Senior District Judge, held that Colorado state court order of visitation rights vested maternal...

Dawn v. Dawn, 194 F.2d 895 (Colum. Cir., 1952).

United States Court of Appeals District of Columbia Circuit. February 28, 1952 194 F.2d 895 90 U.S.App.D.C. 226

In divorce proceeding involving issue of child custody, the United States District Court for the District of Columbia granted divorce to defendant husband and entered order awarding him permanent custody of minor child subject to wife's right of visitation at reasonable times. On motion by wife for modification and grant of partial custody of child.

3.1.4 Government Agencies in charge

【检索路径】 百度 > state child welfare office > New York State Office of Children and Family Services > visitation right

【检索结果】

08-645 Abbott v. Abbott (05/17/2010)

After the Abbots, a married couple, moved to Chile and separated, the Chilean courts granted respondent wife daily care and control of their minor son, A. J. A., while awarding petitioner husband visitation rights. Mr. Abbott also had a ne exeat right to consent before Ms. Abbott could take A. J. A. out of the country under Chile Minors Law 16,618 (Minors Law 16,618), art. 49. When Ms. Abbott brought A. J. A. to Texas without permission from Mr. Abbott or the Chilean family court,

Mr. Abbott filed this suit in the Federal District Court, seeking an order requiring his son's return to Chile under the Hague Convention on the Civil Aspects of International Child Abduction (Convention) and the implementing statute, the International Child Abduction Remedies Act (ICARA), 42 U. S. C. §11601 et seq. Among its provisions, the Convention seeks "to secure the prompt return of children wrongfully removed or retained in any Contracting State," Art. 1; provides that such "removal or retention . . . is to be considered wrongful where" "it is in breach of rights of custody attributed to a person . . . under the law of the State in which the child was [theretofore] habitually resident," Art. 3(a), and where "those rights [had been] actually exercised . . . or would have been so exercised but for the removal or retention," Art. 3(b); and defines "rights of custody" to "include . . . the right to determine the child's place of residence," Art.5(a). The District Court denied relief, holding that the father's neexeat right did not constitute a "right of custody" under the Convention and, thus, that the return remedy was not authorized. The Fifth Circuit affirmed.

3.2.Secondary Sources

3.2.1 Books: scholarly and practicing materials

【检索路径】浙江大学图书馆 > 题名关键字 > visitation

【检索结果】

Boland, Mary L. *Your right to child custody, visitation, and support*. 2nd ed. Naperville, Ill.: Sphinx Pub., 2001.

Summary:

the issues of custody and visitation arise most often in divorce proceedings and can be the biggest contest between parents.about fifty percent of marriages end in divorce,affecting about one million children every year.

The goal of this book is to help you consider your options in deciding custody, visitation, and child support questions by giving you a broad overview of the factors that courts examine when determining these issues. While every family has the same basic needs, every family is also unique. Perhaps the overriding concept in this area of law is that decisions, whether based on an agreement of the parents or determined after trials,should be made with the maximum flexibility to accommodate a particular family's needs within certain minimum guidelines.

Krause, Harry D., *Family law* /. St. Paul, Minn.: West Pub. Co., 1988.

Summary:

Traditionally, courts have awarded sole legal custody of a child to one parent.typically, that parent also obtains physical custody. Physical custody is shared through visitation rights. Quite recently, the concept of joint and shared custody has made significant inroads on the traditional sole custody concept.

Courts usually award visitation rights to the noncustodial parent. If it would affect the child adversely, however visitation may be denied or restricted. Jurisdictions differ on the strength of showing that must be made to deny or take away visitation right.

Faraguna, Robert, *Basic family law* /. New York, N.Y.: Glencoe, c1993.

Summary:

Visitation is a right that can be enjoyed by the noncustodial parent or a noncustodial party such as a grandparent. Often, a decree awarding custody to one parent includes provisions for visitation for the other parent. Through such visitation ,the noncustodial parent has the opportunity to see, stay with,and temporarily care for the child. Visitation is, in essence, periodic short-term custody that can amount to hours, days, or longer, as with prolonged visits during holidays from school and the summer months.

3.2.2. Law Review Articles

【检索路径】Heinonline > “visitation right” or “right of visiting”

【检索结果】

Jeffrey J. Shampo, Georgia Jurisprudence, Effect of nonpayment of support on visitation rights, June 2017 Update.

Visitation rights should not be dependent upon whether or not child support or alimony has been paid. In a former husband's contempt proceeding against his former wife, the trial court improperly conditioned the husband's obligation to make his monthly child support payment on the former wife's allowance of the husband's exercise of his visitation.

George L. Blum, Grandparents' visitation rights where child's parents are living. American Law Reports ALR 5th, 1999.

This annotation collects and analyzes the cases which determine whether, and under what circumstances, grandparents have rights of visitation with their grandchildren. A number of jurisdictions have rules, regulations, constitutional provisions, or legislative enactments directly bearing upon this subject.

Anne Marie Jackson, THE COMING OF AGE OF GRANDPARENT VISITATION RIGHTS, American University Law Review Winter, 1994 43 Am. U. L. Rev. 563.

As the nature of the American family changes, family law also changes. One rapidly emerging area of family law is the legal right of grandparents to visit with their grandchildren. In response to the increasing number of unmarried or divorced parents, the existence of step-families, the estrangement of extended families.

3.2.3. Websites

【检索路径】<http://www.courts.ca.gov/selfhelp-custody.htm>

【检索结果】

CALIFORNIA COURTS——Custody & Parenting Time(Visitation)

Here you can learn about child custody and parenting time (also called "visitation") cases, how to prepare a parenting plan for you and your children, and how to get or change a court order. You can also find many resources to help you and your children through your separation or divorce.

【检索路径】family.findlaw.com > Learn About The Law > Family Law > Child Custody

【检索结果】

Parental Visitation Rights FAQ - FindLaw

The judge mentioned "reasonable visitation," what does that mean?

If the judge presiding over your separation or divorce determined that you or your ex-spouse was entitled to "reasonable visitation," this generally means that it is left to the parents of the child (you and your ex-spouse) to come up with a plan of parental visitation time.

【检索路径】family.findlaw.com > Learn About The Law > Family Law > Paternity

【检索结果】

Child Visitation, Child Custody and Unmarried Fathers - FindLaw

Court Orders on Child Visitation or Custody

Either after securing a parenting agreement, or if unable to agree, either parent may petition the court for child visitation or custody help. Parents who can agree to a parenting plan may file it with a court, asking the judge to approve and incorporate it into a court order on visitation and/or custody.

【检索路径】 <https://www.thespruce.com> › ... › Single Parents › Single Parents: Visitation & Custody

【检索结果】

Visitation Rights for Parents Denied Child Custody - The Spruce

Do You Know Your Parental Visitation Rights?

Dec 1, 2016 - Parents who are denied child custody in court are often granted generous visitation rights. In most cases, the courts strongly support and ...

3.2.4.NGO

【检索路径】 google > visitation right

【检索结果】

[Children Rights Organization - Child NGO - bice.org](http://www.bice.org)

[Ad. www.bice.org/child-NGO](http://www.bice.org/child-NGO)

Learn more about BICE's projects to fight for Children Rights in the world.

+ de 65 ans d'actions · Une ONG internationale · 20000 enfants accompagnés

Faire écho de la voix des enfants à travers le monde – Cath.ch

- [Projects in 25 countries](#)
- [Make a donation](#)
- [Subscribe our newsletter](#)
- [International Network](#)

[Fathers' Rights Groups in the U.S. - The Spruce](#)

<https://www.thespruce.com> › ... › Single Parents › Single Parents: Resources

Fathers' Rights Groups and Shared Parenting Organizations

Oct 30, 2016 - The American Coalition for Fathers and Children (ACFC) is a non-profit organization in support of shared parenting. ... in fact, their tagline is "The Best Parent is Both Parents®." In pursuit of social and legal justice, The Children's Rights Council serves to: Protect the best interests of children in custody case.

[Fathers for Equal Rights - Home](#)

<https://fathers4kids.com/>

FER is a non-profit, educational, civil rights organization that is recognized as a ... Relocation, Child Custody Evaluations (social study Prep), General Trial ...

3.3.Conclusion

在美国，由于离婚案件频发，尤为重视探望的行使。探望权的行使主体，不仅包含父母，外祖父母也可行使探望权。探望权的实质是与孩子之间的沟通交流的权利，使孩子能在健康的环境下成长，不至于受父母婚姻情感关系之影响。此外，美国注重对于未成年人利益最大化的保护，探望权亦应以此为原则加以行使。

4. International legal sources

4.1.Primary Sources

4.1.1 Statutes / Treaties

【检索路径】 Heinonline—Home > International Law > Foreign & International Law Resources Database > visitation right

【检索结果】

Switzerland

Hague Convention on International Child Abduction: An Analysis of the Applicable Law and Institutional Framework of Fifty-One Jurisdictions and the European Union, Vol.1, pp. 329-338.

Palmer, Edith

1 Hague Convention on International Child Abduction: An Analysis of the Applicable Law and Institutional Framework of Fifty-One Jurisdictions and the European Union 329 (2004)

Right of Visit

Digest of International Law, Vol. 4, pp. 667-677

No nation can exercise a right of and visitation and search upon the common and... all nations have an equal right to the uninterrupted use of the high seas for their navigation. Lord... any of its subjects, has a right to assume or exercise authority Visit over the subjects of... all interference on the high seas by the ships of any other than her own State. The right of visit and... search is a war right; it can only be exercised in time of peace by virtue of an express stipulation in... these exceptions is the right conferred by inter- national maritime usage on the warships of all nations

Denmark

Hague Convention on International Child Abduction: An Analysis of the Applicable Law and Institutional Framework of Fifty-One Jurisdictions and the European Union, Vol. 1, pp. 129-132

Nozari, Fariborz

1 Hague Convention on International Child Abduction: An Analysis of the Applicable Law and Institutional Framework of Fifty-One Jurisdictions and the European Union 129 (2004)

Saint Kitts and Nevis [notes]

Hague Convention on International Child Abduction: An Analysis of the Applicable Law and Institutional Framework of Fifty-One Jurisdictions and the European Union, Vol. 1, pp. 297-300

Clarke, Stephen F.

1 Hague Convention on International Child Abduction: An Analysis of the Applicable Law and Institutional Framework of Fifty-One Jurisdictions and the European Union 297 (2004)

4.1.2 Cases

【检索路径】 Heinonline—Home > International Law > Foreign & International Law Resources Database > Canada Supreme Court Reports > visitation right custody > cases

【检索结果】

1950 S.C.R. 700 (1950)

Canada Law Reports

Evelyn McKee and Mark T. McKee[Case]

appellant with the right of reasonable visitation allowed to the respondent. It appears that the infant was...s complaint and granting the respondent a divorce on his cross-complaint. This judgment awarded the custody of... custody had been pronounced, asking for a modification of the terms of that order as to custody.

1996 2 S.C.R. 108 (1996)

Canada Supreme Court Reports

D.S. v. V.W. and J.S. and Rodrigue Blais [Case]

custody of the child to her ex part, "pending any further hearings on the issue of custody and visitation... granted to mother by American court - Father filing motion for child custody in Quebec - Mother countering... custody of child under Quebec civil law and to order child's return to United

States - Civil Code of Lower... and a Maryland court granted custody of the child to the father and supervised access to the mother... Court for custody of the child and the mother countered by filing a motion in which she applied for the...

1993 4 S.C.R. 141 (1993)

Canada Supreme Court Reports

D.P. v. C.S. and the Attorney General for Ontario, the Attorney General of Quebec, the Attorney General of Manitoba, the Attorney General of British Columbia, and the Seventh-Day Adventist Church in Canada [Case]

- text of the rights raised in this appeal must be examined. V - Analysis A. Right to Custody and Access... custody, it is worth examining, however briefly, the right to access in the wider context of the right to... respondent should retain custody of C. 1. The Right to Custody As in Young, supra, a brief review of the... mention of the right to custody, whether under the heading of marriage, filiation or paternal authority..., the right to custody of fathers and mothers seemed to be self-evident and to present little difficulty... Although what is at issue is the right to access, which is but one of the components of the right to...

4.2.Secondary Sources

4.2.1. Books:Scholarly and practicing materials

【检索路径】浙江大学图书馆 > das Besuchsrecht / 見舞う権 / Droit de visite

【检索结果】

无相关书籍。

4.2.2. Law review articles

【检索路径】Heinonline—Home > International Law > International&Non-U.S. Journals

【检索结果】

Reflections on the Abolition of Exequatur in the Family Law Cases regarding the Exercise of the Right of Visitation

Acta Universitatis Danubius Juridica, Vol. 2015, Issue 1 (2015), pp. 31-37

Abstract : The Council Regulation No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation no.1347/2000 includes, along with uniform rules settling conflicts of jurisdiction between Member States, also a number of rules to ensure the free movement within the EU area of judgments, of authentic instruments and agreements, establishing provisions on their recognition and enforcement in another member states.

Conditioning Child Support Payments on Visitation Access: A Proposal

Kitch, Alison,*International Journal of Law and the Family*, Vol. 5, Issue 3 (1991), pp. 318-350

Abstract : Conditioning child support payments on visitation access provides some recourse for a noncustodial parent whose former spouse unfairly denies visitation with the children of the dissolved marriage. This form of conditioning, imposed by judges and sought by parents frustrated in their attempts to see their children, has been criticized as economically and psychologically harmful to the children involved, potentially burdensome to state welfare budgets, biased against women and inconsistent and ineffective in its implementation. Those concerns are discussed in the light of the value of maintaining contact between children and their noncustodial parents and the history of the American case law and statutes on conditioning. Conditioning has never been used as a predictable element in a comprehensive program to enforce court-ordered visitation by the noncustodial parent. Such a plan is proposed as an appropriate tool which should be available to courts hearing

post-decree child support and visitation disputes.

Österreichische Kinderrechte im Bezug auf die Scheidung

Kerstin Brunner Lawyer 2005-80 Hrcak

Visitation at County Jails: Potential Policy Implications

Sturges, Judith E. *Criminal Justice Policy Review*, Vol. 13, Issue 1 (March 2002), pp. 32-45

The Position of Children after Visitation Reform: Better or Still Lacking [article]

Kraljic, Suzana, *International Survey of Family Law*, Vol. 2008, pp. 379-394

4.2.3. Websites

【检索路径】 **International Law Commission > full-text search > “visitation right”**

【检索结果】

No files matched the search request “visitation right”.

4.2.4. NGO

【检索路径】 **Oxford Reports on International Law > “visitation right” > human right**

【检索结果】

Balaguer Santacana v. Spain

Merits, UN Doc CCPR/C/51/D/417/1990, Communication No 417/1990, (1994)2 IHRR 71, IHRL 2266 (UNHRC 1994), 15th July 1994, Human Rights Committee

Date: 15 July 1994

Content type: International court decisions

Product: Oxford Reports on International Law [ORIL]

Module: International Human Rights Law [IHRL]

Jurisdiction: United Nations Human Rights Committee [UNHRC]

Subject(s): Right to family — Children, rights — Exhaustion of local remedies

Hendriks v. Netherlands

Merits, Communication No. 201/1985, UN Doc CCPR/C/33/D/201/1985, IHRL 2480 (UNHRC 1988), 27th July 1988, Human Rights Committee

Date: 27 July 1988

Content: type International court decisions

Product: Oxford Reports on International Law [ORIL]

Module: International Human Rights Law [IHRL]

Jurisdiction: United Nations Human Rights Committee [UNHRC]

Subject(s): Right to family — Exhaustion of local remedies

5. Conclusion

Visitation is a right that can be enjoyed by the noncustodial parent or a noncustodial party such as a grandparent. In general, the right to visit is based upon the belief that it is beneficial for the child to maintain some continuing social, emotional, and educational ties with the noncustodial parent. Visitation rights are therefore usually favored under the law. Only under extreme circumstances will visitation be curtailed or denied. The standard is that the objective best interests of the child is satisfied.