FAMILY UNIONS IN PRIVATE INTERNATIONAL LAW

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1. PROBLEMS

In 1893 the Hague Conference on Private International Law convened for the first time and put also certain matters of family law on its agenda. With respect to the law of husband and wife three conventions were drafted in a short period of time and opened for signature and ratification by the member states:

— the Convention of 12 June 1902 Governing Conflicts of Laws Concerning Marriage,2
— the Convention of 12 June 1902 Governing Conflicts of Laws and Conflicts of Jurisdiction concerning Divorce and Separation,3
— the Convention of 17 July 1905 concerning Conflicts of Laws relating to the Effects of Marriage on the Rights and Duties of Spouses inter se and on the Spouses’ Property.4

These instruments were drafted by the delegations of sixteen European countries and of Japan as the only non-European member of the Hague Conference. Of course, these countries had their problems a century ago. Many marriage impediments existed in various jurisdictions5 and two countries (Italy and Spain) did not provide for any divorce, simply admitted a judicial separation of spouses without dissolving the marital bond. Despite these problems it must have been idyllic times in a world without mobility of thousands of people and with a firm belief that there is only one legitimate form of family life: the union of husband and wife married according to the law governing the celebration of marriage.

These times have changed dramatically, not only with respect to the mobility of masses but also concerning the legitimacy of types of family life different from a traditional marriage of husband and wife. Today there are at least nine different types of family unions existing in European and non-European countries:

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3. *Actes, supra* n. 2, at p. 239.