

From: Gillian Black  
Sent: 05 September 2014 14:37  
To: SLC info  
Subject: Consultation on Ninth Programme of Law Reform

Dear Sirs,

I would like to submit the following proposal to the Consultation on the SLC's Ninth Programme of Law Reform.

#### FAMILY LAW

The Scottish Government's National Outcomes are aimed at creating a fairer, healthier and wealthier Scotland, and family law is at the heart of this aim. Since 1999, the Scottish Parliament has pursued an extensive programme of family law legislation, including critical acts such as the Family Law (Scotland) Act 2006, the Adoption and Children (Scotland) Act 2007, the Children and Young People (Scotland) Act 2014, and the Marriage and Civil Partnership (Scotland) Act 2014. There has also been significant legislation from Westminster, such as the Civil Partnerships Act 2004. It is therefore critical that the most recent legislative developments are reviewed, and their interaction with the two cornerstones of family law from the previous decade must be scrutinised, (ie the Family Law (Scotland) Act 1985 and the Children (Scotland) Act 1995. These changes come against a background of fundamental social changes in family structure.

This submission is therefore a request that family law is added to the Ninth Programme of law reform, to be reviewed and scrutinised to ensure that the current legislative measures meet the needs of Scottish families in 2015 and onwards.

The last SLC review of family law took place in 1992 (Report on Family Law, No. 135), and this Report concluded by offering a draft Bill which codified Scots family law. Although parts of the Report were implemented, for example in the Children (Scotland) Act 1995, the Bill as a whole was not introduced.

Since 1992, the SLC has considered specific points which have fed in to recent Scottish Parliament legislation (for example, in the SLC's Succession Report, No 215 from 2009), but there has not been a wholesale review of family law in over 20 years ? and as noted above, these 20 years have seen extensive and significant changes in the nature of families.

Whether the SLC would wish to go further than a review of current legislative provision and embark on a codification of family law is another matter. The need for codification has been convincingly made by Professor Elaine Sutherland, writing in the JLSS in 2013:

[www.journalonline.co.uk/Magazine/58-9/1013027.aspx](http://www.journalonline.co.uk/Magazine/58-9/1013027.aspx)

This submission is therefore a request for a thorough review of the legislative provisions regulating family law, including consideration of the need for codification.

Yours,

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