

The ISFL Family Letter
Fall, 2009

**Published by the International Society of Family Law by Prof. Margaret F. Brinig, Editor, the Family Letter: Newsletter of the ISFL, Notre Dame Law School, Notre Dame Indiana 46556
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REPORT OF THE SECRETARY-GENERAL:

At its annual meeting, held in February, 2009, the Executive Council chose the theme and venue for the next world conference, to be held in 2011. The conference will be convened by Professor Hugues Fulchiron at the University of Lyon in Lyon, France. The theme will be "Solidarity Among Generations." The conference will take place during the summer; firm dates will be announced in the spring, 2010 newsletter.

REPORT OF THE TREASURER:

Dear colleagues,

Many of you have paid the (annual) fees and the colleagues who did not will receive an e-mail from me before the end of this year. But, please will you check the status of your payment in behalf of your subscription, to be sure that you are still a member of the Society. If you haven't received The International Survey of Family Law 2009 Edition, please ask me by mail (*a.p.vanderlinden@uu.nl*). In case you still need to pay for this year (and some members for preceding years), wire the money as soon as possible. We have had to delete some members because they did not pay their fees for several years.

If you wish to be deleted as a member, which I hope you don't, send me a letter before the end of November 2009, otherwise you have to pay your membership dues for the year 2010.

When your address changes, please sent me your

new full new address and preferably also your e-mail address. We try to keep the membership list updated and with your help we can succeed in that. If you change your address or if you want to be deleted as member, please send me a message as soon as possible, but before the end of November 2009.

Some countries have more specialists in the field of Family and Juvenile Law than the ISFL has members from them. **So, I challenge you to invite at least one colleague to become a member of our Society. You will find the Subscription Form at the ISFL-site.** When you cannot find the Form, ask me. It should be nice to have at least 1000 members from all over the World.

We do have the possibility to pay for 5 years. Many members choose this opportunity, which will save you and the ISFL costs. Last year I wrote that our minimum amount for 'dark' years had been diminished and that I hoped that the Society should be able to regain the minimum amount of € 35000,-. We have managed that, and I thank you for your support!

Whenever you write me, please do it by using your computer or typewriter. As I wrote before, I can't always read your handwriting and this gives me a lot of trouble, especially with your Banks.

Be a faithful member of the Society and be always keen on the best interest of families and the children who belong to these families.

Best regards to all!
Adriaan van der Linden

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REPORT ON THE INTERNATIONAL SURVEY OF FAMILY LAW:

The 2009 edition of The International Survey of Family Law (Bill Atkin ed.) has now been published. Abstracts of the chapters (in English and in French) have been posted online at the ISFL website (under "Publications") at <http://www.law2.byu.edu/isfl/index.php> . Access to the secure materials is via username: ISFL and password: ISFL2006 .

Bill Atkin, General Editor

REPORT OF THE NEWSLETTER EDITOR:

In the spring of 2009, we were pleased to include a paper on new Greek legislation on opposite-sex cohabitation written by Penelope Agallopoulou. This issue, I've received two such pieces which will be included in this Letter, involving Norway and Greece. Please continue to send them to me if you find them useful and/or entertaining.

Many of you kindly send me updates of changes to your email addresses. This is very important, since otherwise not only will you miss the Family Letter, but also other notices that the Board asks me to send out increasingly often. When you get these notices, please do not reply to me but to the address indicated in the notice. The most important place to send changes of address is to Adriaan van der Linden, our Treasurer, though I will forward your notes about address changes that are sent to me.

Margaret F. Brinig, Editor, *The Family Letter*
mbrinig@nd.edu

WEBSITE UPDATES:

Notes about The ISFL Website

The ISFL website at <http://www.law2.byu.edu/isfl/index.php> has been updated and revised in the following ways:

First, we have activated the "award plaque" and entitled it "In Appreciation for Exceptional Service to the International Society for Family Law" and put a link for it on the ISFL homepage. The first five recipients are now listed on the digital award plaque.

Second, A new feature has been installed on the ISFL Website. It is entitled "ISFL Developments Blog and Comments Forum" and the link to it is on the front page (left) of the ISFL website homepage at <http://www.law2.byu.edu/isfl/> . It is intended to provide a place for ISFL members to post "blog entries" describing interesting new developments in family law in their state, nation, region, or internationally relating to family law subjects in which they have an interest (marriage, adoption, etc.). ISFL members may post "comments" about the blog entries posted by other ISFL members. So this "Developments Blog and Comments Forum" can function like an old bulletin board in your law school building where people could post newspaper clippings, announcements, drafts or summaries of recent legislation, copies or summaries of recent case opinions, and others can react to those postings by adding comments. There is even an entry for ISFL Business where items relating to the ISFL organization can be posted.

Many of our students (the next generation of family law scholars, judges and lawyers) are very attuned to using such electronic blogs and making such electronic postings and comments. So this will be a way for ISFL member-scholars to begin to get familiar with such technology and to communicate with the rising generation of upcoming family law scholars through technology with which they are very comfortable.

The ISFL Developments Blog and Comment Forum includes simple instructions on how to post an entry are quite simple are included at the "Developments Blog and Comments Forum" at the first page. I invite all members of the ISFL to post an entry on the Developments Blog and to make a comment on someone else's posting on the Comments Forum.

Finally, Feedback about suggested corrections and improvements in the ISFL website are welcome. Send such comments by email to Lynn Wardle at WARDLEL@law.byu.edu .

The new Executive Council contact information has also been posted there.

I invite you to check out these website changes, and to let me know of any significant corrections that need to be made.

Lynn D. Wardle
ISFL Website Editor

The American Association of Law Schools, Family Law Section Website is also available at <http://www.nd.edu/~ndlaw/faculty/brinig/aals/>. Section members have provided material, but more suggestions would be welcome, including links, class materials, exams you don't mind being generally available, or anything else you'd like to supply. You may write her at mbrinig@nd.edu, and may attach electronic versions of any submissions.

REPORTS ON CONFERENCES:

Report on ISFL Regional Conference in Israel, June 7-9, 2009.

In June 2009, a three day conference was held in Israel on the subject of Family Law in a Multicultural Environment; Religious Law and Civil Law in Family Matters. There were 65 participants in the conference (and 11 accompanying persons) from more than ten different countries. The opening session was held at Bar Ilan University and included a keynote lecture by Professor Michael Freeman

of University College, London and a speech by Israeli Professor Pinhas Shifman in memory of his former colleague, the late Professor Zeev Falk, one of the founders of the ISFL. ISFL President, Bea Verschraegen, welcomed the participants on Sunday night and also presented a paper in one of the Monday morning sessions. The second day of the conference was held at Sha'arei Mishpat College in Hod Hasharon. The first session featured a panel of experts who spoke about the inter-relationship between secular law and religious law in family matters from the viewpoint of the three main religious communities in Israel: Judaism, Islam and Christianity. The rest of the day was taken up with five further sessions, in each of which there were two parallel panels. The last day of the conference started off with morning sessions at Bar Ilan University. After the closing plenary session and summary given by Professor Lynn Wardle, the participants boarded buses for a trip to Jerusalem. The trip comprised of a fascinating guided tour of the Israeli Supreme Court, which included an address by Justice Salim Jubran, and a short visit to the Brigham Young University Centre on Mount Scopus during which the participants were treated to an organ recital. The final stop was a traditional Israeli restaurant where a tasty supper was enjoyed by all. The participants spoke highly of the standard of the papers and the friendly atmosphere throughout the conference. The Israeli convenors, Dr. Rhona Schuz and Professor Shahar Lifshitz would like to express their gratitude to Professor Lynn Wardle for all the help and guidance he gave in organizing the conference and to the conference committee (Dr. Ayelet Blecher-Prigat, Dr. Binyamin Shmueli, Professor Ruth Halperin-Kaddari and Professor Anna Singer) for all their advice and assistance. Some selected papers from those that are submitted by October 31, 2009 will be published in symposium issues in one of two journals: Family in Law (Sha'arei Mishpat Law College, Israel) and in Journal of Law and Family Studies (University of Utah, USA).

Lynn Wardle
Brigham Young University

Brazil was home of a Regional Conference of ISFL “Major Rights for Minors – Juridical Protection of The Family, Children and Adolescents” with the support of the Brazilian Institute of Family Law, IBDFAM. Prof. Euclides Benedito de Oliveira, from IBDFAM and Giselle Groeninga, vice-president of ISFL, were the convenors of this Conference. From August 27th to 29th, more than 800 scholars, justices and attorneys discussed children and adolescents’ rights in São Paulo - the largest city in Brazil. The conference focused on Child’s and Adolescent’s Rights, which comprises not only the Juridical Protection of the Family but also the consideration for the child’s and the adolescent’s peculiarities. The role of the family and the State in taking care of them should be reevaluated in times when many variables come into scene: modified family structure, plural families, family disintegration, outsourcing child care, and substitution of parental function in foster and adoptive families. Accusations of sexual and mental abuse are growing in an astonishing rate as a result of a highly permissive society, including sexual issues, modified family frontiers, and enhanced awareness of children’s and adolescent’s vulnerability. Nevertheless there is an increasing consciousness of adult responsibility in society in general where the Judiciary plays a central role. That was the core of this Regional Conference.

Distinguished members of ISFL – Paulo Lins e Silva, Luis Edson Fachin, Renan Lotufo, José Fernando Simão were some of the lecturers. The honorable presence of Prof. Adriaan van der Linden, from the Netherlands, contributed much to the diffusion of the ISFL in Latin America.

Giselle Groeninga
Brazil

UPCOMING CONFERENCES AND CALLS FOR PAPERS:

The Future of Family Property in Europe: the 4th Conference of the Commission on European Family Law

University of Cambridge, 8-10 April 2010

The 4th Conference on the Commission on European Family Law, *The Future of Family Property in Europe* will take place at the University of Cambridge from 8 to 10 April 2010. The conference will focus in particular on matrimonial property; pre-nuptial and other agreements relating to family property and finances; and the unification of private international family law.

Conference themes:

The CEFL is currently drafting **Principles of European Family Law regarding Property Relations between Spouses**. This is the third working field which has been chosen following the successful publication of the Principles regarding *Divorce and Maintenance between Former Spouses* (2004) and *Parental Responsibilities* (2007). Deliberations on the current project will take about another two years since the field of comparative matrimonial property law is highly complex and technical, but initial results of the project will be presented at the conference.

Special attention will also be paid during the conference to the theme of the **autonomy of spouses and cohabitants** to make agreements regulating their property relationships. Do they have binding effect under all circumstances or can the competent authority override, modify or set aside these agreements on account of unfairness or any other ground?

The increasing **unification of private international law in family matters** pursued by both the Hague Conference on Private International Law and the European Commission will also be discussed.

Call for papers:

As at previous conferences, **early career researchers** will have the opportunity to present their research in three parallel working groups on the following topics: (1) protection of the

elderly, (2) freedom of testation and protection of family members, (3) child maintenance. Further information regarding the call and how to submit a paper is available on the conference website: www.cefl2010.org

Expected speakers include the Rt Hon Lord Justice Thorpe, Head of International Family Justice for England and Wales, Professor Elizabeth Cooke, Law Commission for England and Wales, and other distinguished family law academics and practitioners including Professors Katharina Boele-Woelki (the Netherlands), Nina Dethloff (Germany), Marsha Garrison (USA), Cristina González Beilfuss (Spain), Maarit Jänterä-Jareborg (Sweden), and Walter Pintens (Belgium), and Dr Anatol Dutta (Germany).

The basic conference fee is £175 for bookings made before 1 February 2010. Further information and booking are now available at www.cefl2010.org. To contact the local conference organisers, please email cefl2010@law.cam.ac.uk

All interested persons are invited to attend a symposium on **The Jurisprudence of the Family: Foundations and Principles** in Bratislava, Slovakia, at the Bratislava School of Law, on Friday and Saturday, May 28-29, 2010. The symposium is co-sponsored by the Boston College Law School, by the J. Reuben Clark Law School at Brigham Young University, by the Doha International Institute for Family Studies and Development, and by the Bratislava School of Law. The symposium will feature presentations by nearly thirty (30) leading scholars of family law and jurisprudence from many different regions of the world, representing different traditions of thought and belief, to explore the core principles of jurisprudence that underlie the organization of families and guide the recognition and support of families by society and the legal system of the state. Participants will include prominent academics from universities and scholarly institutes in North America, Western Europe, Central Europe, Eastern Europe, and the Middle East. The purpose of the symposium is to consider: Why is the family the natural and

fundamental unit of society? What are the purposes and structural principles which make families so valuable? Why is the family entitled to the widest possible protection and assistance? What kind of legal protections of the family are needed and effective? What are the duties and purposes and structural principles of society and government which bear on their responsibilities to the family? We seek to enhance the level of understanding of the family's value, and to elevate of the quality of scholarly discourse about family and family law.

Persons interested in participating as attendees may get more information by contacting Professor Scott FitzGibbon at fitzgisc@yahoo.com, or Professor Lynn D. Wardle at wardlel@law.byu.edu, or Lynn's secretary, Lorelie Sander at sanderl@law.byu.edu, or at the conference website at www.law2.byu.edu/organizations/marriage_family/index.php.

Call for Papers:

The Midwest Family Law Consortium and the North American Regional Section of the International Society of Family Law

Summer 2010 Conference

When Worlds Collide - Tensions in Family Law

Around the world, family law is presenting some of the most personally critical, intellectually challenging, and politically controversial issues for legal resolution. The North American Regional Meeting of the International Society of Family Law and the Midwest Family Law Consortium seeks papers exploring these cutting edge issues for presentation at their co-sponsored conference June 3-5, 2010 at the University of Missouri Kansas City School of Law.

While international law or comparative law papers are encouraged, papers or panels on any topic of broad interest are encouraged. Professors who are engaged in the scholarship of teaching who would like to present their insights

on family law education issues are likewise encouraged to contribute.

Authors of specialized family law texts are encouraged to join the conference "Book Party" in which authors of books recently published on specialized topics of family law will present an overview of their book and suggest how family law scholars and teachers might use the book.

As the Third Annual Emerging Family Law Scholars and Teachers Conference will be taking place from June 2-3 in Kansas City, new family law scholars are especially encouraged to stay for this conference as well and present their papers.

Interested persons should submit a one-page proposal with the name, title, and institutional affiliation of presenter(s) and a brief summary of presentation to Barbara Glesner Fines, Associate Dean for Faculty, UMKC School of Law at glesnerb@umkc.edu. Proposals submitted before January 15 will be given priority consideration.

The conference will begin Thursday, June 3, 2010 with an opening reception. The conference program will run Friday, June 4 with dinner followed by a tour of the Kansas City Arts District. Additional sessions will be held the morning of Saturday, June 5.

The Midwest Family Law Consortium is an organization of law schools whose members collaborate to advance family law scholarship and teaching. Founded by the family law faculty of the University of Missouri Kansas City, William Mitchell College of Law and Indiana University Indianapolis, with additional sponsoring members Michigan State and Washburn law schools, the consortium is open to any law school, but serves primarily the Midwest region.

Peace,

Barbara Glesner Fines
Associate Dean for Faculty Development
Ruby M. Hulén Professor of Law

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SPECIAL ANNOUNCEMENTS:

International Journal of Law, Policy, and the Family

Editors-in-Chief: **John Eckelaar** and **Robert Dingwall**

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FOREIGN NOTES:

Note from Greece:

Presidential Decree 8/6/2009

Recently, in July 2009, in Greece, the Presidential Decree 86/2009 "For the Organization and Functioning of the Institution of Foster Care for Minors" was issued.

This Presidential Decree aims at regulating the issues of the organization and functioning of the institution of foster care for minors in the framework both of the L. 2447/1996, which incorporated the institution of foster care for minors in the Civil Code, and of the social reality of the country. Its main purpose is to serve the public interest, the interest of the minor, and the solution—to the extent that this is possible—of the administrative problems emerging during the enforcement of the

institution of foster care by the agencies in charge. Naturally, the body of the more recent legislation has also been taken into consideration for its drafting.

Penelope Agallopoulou
[agal@otenet.gr]

Note from Norway:

Same-sex marriage in Norway

A comprehensive Marriage Act covering both same-sex and male-female couples, was enacted in Norway in 2008. The act gives lesbians and gay men the right to enter marriage on the same basis as heterosexuals. The bill was enacted into law after long debate in the Parliament, and took effect 1 January 2009. At the same time, an amendment to the Biotechnology Act provides a right for cohabiting and married lesbians to be considered for assisted reproductive technology on the same basis as heterosexual couples. The biological mother's cohabitant/spouse will be granted *co-mother status* if she has consented to the fertilization, the fertilization has taken place at an approved health-care facility in Norway or abroad, and the semen donor's identity is known, according to the Children Act. An amendment to the Adoption Act makes accommodation for lesbian and gay couples to gain the ability to apply for adoption. The Church of Norway and other recognized faith communities will have the right, though not the obligation, to consecrate marriages. It is up to the Church of Norway to change its consecration liturgy, and until the liturgy is changed, priests in the Church of Norway will not be permitted to perform the marriage of homosexual couples. More information in English can be found on the Government's website
<http://www.regjeringen.no/en/dep/bld/Topics/Homosexuality/a-marriage-act-for-all--entering-into-fo.html?id=509376>

Cohabitants' right to inheritance etc.

In 2008 the Norwegian Parliament enacted a law which gives cohabitants with common children a right to inherit from each other, cf. Chapter III A

of the Inheritance Act. The new law became effective 1 July. 2009. The amount of inheritance is about Norwegian Kroner 280 000 or Euro 32 000 (4 times the basis amount in the national insurance system). More importantly, instead of inheriting, the surviving cohabitant now has the right to remain in possession (so-called *uskifte*) of the joint residence, household goods and a second home which has been used jointly by the cohabitants.

Tone Sverdrup,
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RECENT PUBLICATIONS OF NOTE BY ISFL MEMBERS:

(Compiled by Associate Editor Laurence C. Nolan, Professor of Law, Howard University School of Law, 2900 Van Ness St., N.W., Washington, D.C. 20008, tel. (202)806-8064, fax - 8428 lnolan@law.howard.edu)

1. Family Law in General: History; Theories; Overviews

Ann Laquer Estin, "Unofficial Family Law," 94 Iowa Law Review 449 (2009).

Alice Diver, "The 'Earned Privilege' of Family contact in Northern Ireland: Judicial Justification of Prisoners' Loss of Family Life," The Howard Journal, Vol. 47 No.5, December 2008, pp. 486-500.

Jane C. Murphy & Robert Rubinson, FAMILY MEDIATION: THEORY AND PRACTICE (LexisNexis Group 2009).

Barbara Stark, "Theories of Poverty / the Poverty of Theory," 2009 Brigham Young University Law Review 381.

2. Before/Creation of Spousal or Quasi-Spousal Relations

Lynn D. Wardle, "From Slavery to Same-sex Marriage: Comity Versus Public Policy in Inter-

jurisdictional Recognition of Controversial Domestic Relations,” 2008 Brigham Young University Law Review 1855.

3. Before/Creation of Parent-Child or Similar Relations

Cynthia G. Hawkins-Leon and Anesha Worthy, “10 Years Out of Step & Out of Line: Florida’s Statutory Ban of ‘Lesbi-gay Adoption’ Violates the Adoption and safe Families Act of 1997 (ASFA),” 8 University of Maryland Journal of Race, Religion, Gender & Class 71 (2008).

Jeffrey A. Parness, “Systematically Screwing Dads: Out of Control Paternity Schemes,” 54 Wayne Law Review 641 (2008).

Mark Strasser, “Interstate Recognition of Adoptions: On Jurisdiction, Full Faith and Credit, and the Kinds of Challenges the Future May Bring,” 2008 Brigham Young University Law Review 1809.

4. Spousal Relations in the Ongoing Family or Similar Relations

5. Parent-Child Relations in the Ongoing Family or Similar Relations

6. Termination/Post-Relations of Spouses & Quasi-Spouses

7. Termination/Post-Relations of Parents and Children

Ira Mark Ellman, Sanford Braver and Robert J. MacCoun, “Intuitive Lawmaking: the Example of Child Support,” 6 Journal of Empirical Legal Studies, 69 (2009).

Judith S. Wallerstein & Julia M. Lewis, “Divorced Fathers and Their Adult Offspring: Report from a Twenty-five-Year Longitudinal Study, 42 Family Law Quarterly 695 (2009).

Other Publications Notes:

NOTE: The Newsletter will publish notices of recent publications dealing with family law topics if the following information—Name of

author, title of article or chapter, title of book or journal in which it is published, the volume and pages, the year of publication (and if the title of the article, chapter and/or book or journal is not in English a translation of the same into English - so that the entry can be placed in the appropriate category)—is sent to Prof. Laurence C. Nolan, Howard University School of Law, 2900 Van Ness Street, N.W., Washington, DC 20008; 202-806-8428 (fax); lnolan@law.howard.edu (e-mail).

TRIALS & TRIBULATIONS, Trends & Triumphs (Julia Sloth-Nielsen & Zenobia du Toit, Editors, Juta and Company Ltd) (contains a selection of papers from the conference on the last nine years, including some international papers (William Duncan of the Permanent Bureau of the Hague Conference, Mms Claire L’herueax ube formerly of the Supreme Court of Canada, Lord Justice Matthew Thorpe of the UK), some regional papers (Lesotho, Sudan) and some domestic papers on child and family law, including Muslim Law. It is an essential guide to contemporary debates in the child and family law arena in South Africa and beyond, and will be a useful tool for researchers, policy makers and practitioners.)

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NOTE: The Newsletter will publish notices of recent publications dealing with family law topics if the following information—Name of author, title of article or chapter, title of book or journal in which it is published, the volume and pages, the year of publication (and if the title of the article, chapter and/or book or journal is not in English a translation of the same into English - so that the entry can be placed in the appropriate category)—is sent to Prof. Laurence C. Nolan, Howard University School of Law, 2900 Van Ness Street, N.W., Washington, DC 20008; 202-806-8428 (fax); lnolan@law.howard.edu (e-mail).

Personal Notices:

We received the following notice about ISFL member *Robin Wilson* from her Dean at Washington and Lee Law School:

It is my pleasure to announce that Professor Robin Wilson has been promoted to one of the Law School's chaired professorships. Effective November 1, 2009, Professor Wilson will be appointed "Class of 1958 Law Alumni Professor of Law." Professor Wilson is an exemplary teacher and highly accomplished scholar, who has in recent years been one of the most prominent voices in national and international arenas on issues relating to family law, the protection of children, health care, and the intersection of family law and religion. She is an energetic participant in university and civic service, including her current position as chair of the Student Faculty Hearing Board. She is an extraordinary example of a "scholar in action," bringing her expertise to bear on legal and social policy issues of national and international importance. Professor Wilson is a credit to the legal profession, to higher education, and to Washington and Lee, and well-deserving of this honor. Please join me in congratulating Professor Wilson.

ISFL President *Bea Verschraegen* reports that she has founded a new association, the "Interdisciplinary Association of Comparative Law and Private International Law" (IACPIL). All interested persons are invited to visit the website www.igkk.org <<http://www.igkk.org/>> or www.iacpil.org <<http://www.iacpil.org/>> , and, as the case may be, to join the association.

The inauguration of IACPIL on October 19, 2009 proved to be an enormous success. Around 100 persons attended the panel discussion on "Legal Conflicts and Conflict of Laws". The speakers were Prof. Christian Joerges / Germany, Prof. Ugo Mattei /Italy and Prof. Gordon Woodman / UK. Among the participants were the highest representatives of the judiciary, leading law offices and the academic world.