

The ISFL Family Letter
Spring, 2010

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Family Letter: Newsletter of the ISFL, Notre Dame Law School, Notre Dame Indiana 46556
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REPORT OF THE PRESIDENT:

Dear members of the ISFL!

Immediately after the successful ISFL World Conference in Vienna (September 2008) considerable time was dedicated to the publication of the conference papers. *Family Finances* was published in 2009 by Sramek publishers in Vienna (Jan Sramek-Verlag, 816 pp) and found international response.

The Executive Council Meeting convened in February 2009 in London and preparatory steps were taken for the World Conference 2011. The offer of Prof. Hugues Fulchiron to convene the World Conference 2011 in Lyon (France) was very attractive and therefore accepted. The XIVth World Conference will deal with “Les solidarités entre générations” / “Intergenerational Obligations” and will take place from July 19 to July 23, 2011.

Four Regional Conferences of the ISFL took place, notably in Tel Aviv, Israel (June 7-9, 2009), Porto, Portugal (September 10-12, 2009), Sao Paulo, Brazil (August 27-29, 2009), and Kansas City, Missouri (June 3-5, 2010). All four of them were very well attended. Several ISFL members participated actively.

Prior to the Executive Council Meeting in Uppsala (May 2010) Prof. Anna Singer organised a wonderful colloquium dedicated to late Prof. Anders Agell under the heading “The Role of Family Research in Legal Policy Debate”). Several Council members presented papers and the conference turned out to be very

successful and interesting. Unfortunately, Prof. Marie-Thérèse Meulders-Klein, who originally suggested the venue and also holds a Dr. h.c. from the University of Uppsala, was not able to attend the colloquium. In the Executive Council Meeting which convened in May 2010 in Uppsala (Sweden) it was, inter alia, decided that the offer by Brazil to convene the World Conference 2014 in Sao Paulo is very much welcomed. A formal decision will be taken in the Executive Council Meeting in London in February 2011.

Finally, the ISFL deplores the passing away of Prof. Matsy Roodt-de Boer (Netherlands), Prof. Weyrauch (USA) and Prof. Shimazu (Japan) as well as our dear former President Peter Lodrup (Norway).

With best regards,
Bea Verschraegen
President of the ISFL

REPORT OF THE SECRETARY-GENERAL:

The Executive Council’s annual meeting was held on May 22, 2010, in Uppsala, Sweden. At the meeting, the Council adopted a new policy for regional conferences. In the future, an Executive Council member will be appointed to serve as a liaison to any regional conference organizer who is not a member of the Executive Council and has not previously organized a successful regional conference. The Executive Council hopes that this new system will ensure that all regional conferences are of uniformly

high quality and have adequate funding.

The Executive Council also adopted a new policy for adding unelected members to the Executive Council. Pursuant to the new policy, the Council may, in exceptional circumstances, add up to three members between elections; in selecting such members, the policy specifies primary considerations as achieving better representation of a region or culture not sufficiently represented on the Council and promoting participation in the Society by young scholars. The policy also specifies appointment procedures: nominations shall be submitted to a Nominations Committee, appointed by the Executive Council, at least two months before the Council meeting at which nominations will be considered; the Committee shall forward information about each nominee, including a CV and statement outlining the basis for the proposed appointment, to the Executive Council at least one month before the Council meeting at which nominations will be considered; no such appointments may be made within four months of an Executive Council election.

The Executive Council also appointed a Scientific Committee to assist in planning the next world conference, to be held in Lyon, France on July 19-23, 2011. The conference theme is "Intergenerational Obligations." Professor Hugues Fulchiron, conference convener, and the Scientific Committee are working to attract young scholars, particularly those from the developing world. Toward that end, a limited number of young scholars, selected by the Scientific Committee, will receive free subscriptions to the conference. Given the interdisciplinary nature of the conference theme, the conference will also feature round-table discussions that will include non-legal experts from the fields of sociology, economics, and psychology. More information about the World Conference and a call for papers will soon be available on the Society's website.

With best regards,
Marsha Garrison

REPORT OF THE TREASURER:

Dear colleagues,

I have to apologize because since the beginning of January 2010 I did not have the opportunity to answer all your mails. I promise that you will receive an answer in July or August, 2010. Many other members will receive in those months a request to pay the (annual) fees. But, please, right now check the status of your payment in behalf of your subscription.

When your address will change, please send 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. This is especially important at this moment because the Publisher will soon send the International Survey 2010 Edition. 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 June 2010.

I want to remind you of my message in the last ISFL Autumn Letter, which noted: Some countries has more specialists in the field of Family and Juvenile Law than the ISFL has members. **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-website.** When you cannot find the Form, ask me. It would be nice to have at least 1000 members from all over the World. Inviting others is especially important now because we had to delete a number of members who did not pay their fees.

We do have the possibility to pay for 5 years. Many members choose for this opportunity, which will save you and the ISFL costs. In all cases when you write me, please do so by using your computer or typewriter. I can't always read your handwriting and especially with your Banks this gives me a lot of trouble.

Best regards to all!
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**REPORT ON THE INTERNATIONAL SURVEY OF
FAMILY LAW:**

Preparation for the 2010 edition of the Survey is well under way. I am expecting to have 20 chapters this year, although experience tells me that something may well arrive at the last minute, even after the last minute! This is a smaller number than the last two editions but I do not see that as a problem. There is still a good range of countries and subjects represented. Nine chapters have already gone to the publishers, four I am still working on, one should arrive any moment and the others are awaiting their French résumés.

Bill Atkin
Professor of Law
Victoria University of Wellington
Bill Atkin, General Editor

REPORT OF THE NEWSLETTER EDITOR:

In the fall of 2009, we were pleased to include two pieces, involving developments in Norway and Greece. This issue, I've received one such piece, which will be included in this Letter, involving Brazil. 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.ed

Website Updates:

Notes about The ISFL Website

To enter the secure portion of the website, including the membership directory, use the following information:

Username: ISFL
Password: ISFL2006

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.

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:

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

Nearly 200 family lawyers, academic and practitioner, from all across Europe and beyond met after Easter in the warm spring sunshine at the University of Cambridge, England, for the 4th Conference of the Commission on European Family Law (CEFL). The CEFL is an independent network of family law academics

dedicated to investigating the potential for harmonization of family law in Europe. Organized in Cambridge by Jo Miles and Jens M. Scherpe together with the CEFL Organizing Committee, the conference addressed a number of issues of common concern across Europe broadly related to the theme of family property.

The Rt Hon Lord Justice Thorpe, Head of International Family Justice for England and Wales, delivered the keynote address, provocatively entitled "Financial Consequences of Divorce: England v the rest of Europe". Professors Katharina Boele-Woelki (Netherlands) and Maarit Jänterä-Jareborg (Sweden) presented the initial findings of the CEFL's current ambitious harmonization project concerning matrimonial property regimes. Other plenary session papers examining the diversity of matrimonial property regimes across Europe and the law and policy questions surrounding regulation of marital property contracts were delivered by Professors Walter Pintens (Belgium), Elizabeth Cooke (England&Wales) and Nina Dethloff (Germany). Professor Marsha Garrison gave a view from the US on the thorny issue of cohabitation.

Early career researchers from across Europe presented papers during a series of workshops on child maintenance (Philip Bremner, Scotland; Branka Rešetar, Croatia; Martin Kornel, Czech Republic; Gediminas Sagatys, Lithuania); protection of the elderly (Alexandra Maschwitz, Germany; Irena Majstorović, Croatia; Eleni Zervogianni, Greece; Joëlle Long, Italy); and freedom of testation and the protection of family members (John Asland, Norway; Brian Sloan, England&Wales; Pia Lokin, Netherlands; Anna Wysocka, Poland).

The last morning of the conference focused on issues relating to the unification of private international law in these areas, in which Dr Anatol Dutta (Germany) surveyed the recent work of the European Union in unifying private international succession law, and a lively panel discussion led by contributions from Ulf Bergquist (Sweden), Miloš Hatapka (Slovakia), Professor Cristina Gonzáles-Beilfuss (Spain) and Andrea Woelke (England&Wales) explored

the particular challenges being experienced in many jurisdictions in dealing with cross-border family disputes in Europe.

With participants from jurisdictions as diverse as Greece, Lithuania, Norway, Russia, Croatia, Belgium, Australia, Japan, the US and Canada, from both academic and practitioner life, the conference generated a highly stimulating, thought-provoking discussion of family law across these territorial and professional borders, both during the scientific sessions and over the conference dinner table in the magnificent Hall of Gonville & Caius College.

The conference proceedings will be published later this year by Intersentia in the European Family Law series. For further information regarding the conference program, see www.cels.law.cam.ac.uk/cefl2010.

UPCOMING CONFERENCES AND CALLS FOR PAPERS:

A regional conference, co-sponsored by University of Ulster School of Law, will take place very soon at the University of Ulster, Ulster, N. Ireland, will take place on June 18-20, 2010. The conference theme is "The Children's Convention at 21: The Rights of the Child Come of Age?" The conference website can be found at <http://www.socsci.ulster.ac.uk/law/conf1/index.html>.

In addition to the conference taking place over the 19th and 20th of June, we are also teaming up with the academic blog Human Rights in Ireland (www.humanrights.ie) to have a Blogference. As well as delegates presenting their papers in person, those who are interested, can submit (to me) blog posts between 500-1500 words (max.) summarizing the main arguments of the. During 19th and 20th of June, the blog posts will be uploaded onto the blog throughout both days, around the time which delegates will physically be giving their paper. Delegates will forward their blog proposal to me, and after ensuring the proposal conforms to house style, it will be uploaded onto the blog. Only those who have had their papers accepted for the traditional

conference will be able to submit for the blogference.

Not all delegates may opt to do this, however I am confident that a core group will be interested in publicizing their paper in this manner. For an example of how posts will be written, please feel free to browse www.humanrights.ie.

Liam Thornton,

Lecturer in Law, School of Law,
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Northland Road,
Londonderry/Derry
BT 48 7JL

The inaugural conference of The Centre for Family Law and Practice (the Centre) on International Child Abduction, Forced Marriage and Relocation will be held on 30th June * 2nd July 2010 at London Metropolitan University. The keynote address will be delivered by the Centre's Patron, Baroness Hale, and will be followed by the 2010 International Family Law Lecture, established by Lord Justice Thorpe in 2008, and delivered this year by Professor William Duncan, Deputy Secretary General of The Hague Conference on Private International Law. Further papers will be presented by the leading international academics, researchers, practitioners and members of the judiciary working in the three linked conference topics. Daily discussion groups in each of the conference topics will be chaired by international experts in the relevant fields, assisted by specialist renowned reporters. It is anticipated that these sessions will lead to a series of resolutions to be published after the conference has ended. Social events will include a reception at The House of Commons, and a conference dinner at Lincoln's Inn. A limited number of conference places remain available.

The revised conference program and booking form may be viewed on the Centre's website http://www.law2.byu.edu/isfl/londonmet_conference.php.

FOREIGN NOTES

The Brazilian Institute of Family Law - IBDFAM proposed a Family Statute, composed of 274 articles. A more humanitarian legal system is needed in order to adequately include the plurality of family arrangements present in the Brazilian society, which are not effectively protected by the Present Civil Code. Brazilian society is at the same time conservative and progressive. Although there were several modifications to the original proposal, mainly

concerning the homosexual family composition, the need for major changes in Family Law is now more obvious to a great number of Congressmen. It does not seem that the approval will occur soon, but IBDFAM's aim in discussing issues as common marriage, social parenthood, adoption, family composition, joint custody, children's rights, and so on, was achieved.

Giselle Groeninga – Member of Executive Council of IBDFAM, Vice-President of ISFL

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

Katherine K. Baker, "The Stories of Marriage," 12 *Journal of Law and Family Studies* 1 (2010).
Alison Cleland and Elaine E. Sutherland (eds), *CHILDREN'S RIGHTS IN SCOTLAND*, 3rd ed. (Edinburgh, W. Green, 2009).

Margaret F. Brinig and *Steven L. Nock*, *The One Size-Fits All Family*, 49 *Santa Clara Law Review* 137 (2009).

Janet L. Dolgin, Catherine Fisher & Terri Shapiro, "Attitudes About Human Embryos, Embryonic Stem Cell Research, and Related Matters," 37 *Hofstra Law Review* 319 (2008).
Angela Mae Kupenda, "The State as Batterer: Learning From Family Law To Address America's Family-like Racial Dysfunction," 20 *University of Florida Journal of Law and Public Policy* 33 (2009).

Elaine E. Sutherland and Alison Cleland, "Children's Rights in Scotland: Where Are We Now?" in *Alison Cleland and Elaine E. Sutherland* (eds), *CHILDREN'S RIGHTS IN SCOTLAND*, 3rd edn (Edinburgh, W. Green, 2009).

Elaine E. Sutherland, "Care of the Child within the Family" in *CHILDREN'S RIGHTS IN SCOTLAND*, 3rd ed (Alison Cleland and Elaine E. Sutherland, eds., Edinburgh, W. Green,

2009).

Elaine E. Sutherland, "The Child in Conflict with the Law" in *CHILDREN'S RIGHTS IN SCOTLAND*, 3rd ed. (Alison Cleland and Elaine E. Sutherland, eds., Edinburgh, W. Green, 2009).

Elaine E. Sutherland, "A Veiled Threat to Children's Rights? Religious Dress in Schools and the Rights of Young People," 53 *Juridical Review* 143 (2008).

John P. Grant and Elaine E. Sutherland, "International Standards and Scots Law" in *CHILDREN'S RIGHTS IN SCOTLAND*, 3rd ed. (Alison Cleland and Elaine E. Sutherland, eds., Edinburgh, W. Green, 2009).

Bea Vershraegen, *Legal Protection of lifestyles and family forms – A European overview*, in O. Kapella/Chr. Rille-Pfeiffer/M. Rupp/N. F. Schneider (eds), *Family Diversity. Collection of the 3rd European Congress of Family Science*, Barbara Budrich Publishers (2010) 379-390 (in English)

Bea Vershraegen, *The Impact of Culture on Private International Law – with special focus on international family law*, *Notitiae ex Academia Bratislavensi Iurisprudentiae* 3/2009, 3-16 (in English)

Barbara Bennett Woodhouse, *HIDDEN IN PLAIN SIGHT: THE TRAGEDY OF CHILDREN'S RIGHTS FROM BEN*

FRANKLIN TO LIONEL TATE, (Princeton University Press, 2008)

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

Lynn D. Wardle, “Judicial Activism: Same Sex Marriage and the Aftermath of California’s Prop. 8,” 14 *Nexus* 91-100 (2008-09).

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

Mark Strasser, “Adoption, Best Interests, and the Arkansas Constitution,” 63 *Arkansas Law Review* 3 (2010).

Lynn D. Wardle, “Comparative Perspectives on Adoption by Cohabiting, Nonmarital Couples and Partners,” 63 *Arkansas Law Review* 31(2010).

4. Spousal Relations in the Ongoing Family

Other Publications Notes:

Margaret F. Brinig, LAW, FAMILY AND COMMUNITY: SUPPORTING THE COVENANT (University of Chicago Press, 2010)

Naomi Cahn & June Carbone, RED FAMILIES V. BLUE FAMILIES: LEGAL POLARIZATION AND THE CREATION OF CULTURE (Oxford University Press, 2010).

Bea Verschraegen (ed), FAMILY FINANCES, Sramek Verlag/Wien (2009) 816 pp (in English)

Ursula Kil Kelly, CHILDREN’S RIGHTS IN IRELAND: LAW, POLICY AND PRACTICE (Tottel Publishing, 2008). This is the first comprehensive original analysis of the implementation of children’s rights in Irish law, policy and practice covering areas of

or Similar Relations

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

Margaret F. Brinig, Children’s Beliefs and Family Law, 58 *Emory Law Journal* 55 (2008)

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

Bea Verschraegen, Fiddler on the Roof: On the Ambiguity of Family Finances, in *Verschraegen* (ed), Family Finances, Sramek Verlag (2009) 789-816 (in English)

7. Termination/Post-Relations of Parents and Children

constitutional law, child law (guardianship, custody and contact), adoption, child abduction, education, youth justice, life and health care and advocacy and representation.

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:

Bea Verschraegen, among other honors, was recently elected President of the Interdisciplinary Association of Comparative and Private International Law (IACPIL).

Professor Doctor Peter Lødrup

We regret deeply to inform you that our former ISFL President, Prof. Dr. Peter Lødrup died on Wednesday, June 16 in a hospital outside Oslo, Norway. He was 77. The cause of death was cancer.

Peter is survived by his wife Grethe and daughter Cathrine and many, many friends and colleagues in Norway and abroad.

His impressive work as professor, dean and as leader of numerous law reform initiatives in Norway and the EU will be valued for a long time.

Peter's death is a great loss to all of us and his kindness and good humor will be fondly remembered. Peter was an outstanding scholar, and a great leader in the field of family law. We remember very well the wonderful conference he co-convoked in Denmark and Norway, and his fine service as President of the Society. He was a friend to so many of us, and a great mentor.

Many of the tributes circulated by ISFL members over the past days have also noted what a kind and gentle man he was, as one colleague wrote (in French), a true gentleman.