



PRESIDENT’S MESSAGE:

Dear Colleagues in Family Law,

I am deeply honored to be the Society’s new President. I look forward to working with you to ensure that the ISFL continues to provide a forum for family law scholars from diverse traditions and with different views to learn from each other.

It was a pleasure to see many of you in Recife, Brazil for the Society’s Fifteenth World Conference. Conference organizer Giselle Groeninga, also a Vice President of the Society, did a remarkable job in bringing together more than 200 family law scholars and practitioners from at least twenty countries. Simultaneous English-Portuguese translation was available for all sessions, ensuring that Brazilians and non-Brazilians could fully understand each other’s perspectives. If you weren’t able to attend, some of the conference papers and PowerPoint slides are available at the ISFL website (www.isflhome.org); two volumes of conference papers, one in English and the other in Portuguese, are also in the works.

While you’re looking at the Recife papers, do take the chance to explore the Society’s newly redesigned website. Thanks to the initiative and persistence of our immediate past President, Patrick Parkinson, the Society’s old, very minimalist internet presence has been replaced with a dynamic

website that will enable us to become far more accessible and efficient. You will already have noticed that the newsletter looks better: it was generated by the new website, which also contains, in the “members-only section,” an archive of past issues as well as abstracts of recent Surveys. The new website also offers individualized passwords and password recovery; it will enable members to provide an alternate email address so that we won’t lose you; it will generate membership-renewal notices and offer the possibility of online renewal. For future conferences, it will permit us to register online, and there will be direct links to conference hotels and facilities.

Now that newsletters will be retained in researcher-accessible form, the Executive Council has approved a plan to increase their substantive content. We are hoping that the newsletter will soon – and routinely thereafter – provide news on family law developments around the world. Of course, the newsletter cannot offer the same in-depth treatment of legal issues that the Survey provides. But it could alert members to new legislation, judicial decisions, policy developments, and research findings. Our hope is to attract a cadre of reporters who will write, yearly, brief summaries of family law news in their regions. These reports will be indexed by key words and topic; they should

provide a valuable and durable news source to Society members. If you are interested in serving as a reporter, please contact me or Peg Brinig, our newsletter editor.

The annual Survey has, of course, long provided a durable source of valuable information about family law developments around the world. This year's volume is no exception: Did you know that the Canada Supreme Court has issued a ruling on the constitutionality of a legislative scheme that accords no spousal support rights to unmarried cohabitants? Or that the Japan's Supreme Court has reversed an earlier decision upholding a law giving marital children greater rights than nonmarital children? Or that 68% divorce petitioners in Chongqing, China are female? If you have read the 2014 Survey, these – and a remarkable collection of other family-law facts will already be familiar. If not, time to pull the volume off your shelf and contribute

to the general applause for editor Bill Atkin and the authors of 28 essays surveying jurisdictions from Australia to Zimbabwe.

After finishing the Survey, plan ahead! The Society's next World Conference will take place in 2017 in Amsterdam, NL. The conference convener, Professor Masha Antokolskaia (University of Amsterdam) is already working to ensure a stimulating and congenial gathering of family law colleagues.

With warm regards,

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REPORT OF THE SECRETARY-GENERAL:

Greetings from Sweden where the winter is approaching! I am pleased to have the opportunity to serve the ISFL as its General Secretary over the next several years and I look forward to good cooperation with you all. Please feel free to contact me as well as Marsha Garrison if you have any questions or suggestions. I hope to see many of you in Nassau, Bahamas November 19-21 for the regional ISFL conference marking the 25th anniversary of the UN Convention on the Rights of the Child.

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REPORT OF THE TREASURER:

Dear colleagues,

The ISFL is now using a more advanced system to allow payment of the Membership fees. A lot of members already use the PayPal system, the system which allows you pay the ISFL direct with your credit cards. It is making the activities of the ISFL treasurer much easier. For members within the European Union, however, it is cheaper to pay by international bank transfer. And it is still possible to use the traditional way to pay your fees. You can find all the details at the renewed ISFL website. If there are members who did not receive his or her copy of the International Survey of Family Law 2014 Edition, please let me know (A.P.vanderLinden@uu.nl).

As always I will ask you that if your address will be changing (or has recently changed), 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. You can find the list at the ISFL website (where you also can whether you are current on paying your fees and when the next membership fees are due). Some new members paid their fees through PayPal but did not fill in the Subscription Form. In these cases I don't know who these members are, so this is not preferable. Please first fill in the Form and, after a response from the treasurer, pay your fees.

In all cases when you send me a letter or an e-mail, please do it by using your computer or typewriter. Often I can't read your handwriting, and especially where it involves your Bank data, this gives the ISFL a great deal of work. Also in many cases I receive subscription fees not by credit card but by Bank remittance, without the name of the member on it. It is possible that a member has paid his fees and I don't know that because of the absence of the member's name on the remittance.

This is my last contribution as the ISFL treasurer in the newsletter. I want to thank you very much for all your support! The new treasurer will be Professor Masha Antokolskaia, who will start her new job at January, 2015.

Best regards to all!

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REPORT OF THE WEBMASTER:

We are continuing to develop and improve the website. Please feel free to suggest content, or to send reports on recent developments in your country.

The generic password for members is ISFL2014 (it is not case-sensitive). If you want to change to your personal password, go to Update Member Details and then Update Password.

The website also allows you to find out when your membership expires if you are a current member. If your membership has already expired, it will ask you to renew.

To renew your membership, just log in with your email address. There have been a few problems because the last email address we have is out of date. If you have any difficulties please contact me at patrick.parkinson@sydney.edu.au. I can look up the email address we have for you.

Prof. Patrick Parkinson
University of Sydney

REPORT OF THE NEWSLETTER EDITOR:

I (and the Executive Council with me) welcome comments about the general format of the newsletter. The new logo and bannerhead reflect the updated website, but for many years it has consisted of short reports and news items. The Executive Committee asked me to solicit the names of people interested in being “country or regional correspondents” who would submit brief summaries of developments in terms of significant case law, statutes, constitutions or treaties. So far, no one has volunteered, though Ursula Basset has written just such a report on developments in Argentina that appear later in this issue in the “What’s New?” section. This type of addition would be particularly welcome in the times, like the present, between World Congresses.

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, to be succeeded by Masha Antoloskaia in January, though I will forward him your notes about address changes that are sent to me.

The instructions for reaching the membership directory on the soon-to-be-replaced ISFL website are again included below, in Lynn’s notes.

Margaret F. Brinig, Editor
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CONFERENCES AND CALL FOR PAPERS:

Regional Conference Bahamas

The 2nd International Society of Family Law

(ISFL) Caribbean Regional Conference will be held at the British Colonial Hilton Hotel, Nassau, Bahamas, November 19- 21, 2014. The Honourable Madam Justice Desiree Bernard, retired judge of the Caribbean Court

of Justice, will speak at the Opening Ceremony on the conference theme, “Our Children, an Endangered Species.”

Professor Marsha Garrison of Brooklyn Law School, President of ISFL, will speak on the hot topic of world-wide concern: “Why has the United States failed to ratify the UN Convention on the Rights of the Child?”

The Conference, which commemorates the 25th anniversary of the Convention on the Rights of the Child, is being hosted by the Bahamas Bar Association and is being coordinated by Hazel Thompson- Ahye, member of the Executive Council of the ISFL. President of the Bar Association, Mr. Elsworth Johnson and government officials will deliver addresses at the Opening.

Two other members of the ISFL Executive Council, Professor Dr. Anna Singer and Hazel Thompson-Ahye will be presenting papers. During the conference, the Honourable Madame Justice Jacqueline Cornelius of Barbados will speak on the controversial topic of false paternity claims in Barbados, Jamaica and Trinidad and Tobago Courts. Other topics being addressed by judges, academics, lawyers and psychologists, include, violence against children, local and inter-country adoptions, children in alternative care, levelling the playing field in contested custody cases, access and child maintenance, human embryology and fertilization in the Caribbean context, children’s rights in Europe, juvenile justice, rights of disabled children, integrating restorative justice in the Trinidad Family Court, behind the mask of a sexual predator, international child abduction, enforcement of custody and support, and issues of racism and gender.

Further information about the conference can be obtained by emailing the planning committee at conference@bahamasbarassociation.com

REPORTS ON RECENT CONFERENCES

WHAT'S NEW?

Argentina has just switched Civil Codes. We now have a new Civil and Commercial Code comprising the whole of Private Law in 2671 articles. Changes in Family law are striking (for us). Remember that Argentina was one of the last countries to legalize divorce (1987) and the first Latin American Country to legalize same sex marriage (2010). Only a year after same sex marriage, a whole revision of the Family Law section was needed, in order to adapt the texts to the gender-neutral paradigm of marriage. What are the most noteworthy changes?

Divorce: We eliminate fault-divorce, as well as the waiting period before divorce is finalized. Interestingly, in order to attribute the common residence to one of the spouses, the judge might consider the interest of the extended family (the legislator thought about several generations, cohabiting under the same roof).

Cohabitation. Paradoxically, given the divorce developments, cohabitants will have to wait a period of two years of exclusive cohabitation in order to produce juridical consequences. Mostly, the regulation tends to protect the mutual residence of cohabitants and it grants alimony to some extent.

Filiation: The paradigm seems to be now that the filiation by ART techniques will be regulated and its treatment occurs before other concepts of biological filiation. Quests for identity-origins are severely restricted. Please bear in mind that Argentina had always emphasized the right of the identity of the child because of cultural issues. Contrary to ART, biological and adoptive filiation are regulated with a strong stress on the biological paradigm and identity rights (i.g. parental contestation actions are easier, plenary adoption might be, to some effects, open).

Spousal relationships: Whilst in the first draft, duties between spouses were eliminated, now they will have more duties than ever. Spouses now owe each other “*a common life project, cooperation, moral duty of fidelity, living together, assistance and alimony.*” As to the effects of the breach of such duties, there are no specific consequences in family law, but many think civil liability might be claimed. We now have prenuptial agreements, and spouses may opt between a regime of separate or community property. They might change their property regime every year (or else, divorce and remarry!).

Parental relationships: We no longer speak of *patria potestas*, nor of parental authority. The new wording is that of “parental responsibility”. The status of the stepparent is now recognized and we introduced the delegation of parental responsibility to close kin.

Children's duties. Parents have mostly duties, children have mostly rights. However, they have to collaborate and “comply with their parents' decisions as long as they are not contrary to their superior interests”. Children, according to their age, will have also a duty of care towards their parents and other ancestors.

The new Civil Code will come into force in 2016.

RECENT PUBLICATIONS OF NOTE BY ISFL MEMBERS:

(Please send any submissions for future newsletters to Ursula Bassett, uc basset@yahoo.com).

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

ATKINS, Bill (co-authored), *Family Law in New Zealand*, 16th ed, LexisNexis, Wellington, 2014, 1595pp.

BASSET, Ursula C., “Igualdad y género. La búsqueda de la igualdad y la inequidad de género. Problemas lógicos, semánticos, axiológicos, convencionales, constitucionales y sus derivaciones”, IN Rivera, Julio César (h); dir. [et al.], *Tratado de los derechos constitucionales*, Buenos Aires, Abeledo-Perrot, tomo: I, pp. 930 a 961 (Equality and Gender. The quest for equality and gender inequality. Logical, semantical, axiological, conventional and constitutional problems and their derivations).

BASSET, Ursula C., Zúñiga, María, «Abuelos: paneo de la legislación civil y selección de jurisprudencia” EDFA, June 2014, pp. 28-34 (Grandparents: an overview on case-law and legislation).

Bidaud-Garon, Christine, FULCHIRON, Hugues, *Vers un statut européen de la famille*. Dalloz, Paris, 2014.

DEHTLOFF, Nina, *Family Law and Culture in Europe – Developments, Challenges and Opportunities*, European Family Series, Bd. 35, hrsg. Von Boele- Woelki/Dethloff/Gephart, Intersentia 2014

DEHTLOFF, Nina, „Denn sie wissen nicht, was sie tun – Parteiautonomie im Internationalen Familienrecht“, in: Festschrift für Dieter Martiny zum 70. Geburtstag, hrsg. Von Witzleb/Ellger/Mankowski/Merkel/Remien, Tübingen 2014, S. 41 – 65

GOUBAU, D., «Livre deuxième: de la famille» dans M.-F. Bureau et M. Devinat

(dir.), *Les Livres du Code civil du Québec*, Sherbrooke, Les Éditions Revue de Droit, 2014, 73-91.

KATZ, Sanford, *Family Law in America*, Oxford University Press, 2014. VERSCHRAEGEN, Bea, Intergenerational Solidarity, in Fulchiron (éd.), *Les solidarités entre générations. Enjeux et perspectives* (2013) 35-46

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

BRINIG, Margaret, The Effects of Hollingsworth and Windsor on Family Law, 6 *Elon Law Review* 499 (2014).

MILES, Jo, “Unmarried cohabitation in a European perspective” in Scherpe (Ed), *Research Handbook on European Family Law* (Elgar)

PARKINSON, P., Aroney, N. (2014). „The territory of marriage: Constitutional law, marriage law and family policy in the ACT same sex marriage case.” *Australian Journal of Family Law*, 28(2), 160-192.

VERSCHRAEGEN, Bea, “The Right to Private and Family Life, the Right to Marry and to Found a Family, and the prohibition of Discrimination”, in: Boele-Woelki/Fuchs (eds), *Legal Recognition of Same-Sex Relationships in Europe. National, Cross-Border and European Perspectives* (2012) 255-270

VERSCHRAEGEN, Bea, „Die eingetragene Partnerschaft“ (Registered Partnership under Austrian Law), in: *Beiträge zur Rechtsgeschichte Österreichs* (BRGÖ) 2012, 89-100

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

AGALLOPOULOUS, Penelope; “Assisted reproductive technology: forcing a rethink of parenthood in Greek Law,” in B.Feuillet, T.Callus and K. Orfali, eds., *Reproductive Technology and Changing Perception of Parenthood around the World* (Bruylant, 2014).

BASSET, Ursula C. “La democratización de la filiación asistida”, (“Democratization of Filiation by ART”), *Revista Jurídica La Ley*, Buenos Aires, 10/16/2014, p. 1.

BASSET, Ursula C., Salaverri, Milagos, “Maternidad subrogada en el extranjero: el derecho y la filiación de un niño”, *REVISTA DE DERECHO DE FAMILIA Y DE LAS PERSONAS*, Buenos Aires, La Ley, Volumen: 2014-6, p. 97-118 (International surrogacy: law and right of the child to its filiation).

Materia: CIVIL \FILIACION \ARTICULOS DEHTLOFF, Nina, „Leihmütter, Wunscheltern und ihre Kinder“, *JZ* 19/2014, 922 – 932

GOUBAU, D., «Biomédecine et droit de la filiation au Canada: entre audace et retenue», dans *Les incidences de la biomédecine sur la parenté. Approche internationale*, B. Feuillet-Liger et M.-C. Crespo-Brauner (dir.), Bruxelles, Bruylant, 2014, 221-239.

4. Spousal Relations in the Ongoing Family or Similar Relations

DEHTLOFF, Nina, „Ehegatten in der Haftung – Haushaltsschulden in europäischer Perspektive“, in: *Familie – Recht – Ethik*, Festschrift für Gerd Brudermüller zum 65. Geburtstag, hrsg. von Götz/Schwenzer/Seelmann/Taupitz, München 2014, S. 141 – 148

SIMAO, Jose F., “Mudança de regime de bens e pacto antenupcial: um diálogo necessário”, Publicado no *Carta Forense* - 03/2014 (Change of marriage property regime by prenuptial agreement: a necessary dialogue).

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

VERSCHRAEGEN, Bea, “Implementation and Application of the 1980 Hague Abduction Convention”, in: *FS Cooray* (2013) 265-298

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

VERSCHRAEGEN, Bea, „Hinterbliebenenpension für israelische Lebensgefährtin?“, in: *EF-Z* 5/2014, 230-233 (Widow’s pension for Israelian reputed spouse?)

VERSCHRAEGEN, Bea, „Unterhalt der geschiedenen Ehegatten“, Vorbem § 1569, § 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1578a, 1578b, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1585a, 1585b BGB, in: *Staudinger – Kommentar Bürgerliches Gesetzbuch* (Support upon divorce under German law), Verlag Sellier (2014) 654 pp.

PARKINSON, P. (2014). “Applying the s 75(2) factors to the division of family property: A principled approach”. *Family Law Review*, 4(2), 77-89.

VERSCHRAEGEN, Bea, “Gedanken zur Erbensuche und Geschäftsführung ohne Auftrag“ (Reflections on the search for heirs and negotiorum gestio), in: *Festschrift Fenyves* (2013) 379-393

7. Termination/Post-Relations of Parents and Children

ATKINS, Bill (co-authored), *Relationship Dissolution*, 2nd ed, LexisNexis, Wellington 2014, 753pp.

BASSET, Ursula, “Medidas cautelares y calificación de bienes durante la separación de hecho”, *EDFA*, March 2014, p. 7-11 (Marital property regime during *de facto* separation of spouses).

PARKINSON, P. (2014). “The ties that bind: Separation, divorce and the indissolubility of parenthood.” In Alan Hayes, Daryl Higgins (Eds.), *Families, policy and the law: Selected essays on contemporary issues for Australia*, (pp. 177-184). Melbourne: Australian Institute of Family Studies. [More Information]

BRINIG, Margaret, Leslie Drozl and Loretta Frederick, "Perspectives on Joint Custody Parenting as Applied to Domestic Violence Cases," 52 *Family Court Review* 272 (2014)

PARKINSON, P. (2014). "The Payoffs and Pitfalls of Laws that Encourage Shared Parenting: Lessons from the Australian Experience" (Forthcoming). *Dalhousie Law Journal*.

Cashmore, J., PARKINSON, P. (2014). "The Use and Abuse of Social Science Research Evidence in Children's Cases." *Psychology, Public Policy, and Law*, 20(3), 239-250.

SIMAO, Jose F., "A sucessão dos irmãos bilaterais e unilaterais: inconstitucionalidade?," Publicado no Carta Forense - 04/2014

MILES, Jo, Assembling the jigsaw puzzle: understanding financial settlement on divorce" [2014] *Family Law*, March 2014.

MILES, Jo, "The Legal Consequences of Dissolution: Property and Financial Support

Between Spouses" in Eekelaar and George (Ed), *Routledge Handbook of Family Law and Policy* (Routledge), 2014

ROGERSON, Carol, "Post-Divorce Support Obligations and the Turn to Support Guidelines" ch. 2.7 in John Eekelaar and Robert George, eds., *Routledge Handbook of Family Law and Policy*, (Cambridge University Press, 2014) 153-63

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. Ursula Basset, ucbasset@yahoo.com.

OTHER PUBLICATION NOTES:

KATZ, SANFORD N. *Family Law in America* (Second edition). Oxford University Press, 2014).

PARKINSON, P. (2013). *Tradition and Change in Australian Law* (5th edition). Australia: Thomson Reuters, 2013.

Tartuce Flávio e SIMÃO, José Fernando, *Direito Civil - Direito de Família - Série Concursos Públicos - Vol. 5 - 8ª Edição - 2013*

WARDLE, Lynn D. Mark P. Strasser & Lynne Marie Kohm, *Family Law from Multiple Perspectives: Cases and Commentary* (West Academic Publishing 2014)

WILSON, Robin F. *Domestic Relations: Cases and Materials*, 7th edition (Foundation Press, 2013)(with Walter Wadlington and Raymond C. O'Brien)

WILSON, Robin F, *Understanding Family Law*, 4th edition (LexisNexis, 2013)(with John DeWitt Gregory and Peter N. Swisher)