International Society of Family Law

18th (Golden Jubilee) World Conference

University of Antwerp, 12-15 July 2023

in collaboration with

University of Antwerp
Personal Rights and Property Rights

Rethinking Law's Families & **Family** Law

Conference conveners

Prof Frederik Swennen & Prof Elise Goossens

on behalf of

RETHINKIN_

Scientific Research Network (WOG)
Research Foundation Flanders

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Wednesday 12 July 2023

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What is a Family?	K.001	Plenary 1. Law's Families and Family Law	Prof Frederik Swennen, University of Antwerp
	K-Building	10.30 - 11.00 Coffee break	
	B/C-Building	**11.00 a.m. - 12.30 p.m. SESSION 2**	
International Family Law	B.001	What is a Parent 1: Selected Topics	Prof Scott Altman, University of Southern California
	B.002	What is a Partner 1: Separation	Prof Dongjin Lee, Seoul National University
	B.004	PIL 1: General	Prof Christine Bidaud, Jean Moulin Lyon 3 University, Family Law Department
	C.002	Youth Law 1: Legal Position of Minors	Prof Johan Put, KU Leuven
	C.101	Protection of the Elderly	Prof Kees Blankman, VU University Amsterdam
	C.102	Caring and the Law	Prof Renate Barbaix, University of Antwerp
	C.103	Changing Perspectives in National Family Law 1: Central and Eastern Europe	Prof Irena Majstorović, University of Zagreb
	K-Building	**12.30 - 2.00 p.m. Lunch**	

Wednesday 12 July 2023

Room	Panel	Chair
K.201	1.30 - 2.00 Research Session: Maintenance (Guarantee / Advance) Funds	
K.202	1.15 - 1.45 Book Launch	
B/C-Building	2.00 - 3.30 p.m. SESSION 3	
B.001	What is a Parent 2: Assisted Reproduction - General	Prof Nadjma Yassari, Max Planck Institute for Comparative and International Private Law
B.002	Minors and Medical Decision-Making	Prof Ingrid Boone, KU Leuven
B.004	Child Custody, Contact and Information 1	Prof Jens Scherpe, Aalborg University, Denmark
C.002	Families: the Rich and the Poor	Prof June Carbone, Robina Chair of Law, Science and Technology University of Minnesota Law School
C.101	Gender & the Law 1	Prof Joëlle Long, University of Torino (Italy)
C.102	High-Conflict Family Disputes 1: General	Prof Nicholas Bala, Queen's University (Canada)
C.103	Changing Perspectives in National Family Law 2: Central and Eastern Europe	Prof Piotr Fiedorczyk, University of Bialystok (Poland)
K-Building	3.30 - 4.00 Coffee break	
B/C-Building	4.00 - 5.30 p.m. SESSION 4	
B.001	PIL 2: International Child Abduction	Prof Nicola Taylor, University of Otago
B.002	PIL 3: Cross-Border Parenthood	Prof Lukas Rass-Masson, University of Toulouse Capitole
B.004	Law, Culture, and Religion 1: Parents and Children	Prof Pamela Laufer-Ukeles, Academic College of Law and Science, Hod Hasharon Israel
C.101	Changing Perspectives in National Family Law 3: America	Prof Antonio Jorge Pereira Júnior, Universidade de Fortaleza (Brazil)
C.102	General Evolutions 1: Past and Future of Family Law A	Prof Hugues Fulchiron, Jean Moulin Lyon 3 University, Family Law Department
	Work visits: Please check your email or check in at the information desk	
K-Building	5.30 - 7.30 p.m. Welcome Reception	

Functions and Methods

Jubilee Stream

9.00 - 10.30 a.m. Session 1

Plenary 1. Law's Families and Family Law

Welcome Address by the ISFL president

Prof Masha Antokolskaia

Welcome Address by the conference conveners

Prof Frederik Swennen

Prof Elise Goossens

Law's Families, twenty years later

Prof Alison Diduck, UCL Faculty of Laws, London (UK)

The Family After Mandatory Social Distancing due to the pandemic: Challenges for Family Law

Prof Columba del Carpio Rodríguez, Universidad Nacional de San Agustín de Arequipa (Peru)

11.00 a.m. - 12.30 p.m. Session 2

What is a Parent 1: Selected Topics

A Right to Adopt and Parental Licensing

Prof Scott Altman, University of Southern California

Conceptualising parental rights beyond the bilateral filiation: the experiences and claims of co-parents involved in elective multi-parental families

Dr Cathy Herbrand, De Montfort University

Shared parenting in multiparentality

Hannetie Koyama Sato, Family Law Lawyer, DBML Advogados

Trans Parenthood in the UK: The "Unanswered Questions" of the McConnell Decision

Dr Alan Brown, University of Glasgow

Dr Peter Dunne, University of Bristol

Regulating Multiple Parenthood: A Comparative Perspective

Dafni Lima, University of Durham

What is a Partner 1: Separation

Equal or non-Equal. Rethinking Human Rights Implications for Spouses Rights in Divorce Cases

Dr Elwira Macierzyńska-Franaszczyk, Kozminski University

Family law facing the "social banalization" of adultery: trends and strategies

Prof Salvatore Casabona, University of Palermo

No-fault Divorce and Clean breakup Principle: A South Korean Perspective

Prof Dongjin Lee, Seoul National University

PIL 1: General

Divorce and Gender from the Perspective of EU's Private International Law

Dr Laima Vaige, Uppsala university, Sweden

Faster, more accessible, cheaper – but are they? Extrajudicial divorces in the light of the CJEU case C-646/20

Katažyna Bogdzevič, Mykolas Romeris University in Vilnius

Minimum and Global justice in cross-border family law - to recognize or not to recognize

University Lecturer Katja Karjalainen, University of Eastern Finland

Private International Law Approaches on Parental Responsibility within Transnational Families

Prof Silvia Marino, University of Insubria, Como

Will the new proposal for an EU regulation on parenthood allow for the recognition of all parenthoods?

Christine Bidaud, Professor, Jean Moulin Lyon 3 University, Family Law Department

Youth Law 1: Legal position of minors

Afzondering en fixatie in de jeugdhulp. Goed geregeld?

Prof Dr Tim Opgenhaffen: Docent, Vakgroep Privaat- en Economisch recht, Vrije Universiteit Brussel en postdoctoraal onderzoeker Instituut voor Sociaal Recht, Faculteit Rechtsgeleerdheid en Criminologische Wetenschappen, KU Leuven

De gescheiden plaatsing van MOF- en VOS-jongeren in de Vlaamse Gemeenschap: een kinderrechtenconforme evolutie?

Dra. Liese Hofkens: Assistent Instituut voor Sociaal Recht, Faculteit Rechtsgeleerdheid en Criminologische Wetenschappen, KU Leuven

De impact van de defederalisering van de Belgische jeugdbescherming op de rechtspositie van de minderjarige

Dr Sofie De Bus: Doctor-Assistent in jeugdrecht, Vakgroep Privaat- en Economisch recht en Gastprof en postdoctoraal onderzoeker, Vakgroep Criminologie, Vrije Universiteit Brussel

De interne rechtspositie van minderjarigen in gesloten opvang in Vlaanderen

Jole Carlé: Parketjurist en vrijwillig wetenschappelijk medewerker Instituut voor Sociaal Recht, Faculteit Rechtsgeleerdheid en Criminologische Wetenschappen, KU Leuven

Protection of the Elderly

Elder abuse within the family and legal remedies

Prof Kees Blankman, VU University Amsterdam

The capacity of elderly persons to fulfill family roles – a Polish perspective

Associate Prof Małgorzata Balwicka-Szczyrba, University of Gdańsk

Associate Prof Anna Sylwestrzak, University of Gdańsk

The challenges of more effective protection of the rights of the elderly

Prof Anica Čulo Margaletić, Faculty of Law University of Zagreb

The Protection of the Elderly in Modern Croatian Family Law

Associate Prof Barbara Preložnjak, University of Zagreb

Caring and the Law

From kinship to 'careship': in search of a new concept in family law

Dr Veerle Vanderhulst, Vrije Universiteit Brussel (Free University of Brussels)

Intergenerational family care: a private law affair?

Femke de Kievit, Utrecht University/ Utrecht Centre for European Research into Family Law

The division of care services for the parent between the children

Prof Renate Barbaix and Mr Damiaan Leire, University of Antwerp

Time to care and its limited recognition - ambivalent regulation in family law and social law

Prof Kirsten Scheiwe, University of Hildesheim, Germany

Changing Perspectives in National Family Law 1: Central and Eastern Europe

Challenges of medically assisted procreation - legal developments in Croatia

Prof Aleksandra Korać Graovac, Law Faculty in Zagreb, University in Zagreb

Comparison of law and social work in the protection of family rights

Prof Branka Rešetar, Faculty of Law Osijek, University of Josip Juraj Strossmayer

Family solidarity as a cornerstone of Croatian family law: between reality and illusion?

Prof Irena Majstorović, University of Zagreb

The diversity of family relations in the light of the Hungarian legal regulations

Dr jur. Edit Kriston PhD

What has changed and what has stayed the same in Serbian family law over the years?

PhD Assistant Sandra Samardzic, Faculty of Law, University of Novi Sad, Serbia

1.30 – 2 p.m. Research Session Maintenance (Guarantee / Advance) Funds

Prof Frederik Swennen and Prof Elke Claessens (UAntwerp) and Ms Lynn De Smedt (HIVA – KU Leuven) invite you to a brainstorm session on Maintenance Funds – i.e. public systems that guarantee advancements of child or ex-spousal maintenance in case of non-payment by the debtor. They are conducting a study for the Belgian Government and seek comparative law input. More info elke.claessens@uantwerpen.be

1.15 – 1.45 p.m.
Book launch

Research Handbook on International Child Abduction

The 1980 Hague Convention

Research Handbooks in Family Law series

Edited by Marilyn Freeman, Principal Research Fellow, Westminster Law School, University of Westminster, UK and Nicola Taylor, Director of the Children's Issues Centre, Faculty of Law, University of Otago, New Zealand

Publication Date: 2023 ISBN: 978 1 80037 250 4 Extent: 486 pp

With a focus on the 1980 Hague Convention, this cutting-edge Research Handbook provides a holistic overview of the law on international child abduction from prevention, through voluntary agreements and Convention proceedings, to post-return and aftercare issues.

2.00 - 3.30 p.m.
Session 3

What is a Parent 2: Assisted Reproduction - General

New kids on the block: Assisted Reproduction Technologies in the Islamic Republic of Iran

Prof Nadjma Yassari, Max Planck Institute for Comparative and International Private Law

Some recent changes in the Medically Assisted Reproduction Law in Portugal: post-mortem insemination and Succession Law effects

Prof Cristina Dias, School of Law - University of Minho

Prof Rossana Martingo Cruz, School of Law - University of Minho

Minors and Medical Decision-Making

Children's rights in healthcare in Hungary

Prof Timea Barzó, University of Miskolc

Medical Decision-making in Adolescence: a Comparative Perspective

Prof Ingrid Boone, KU Leuven Institute for Family Law and Juvenile Law, KU Leuven Child & Youth Institute

Cato Deprez, Research Master KU Leuven Faculty of Law and Criminology

Self-determination for adolescents in medical decisions: a survey of adolescent, parent and physician opinions

Prof Jaan Toelen, KU Leuven, Department of Pediatrics, University Hospitals Leuven, Belgium

Representation of a child in case of gender reassignment according to the conditions of the Czech legal system

Ondřej Mach, University of West Bohemia

Right to access of minors to adequate mental health care

Cato Deprez, KU Leuven

The vaccination of minors. Child's play?

Marie Goemaere PhD Student, Institute for Family Law and Juvenile Law, KU Leuven Child & Youth Institute

Child Custody, Contact and Information 1

"Children must be seen and not heard" SM v TM and others, was the child's right to be heard ignored?

Dr Whitney Rosenberg, University of Johannesburg

"Presumption on shared parenting post-separation – best interest of children or a parental right?"

Dr Anna Przytula-Pieniazek, Open University UK/Martin Tolhurst Solicitors

Individual vs. joint parental responsibility

Prof Jens Scherpe, Aalborg University, Denmark

It takes two to tango: the settlement of disputes between parents about joint custody after divorce according to the ECHR and CRC

mr. Iris Reinders, Utrecht University

The Meaning of Home for Children and Young People after Parental Separation: Key Insights for Family Law System Professionals

Prof Bruce Smyth, Australian National University

Families: the Rich and the Poor

Family Trees and Family Fortunes

Prof Allison Tait, University of Richmond School of Law

Poverty and its impact on the family - a legal perspective

Prof Sandra Winkler, University of Rijeka

Rich Dad, Gay Dad: The Wealth Traps of Gay Fatherhood

Prof Erez Aloni, University of British Columbia

The right to protection of family life at the challenge of working poor

Rita Daila Costa, PhD Student, University of Palermo

The Triple System of Family.

Prof June Carbone, Robina Chair of Law, Science and Technology University of Minnesota Law School

Gender & the Law 1

A father's right to equality and the best interest of the child: A constitutional perspective on the rights of unmarried fathers regarding birth registration in South Africa

Dr Roxan Laubscher, University of Johannesburg

A genderless family law for gender-fluid families? Parentage rules and the right to gender identity

Dr Giulia Binato, University of Padova

Equal but not. A feminist perspective on Family Law

Prof Joëlle Long, University of Torino (Italy)

Gender challenges to civil registries

Dr Marjolein van den Brink, Utrecht Centre for European research into Family Law

Dr Jet Tigchelaar, Utrecht Centre for European research into Family Law

The Road to Sexual Harassment Prevention and Control in China: History, Experience, and Future

Lecturer Li Han-yan, Shanghai Lixin University of Accounting and Finance

High-Conflict Family Disputes 1: General

"We are here to put the past behind us": Bracketing violence in Finnish custody proceedings?

Sanna Mustasaari

Alternative-Transformative Justice: Towards a Rethinking of Divorce Disputes Involving Violence

Dr Dafna Lavi, The Academic College of Law and Science

Domestic violence in Portugal - unprotected family members

Prof Ana Rita Alfaiate, Faculty of Law - Coimbra University, Portugal

Litigation Abuse in the Family Courts

Prof Nicholas Bala, Queen's University

Representing Parents in Family Violence Cases in Canada

Shelley Hounsell-Gray, lawyer, Halifax N.S., Canada

Changing Perspectives in National Family Law 2: Central and Eastern Europe

Changes in Families and Family Law: On Law´s Families in the Czech Legal Order

Prof JUDr Zdeňka Králíčková, PhD, Masaryk University, Brno

Parental Responsibility and its Place in the Legal Systems of the Counties of Central and Eastern Europe

Associate Prof Lilla Garayova, PhD, Vice-Dean of the Faculty of Law, Pan-European University, Slovakia

Best Interest of the Child in Different Categories of Legal Proceedings Defined by the Czech Constitutional Court

Mgr. Veronika Kissová, Masaryk University

Parental power versus parental responsibility: Polish and Central and Eastern European case in historical perspective

Prof Piotr Fiedorczyk, University of Bialystok (Poland)

MA (PhD candidate) Bartosz Kamil Truszkowski, University of Bialystok (Poland)

Surrogacy Within Theory and Practice of the Czech Family Law – Time for a Change?

Mgr. Bc. Denisa Kotroušová, Faculty of Law, University of West Bohemia in Pilsen

4.00 – 5.30 p.m. Session 4

PIL 2: International Child Abduction

Nurturing the 1980 Hague International Child Abduction Convention

Prof Nicola Taylor, University of Otago
Prof Marilyn Freeman, University of Westminster

Parental alienation beyond borders: an analysis of the international abduction of children

Carolina Alt da Silva, Federal University of Rio Grande - Brazil

The weight given to family relations in international child abduction proceedings

Tine Van Hof, University of Antwerp

When family law meets refugee law: the case of cross-border parental child abduction in a refugee context

PhD researcher Trui Daem, Ghent University, Private International Law Institute

PIL 3: Cross-Border Parenthood

Assisted Reproduction and reproductive tourism

Dra. Karine Maria Famer Rocha Boselli - Civil Register Officer in Brazil, Master and PhD Student at University of São Paulo

Cross-Border Surrogacy Challenging Legal Parenthood: The Swiss Case

Marie-Hélène Peter-Spiess, University of Zurich

European Certificate of Parenthood

Dr Denise Amram, Scuola Superiore Sant'Anna

Rethinking European Families in light of EU-wide Recognition of Parenthood

Lukas Rass-Masson, University of Toulouse Capitole

The approach to the cross-border recognition of legal parentage arising from international surrogacy arrangements in South American States

Janaína Albuquerque, University of Lisbon

The regulation of cross-border contractual filiations by means of private international law

Dr Hab Ilaria Pretelli, Swiss Institute of Comparative Law

Determination of the best interests of the child in the context of international surrogacy arrangements

Ziyana Nazeemudeen, teaching fellow University of Aberdeen, School of Law

Law, Culture, and Religion 1: Parents and Children

Aotearoa New Zealand's culturally incompetent guardianship law

Alison Cleland, Senior Lecturer Alison Cleland, Auckland University of Technology School of Law

Creating Parental Webs: Multiple and Functional Parenthood in Israeli Law

Prof Pamela Laufer-Ukeles, Academic College of Law and Science, Hod Hasharon Israel

Severing ritual infant male circumcision from acceptable family practice – collapsing the dichotomy between 'being' and 'becoming'

Mr William Seagrim, Lecturer, Swansea University and 9 Park Place Chambers

Changing Perspectives in National Family Law 3: America

Homoafective Family in Brazil: a definitive legal reality – presentation of a study

Juliana Maggi Lima

Law's Families and Contractual Families: the Brazilian case

Prof Marília Pedroso Xavier, Federal University of Paraná

Migrant children and the absolute right to education: A case study on Trinidad and Tobago

Kinda Jacob, Attorney at Law and Damali Nicholls Attorney at Law

The principle of equal parenthood and the new Brazilian constitutional paradigms

Daniela Silva Mroz, Civil Register Officer (Brazil), PhD in Criminal Procedure (University of Florence)

The family as one of the modalities of the legal regulation of cohabitation – the importance of thinking, acting and feeling like a family

Prof Antonio Jorge Pereira Júnior, Universidade de Fortaleza (Brazil)

General Evolutions 1: Past and Future of Family Law A

Making Policy for Today's Families: Children as the Focal Point
Richard S. Righter Distinguished Prof Linda D. Elrod, Washburn University School of Law, Topeka, Kansas

Once again: what is family law for?
Prof Harry Willekens, University of Hildesheim

The Evolution of the Concept of the Family in the Legal Sense in the Contemporary Legal Systems: Family Law, Family Models and Children's Rights
Prof Federica Giardini, University of Padua

How to think a Plural Family Law?
Hugues Fulchiron, Professor, Jean Moulin Lyon 3 University, Family Law Department

Work visits

1. **Committee on Maintenance Contributions**
2. **Filiation Center**
3. **Burgerzaken Vlaanderen** - interest group of the municipal civil registry services
4. **Child Focus** - (department international child abduction)
5. **Veilig Thuis Antwerp** – Family justice center
6. **Rabbinical court**

5.30 - 7.00 p.m. Welcome reception (registered participants and accompanying persons only)

Let's connect during the ISFL 2023 welcome reception

University of Antwerp, City Campus
Kleine Kauwenberg 14, 2000 Antwerp

Free of charge - offered by the conference sponsors

Notes

Notes

Programme

Thursday 13 July 2023

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K-Building	8.30 - 9.00 a.m. Coffee Registration Desk open throughout Conference	
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B.001	What is a Parent 3: Assisted Reproduction - Attribution of Parenthood	Prof Nikos Koumoutzis, University of Nicosia
B.002	What is a Partner 2: De Facto Unions	Prof Christa Rautenbach, North-West University, SA
B.004	Unborn Human Life 1: General	Prof Avishalom Westreich, College of Law and Business
C.002	Protection and Autonomy of Adults 1: Intellectual Disability	Prof Elisabeth Alofs , Vrije Universiteit Brussel
C.101	Famigration 1: General	Prof Antonello Miranda, University of Palermo
C.102	Children's Rights 1	Prof Orsolya Szeibert, Eötvös Loránd University, Budapest
C.103	Conflict Handling	Prof Wesahl Domingo, University of Johannesburg
K-Building	10.30 - 11.00 a.m. Coffee break	
B/C-Building	**11.00 a.m. - 12.30 p.m. SESSION 2**	
B.001	What is a Parent 4: the Right to Know One's Origins A	Prof Nataša Lucić, Josip Juraj Strossmayer University of Osijek, Faculty of Law Osijek
B.002	Protection and Autonomy of Adults 2: Cross-Border Aspects	Prof Cristina González Beilfuss, University of Barcelona
B.004	Youth Law 2	Prof Hanneretha Kruger, University of South Africa
C.002	Famigration 2: Children	Dr Charissa Fawole, University of Johannesburg
C.101	Children's Rights 2	Prof Ayako Harada, Nagoya University
C.102	Changing Perspectives in National Family Law 4: Asia	Prof Marcelo de Alcantara, Ochanomizu University, Japan
C.103	General Evolutions 2: Parents and Children	Prof Ann Laquer Estin, University of Iowa
	12.30 - 2.00 p.m. Lunch	

What is a Family?

International Family Law

Thursday 13 July 2023

	Room	Panel	Chair
	B/C-Building	**2.00 - 3.30 p.m. SESSION 3**	
Functions and Methods	B.001	What is a Parent 5: The Right to Know One's Origins B	Dr Astrid Indekeu, KU Leuven, Centre for Sociological Research
Functions and Methods	B.002	Methodology 1: Enhanced Practices & New Frontiers?	Dr Charlotte Mol, Utrecht University
Functions and Methods	B.004	Child Custody, Contact and Information 2	Prof Daphna Hacker, Tel Aviv University
Functions and Methods	C.002	Gender & the Law 2	Prof Ursula Basset, Director of the Center of Research in Family Law, Pontifical Catholic University Argentina
Functions and Methods	C.101	High-Conflict Family Disputes 2: Parental Alienation	Prof Ruth Halperin-Kaddari, Bar-Ilan University
Functions and Methods	C.102	Law, Culture, and Religion 2: General	Prof Mark Henaghan, University of Auckland
Functions and Methods	C.103	General Evolutions 3: Selected Topics	Prof Nina Dethloff, University of Bonn
	K-Building	3.30 - 4.00 p.m. Coffee break	
		4.00 - 5.30 p.m. SESSION 4	
Jubilee Stream	K.001	Plenary 2. Golden Jubilee Session	Prof Elise Goossens, University of Antwerp
		8.00 - 10.00 p.m. Visit to Royal Musem of Fine Arts	

9.00 - 10.30 a.m.
Session 1

What is a Parent 3: Assisted Reproduction - Attribution of Parenthood

Denial of fatherhood by consent

Prof Shahar Lifshitz

From the Presumption of Paternity to Original Co-Maternity. Towards Equality of Treatment of Heterosexual and Lesbian Couples in Parentage Law

Associate Prof Nikos Koumoutzis, University of Nicosia

Presumption of Paternity and Artificial Insemination in Korea: Legal Implications

Prof Dayoung Jeong, Chungnam National University

Tacit Concepts of Family in Danish Legislation on Assisted Reproduction

Associate Prof Frank H. Pedersen, Faculty of Law, University of Copenhagen

What is a Partner 2: De Facto Unions

Contrasts between common law marriage and "qualified dating" according to Brazilian courts of justice

Prof Mário Luiz Delgado, University of São Paulo

Rethinking the meaning of spouse? Recent developments under South African law

Prof Christa Rautenbach, North-West University, SA, also on behalf of Prof Mitzi Wiese, North-West University, SA

The Hidden Network of Non-Marriage: Across the Social Space of Civil Society

Hila Geffen-Spitz, Bar-Ilan University

The Impact of Bwanya v Master of the High Court (CCT 241/20) [2021] ZACC 21 on Women's Rights in South Africa

Prof Amanda E. Boniface, University of Johannesburg

The role of good faith in the relationship of unmarried cohabitants

Dr Alexander Flos, Vrije Universiteit Amsterdam

Unborn Human Life 1: General

Biotechnologies and "perfect children": how can we protect the best interest of the child when parents want to choose the genetic characteristics of their children?

Dra Aurélie Cassiers, Hasselt University

Rethinking Reproduction: The Status of Frozen Embryos in Divorce Disputes in Israeli Rabbinical Court Rulings

Prof Avishalom Westreich, College of Law and Business
Prof Amihai Radzyner, Bar-Ilan University

The justification of child protective measures during pregnancy

Charlotte De Mulder, University of Antwerp

Protection and Autonomy of Adults 1: Intellectual Disability

Children with intellectual disabilities and their parents. Autonomy and/or protection?

Dr Veerle Vanderhulst, Free University of Brussels

Naomi Blomme, Free University of Brussels and VIVES University College

Prof Dr Elisabeth Alofs, Free University of Brussels

Prof Dr Tim Opgenhaffen, Free University of Brussels and KU Leuven

Famigration 1: General

Famigration in Italy and the rights of the individual: the case of nullity of combined marriages as consequence of duress or undue influence

Prof Antonello Miranda, University of Palermo

Immigration as an Aspect of a Positive Right to Family Life

Prof James Dwyer, William & Mary School of Law

Reconciling Islamic Law with Famigration: Case of South Asian Immigrants in Sicily

Amal Hlioui, University of Palermo

The Deportation of America's Adoptees

Prof DeLeith Duke Gossett, Texas Tech University School of Law

Children's Rights 1

Are Children's Rights Enough?

Prof Clare Ryan, University of Alabama School of Law

Identity values in conflict between adults of today and adults of tomorrow

Prof Amalia Diurni, University of Rome Tor Vergata

Parental autonomy and children's rights and interests in the light of the parental responsibilities

Prof Orsolya Szeibert, Eötvös Loránd University, Budapest

The right to play: a minors' right but not a minor right

Prof Maria Donata Panforti, University of Modena and Reggio Emilia

Rethinking parental responsibility in the light of children's fundamental rights in the digital age

Margot Musson, PhD Student Jean Moulin Lyon 3 University, Family Law Department

Conflict Handling

How family mediators can better integrate children/siblings in family mediations?

Dr Amel Ketani, BPP University

New divorce procedures for parents with child-related disputes in the Netherlands

Marit Buddenbaum MA LLM, Vrije Universiteit Amsterdam

New measures to support cost-effective property settlements for separating families in Australia

Dr Rachel Carson, Australian Institute of Family Studies
(Speakers from Federal Circuit and Family Court and National Legal Aid to be confirmed ASAP)

Procedural rule agreements and Family law

Prof Marília Pedroso Xavier, Federal University of Paraná
Prof William Soares Pugliese, Federal University of Paraná

Born from bad memories: considering the best interests of children conceived through rape or incest

Dr Lize Mills, Lecturer De Montfort University Law School, Leicester, UK

Mandatory Family Law Mediation in South Africa: The Bumpy Road to an Integrated Approach to the Resolution of Disputes in Divorce Matters

Prof Wesahl Domingo, University of Johannesburg

11.00 a.m. - 12.30 p.m. Session 2

What is a Parent 4: the Right to Know One's Origins A

Medical assisted reproduction and the right to know own origins

Prof Domitilla Vanni, University of Palermo

The child's right to know his or her origins - is there a gap between legislation and legal practice?

Associate Prof Nataša Lucić, J. J. Strossmayer University, Faculty of law Osijek

The children's right to know one's origins: law reform proposals in Quebec (Canada)

Prof Michelle Giroux, University of Ottawa

Protection and Autonomy of Adults 2: Cross-Border Aspects

Beyond the family: Cross-border protection of Adults in light of the recent European Commission Proposals

Cristina González Beilfuss, University of Barcelona
Jan von Hein, University of Freiburg
Katja Karjalainen, University of Eastern Finland
Pietro Franzina, Catholic University Sacre Cuore, Milan
Richard Frimston, Russel Cooke
Thalia Kruger, University of Antwerp

Youth Law 2

Adoption in South Africa: is there a disconnect between law and society?

Prof Sandra Ferreira, University of South Africa

Permanent alternative care options from a human rights law and comparative perspective: is blood thicker than water?

Jasmien Deklerck, KU Leuven

Safeguarding the rights of orphans in kinship care in South Africa

Prof Hanneretha Kruger, University of South Africa

The position of the child between biological and foster family in the Republic of Croatia

Matko Guštin, Assistant, Faculty of Law, Josip Juraj Strossmayer University of Osijek

Famigration 2: Children

A Children's Rights Approach to Family Reunification in the Context of Internal Displacement in Africa

Dr Charissa Fawole, University of Johannesburg

Recognition of child marriage in family law and migration law: two sides of the same coin or contradictory?

Leontine Bruijnen, University of Antwerp and University of Ghent

Separation of children from their parents: a comparison of the role of the best interests of the child principle in ECtHR child protection and immigration case law between 2018 and 2022

Aline Bodson, PhD Student, University of Namur, Belgium

The role of family law: sharing good practice with other fields of law

Dr Nazia Yaqub, University of Leeds, also on behalf of Prof Helen Stalford, University of Liverpool, Dr Sarah Woodhouse, University of Liverpool and Dr Melanie Griffiths, University of Birmingha

Children's Rights 2

Children Participation in Czech Judicial Family Law Practice

Martin Kornel, Masaryk University, Brno

How can lawyers contribute to the children's rights to be heard? – Emerging practices of the Children's Representatives in Japanese family court proceedings

Prof Ayako Harada, Nagoya University

How to redefine the role of parents in the light of the CRC to enhance child participation in decision-making?

PhD Student Tessa Quina, University of Hasselt

The Children's Rights to Independent Status - Protecting the Children's Interests in Divorce Proceedings Between Their Parents

Prof Yitshak Cohen, Ono Academic College

The Difference Between Having a Voice and Being Heard: Thoughts on the Legal Capacity of Children

Dr Sharon Shakargy, Hebrew University of Jerusalem

Changing Perspectives in National Family Law 4: Asia

Jurisprudential protection of atypical forms of cohabitation in India

PhD Lucia Miglietti

Legal Issues Facing Non-Traditional Families in Japan

Associate Prof Marcelo de Alcantara, Ochanomizu University, Japan

Legal Protection for the Inheritance Right of Children with Dual Nationalities: The Case of Indonesia

Zendy Wulan Ayu Widhi Prameswari, LL.M., Universitas Airlangga

The Principles of Intercountry Adoption in Indonesia: Strengthening the Child Protection

Erni Agustin, LL.M., Universitas Airlangga

General Evolutions 2: Parents and Children

Deciding about the future of children in alternative care

Prof Marielle Bruning and Dr Kartica van der Zon, University of Leiden, The Netherlands

Foundations for Families

Laureen Hu LLM, Utrecht University

Legal Parenthood and Emerging Reproductive Practices

Dr Alan Brown, University of Glasgow; Dr Elizabeth Chloe Romanis, Durham University

Legal Parenthood as a Regulatory Tool to control parental behaviour

Dr Maebh Harding, University College Dublin

Parents, Children, and Conflict of Laws

Prof Ann Laquer Estin, University of Iowa

2.00 - 3.30 p.m. Session 3

What is a Parent 5: The Right to Know One's Origins B

Dr Astrid Indekeu, KU Leuven, Centre for Sociological Research
Dr Tinne Claes, University of Leuven
Elodie Decorte, KU Leuven

Methodology 1: Enhanced Practices & New Frontiers in Family Law Research?

A Scoping Review on the Empirical and Legal Consequences of Relocation Cases

Loran Kostense

Empirical Methods in Family Law Research – Learning from experience

Prof Anne Barlow, University of Exeter; Dr Jan Ewing, University of Exeter

Qualitative content analysis of case law: a golden standard for future family law research?

Dr Charlotte Mol, Utrecht University

Reflections on methodology combining law and interviews with lawyers

Associate Prof Annette Kronborg, University of Southern Denmark

The Added Value of a Case File Study in Family Law Research

Roos Nieuwboer, Vrije Universiteit Amsterdam

The Kite Model of Fatherhood

Prof Alice Margaria, University of Zurich

Child Custody, Contact and Information 2

A comparative analysis of the measures in case of non-compliance with residence and contact arrangements

Eva Vertommen, KU Leuven

Compliance with and enforcement of family law parenting orders – the Australian experience

Dr Rachel Carson, Australian Institute of Family Studies

Parental Responsibilities Nuanced Conceptualization – Shared Language for Post-Separation Familial Realities

Prof Daphna Hacker, Tel Aviv University
Prof Ruth Zafran, Reichman University

Shared Physical Custody and High Interparental Conflict. A comparative analysis.

Mr Marco Poli, Universities of Turin and Antwerp

Understanding Child Maintenance Obligations: A Relational Ethics Perspective

Ms. Claire Casha, University of Malta

Gender & the Law 2

Rethinking the links between the changing family law and gender

Prof Ursula Basset, Director of the Center of Research in Family Law, Pontifical Catholic University Argentina

A Gender-Neutral Parentage Law - Current Discussions in Germany

Prof Dr Susanne Lilian Gössl, LL.M. (Tulane), University of Bonn

De-gendering parental status: how and why

Dr Marjolein van den Brink

Gender-neutral parentage law from a social science perspective

PhD Emilie Hermans, University of Hasselt and University of Namur

What words for a gender-neutral parentage law?

PhD Mascarenhas Elena, ISJPS (University of Paris 1 Panthéon Sorbonne) & CERCRID (University of Lumière Lyon 2)
Pr. Moron-Puech Benjamin, CERCRID (University of Lumière Lyon 2)

High-Conflict Family Disputes 2: Parental Alienation

Parental alienation, domestic abuse and family court proceedings in England and Wales

Dr Adrienne Barnett, Brunel University London

Parental Alienation: Long-Term Effects of Court Orders

Dr Rachel Birnbaum; King's University College at Western
Prof Nicholas Bala, Queens University

Parental Alienation: The Israeli Case

Prof Ruth Halperin-Kaddari, Bar-Ilan University
Prof Ruth Zafran, Reichman University; Dr Sharon Shakargy, Hebrew University

Stop talking about parental alienation! A pseudoscientific theory that should be banned from family courts for the safety of children

Prof Isabella Ferrari, University of Modena and Reggio Emilia

U.S. Family Court Outcomes in Cases involving Abuse and Parental Alienation Claims

Joan Meier, National Family Violence Law Center Prof of Clinical Law, George Washington University Law School

Law, Culture, and Religion 2: General

Confronting the Problem of Get Refusal: The Potential of Applying Criminal Law

Hadas Raichelson, Bar-Ilan University

Rethinking Law's Families in Aotearoa New Zealand

Prof Mark Henaghan, University of Auckland

The Danish state as an example of a decentralised state in family law. A critical analysis of the transference of the field "family law" to the Faroe Islands

Dr José María Lorenzo Villaverde, Associate Prof University of Örebro, Assistant Prof University of Southern Denmark, External Lecturer University of the Faroe Islands

Uncovering misrepresentations of power inequalities regarding consent in arranged marriage – how does arranged marriage do marital consent

Dr Naema Tahir, UNCERF Utrecht University

General Evolutions 3: Selected Topics

Aligning Belgian family property law with contemporary society: headed toward a fata morgana?

Drs. Els Vyncke, Ghent University

Closing the Gap Between Family Life and Family Law in the United States Through Legal Recognition of Nontraditional Relationships

Prof Sally Goldfarb, Rutgers Law School

Contractualisation of family law

mr. Mirella Peereboom-van Drunick, University of Amsterdam

Love and beyond love - What legal recognition and protection do adult relations need?

Prof Nina Dethloff, University of Bonn

Regulatory Competition and the Law Market for Matrimonial Issues

Dr Rorick Tovar, University of Bern

4.00 – 5.30 p.m. Session 4

Plenary 2. Golden Jubilee

The Place of the Family in Family Law

Prof John Eekelaar FBA, Oxford Centre for Family Law and Policy, University of Oxford (UK)

50 Years Development of Family Law in Westernised World: Where We Stand and Where We Go?

Prof Masha Antokolskaia, VU Amsterdam (Netherlands), President of the ISFL

Family Lawyers from Communist Countries and their Participation in the ISFL Activities

Prof Dr Hab Piotr Fiedorczyk, University of Bialystok (Poland)

Seventy Years of Marriage and Family Law in China: Achievements, Challenges and Prospects

Dr Qingmin Guo, Lecturer of Southwest Petroleum University (China), Post-doctoral Fellow of the University of Oxford

Remembering and celebrating ISFL at the Golden Jubilee

Senator Hazel Thompson-Ahye, H.B.M. (Trinidad and Tobago), Vice-President ISFL

8.00 - 10.00 p.m. Royal Museum of Fine Arts (registered participants and accompanying persons only)

An exclusive evening opening for ISFL 2023 with a guided tour through the magnificently renovated Royal Museum of Fine Arts in Antwerp

Leopold de Waelplaats 1, 2000 Antwerpen

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Programme

Friday 14 July 2023

ISFL

Room	Panel	Chair
K-Building	8.30 - 9.00 a.m. Coffee Registration Desk open throughout Conference	
B/C-Building	**9.00 - 10.30 a.m. SESSION 1**	
B.001	What is a Parent 6: Surrogacy	Prof Paula Távora Vítor, UCiLER, University of Coimbra
B.002	What is a Partner 3: Platonic Relations	Prof Daniel Monk, Birkbeck, University of London
B.004	Unborn Human Life 2: Abortion and Reproductive Rights	Prof Jennifer Drobac, Indiana University
C.002	What is a Family: Siblings	Prof Teiko Tamaki, Niigata University
C.101	Money & Property: Upon Separation 1	Prof J. Thomas Oldham, University of Houston
C.102	Digital Family Law 1: General	Francesca Valastro, Vrije Universiteit Brussel
C.103	Queering Family Law	Prof Dafni Lima, University of Durham
K-Building	10.30 - 11.00 a.m. Coffee break	
B/C-Building	**11.00 a.m. - 12.30 p.m. SESSION 2**	
B.001	What is a Parent 7: Social Parents A	Prof Michelle Giroux, University of Ottawa
B.002	What is a Partner 4: Polyamory	Prof Kaiponanea Matsumura, Loyola Law School, Los Angeles
B.004	Protection and Autonomy of Adults 3: Selected Topics	Dr Razaana Denson, Senior Lecturer, Head of Private Law Department, Nelson Mandela University
C.002	PIL 4: Panel Debate on Cross-Border Filiation	Dr Ilaria Pretelli, Swiss Institute of Comparative Law
C.101	Youth Law 3	Albert Kruger, Retired judge and Prof extraordinaire at the University of the Free State, Bloemfontein, South Africa
C.102	Famigration 3: FAMIMOVE	Prof Marta Pertegás, Maastricht University
C.103	Families in Europe	Prof Konrad Duden
	12.30 - 2.00 p.m. Lunch	

What is a Family?

International Family Law

Friday 14 July 2023

	Room	Panel	Chair
	K.001	1.00 - 2.00 p.m. ISFL General Assembly	
	K.202	1.15 - 1.45 p.m. Book Launch	
		2.00 - 3.30 p.m. SESSION 3	
Functions and Methods	K.001	Plenary 3. Functions and Methods	Prof Frederik Swennen, University of Antwerp
	K-Building	3.30 - 4.00 p.m. Coffee break	
	B/C-Building	**4.00 - 5.30 p.m. SESSION 4**	
Jubilee Stream	B.001	What is a Parent 8: Social Parents B - Comparative Perspective	Prof Courtney G. Joslin, UC Davis School of Law; Dr Christiane von Bary, LMU Munich
	B.002	Digital Family Law 2: Parents and Children	Prof Bruce Smyth, Australian National University
	B.004	Money & Property: Upon Death	Prof John Asland, University of Oslo
	C.101	Changing Perspectives in National Family Law 5	Dr Muneer Abduroaf, University of the Western Cape South Africa
	C.102	General Evolutions 4: Past and Future of Family Law B	Prof Wendy Schrama, Utrecht University
		Work visits: Please check your email or check in at the information desk	
	Palace of Justice (Vlinderpaleis)	**7.00 p.m. Conference Gala Dinner**	

9.00 - 10.30 a.m.
Session 1

What is a Parent 6: Surrogacy

Gestational surrogacy in Portugal: a Tale of Two Mothers
Prof Paula Távora Vítor, UCiLER, University of Coimbra

Motherhood, surrogacy and the resulting new families: a comparative analysis
Ms Nicoletta Patti, PhD Student in System Dynamics, University of Palermo

Placing Surrogacy in a Legal and Feminist Framework
Ms Cristiana Burger, Expatriate Law

Surrogacy: between autodetermination and paternalism
Giada Cascio, Phd student, University of Palermo

Towards a legal framework for surrogacy in the Netherlands: Past and current debate
Nola Cammu, UD Vrije Universiteit Amsterdam

Geeske Ruitenberg, UHD, Vrije Universiteit Amsterdam

What is a Partner 3: Platonic Relations

Braschi v. Stahl: Functionally Recognizing Non-conjugal Unions?
André Moradas, Nova School of Law

I love you ... as a friend. Nonconjugal life partnerships
Shona Moreau, Faculty of Law, University of Mcgill

Law's Friends: The Justified Limits to Recognition
Prof Daniel Monk, Birkbeck, University of London

To be or not to be a family: living alone and legal perspective
Avv. Prof Alongi Annalisa, University of Palermo

Unborn Human Life 2: Abortion and Reproductive Rights

Abortion and the Demise of Roe v. Wade: Impact on Family Life and Healthcare Decisions
Prof Robin Fretwell Wilson, University of Illinois

Abortion between Health Care, Reproductive Self-determination and something else. Law and intimacy.
Prof Alessandra Pera, University of Palermo, Italy

Family Law or Legalized Human Life Support Conscription
Prof Dr Jennifer Drobac, Indiana University

The State, The Family, and The Individual: Reproductive Rights and the Implication on Divorce
Molshree A. Sharma, Partner, Birnbaum Gelfman Sharma & Arnoux,

Jonathan R. Standeford, Associate, Birnbaum Gelfman Sharma & Arnoux

Legal analysis of the reproduction rights of the father, specifically in abortion matters
Seroné Stal, University of Fort Hare and Katlego Mashiane, North West University

What is a Family: Siblings

Can one draw a line between "family" and "non-family" on a voluntary basis?: A focus on the familial relationship between siblings in older age
Prof Teiko Tamaki, Niigata University

Physical and emotional sibling violence in a conflict management perspective
Eva Van Kelecom, KU Leuven

Recent Belgian legislation on personal relations between siblings
Dra. Maxime Dupan, Ghent University

Siblings or genetic strangers? The challenges of same donor-offspring.
Dr Astrid Indekeu, KU Leuven, Centre for Sociological Research

Money & Property: Upon Separation 1

Spousal Support and Gender Equality
Prof Claire Houston, Faculty of Law, Western University

The Lack of Consensus Under US Law Regarding the Principles Governing the Award of Spousal Support after Divorce
Prof J. Thomas Oldham, University of Houston

What types of family arrangements is Swiss divorce law designed for?
Prof Michelle Cottier, University of Geneva

Bindu Sahdeva, University of Geneva

Taken by surprise: Sharing lives, but leaving empty handed?
Associated Prof Katrine K Fredwall, Institute of Private, Law

Faculty of Law, University of Oslo Norway

Digital Family Law 1: General

Algorithmic Justice for Family Disputes
Dr Roni Liberson, Tel Aviv University

Digitalization of family acts in cross-border cases: the examples of online marriages and notarial divorces
Prof Naivi Chikoc Barreda, University of Ottawa

Preventing gender and family violence through Artificial Intelligence: a multidisciplinary perspective
Dr Elena Falletti, Università Carlo Cattaneo-LIUC, Italy

The case of the 'legacy contact' between the right to privacy and the right to succeed.
Dr Sara Rigazio, University of Palermo (IT)

Artificial Intelligence and Algorithms in Family Law

Prof Dr Elisabeth Alofs, Vrije Universiteit Brussel (Free University of Brussels)

Dr Marco Giacalone, Vrije Universiteit Brussel (Free University of Brussels)

Dr Nishat Hyder-Rahman, Vrije Universiteit Brussel (Free University of Brussels); Tilburg University

Queering Family Law

Function-Based Arguments in a Major Court Decision on Polyamory
Prof Nausica Palazzo, NOVA School of Law, Lisbon

Queer Reproduction
Noy Naaman, University of Toronto

Queering Children's Rights: A Critical Queer Analysis of the UNCRC
Frederique Joosten, University of Cambridge

Seahorse Dads before Courts: What is Left of Conventional Legal Fatherhood?
Prof Alice Margaria, University of Zurich

11.00 a.m. - 12.30 p.m. Session 2

What is a Parent 7: Social Parents A

How Parenthood Functions
Courtney G. Joslin, Martin Luther King Jr. Prof of Law, UC Davis School of Law

How should the family law recognize social parenting?
Dr Jakub Pawliczak, University of Warsaw

Legal Recognition of Social Parents in Sweden
Senior Lecturer Elizabeth S. Perry, Uppsala University

Procreation and Parental Obligation
Kazuki Matsuda, Waseda University

The Legal Framework of the Child-Stepparent Relationship in Quebec Civil Law within the Canadian Context
Prof Clémence Bensa, Université du Quebec en Outaouais
Prof Michelle Giroux, University of Ottawa

What is a Partner 4: Polyamory

As if they were brothers: a study on socio-affective bonds in the contemporary Family
Hannetie Koyama Sato, Family Law Lawyer, DBML Advogados

Comparative Approach of Legal Regulation of Polyamorous Relationships as Protection of Family Pluralism
Victória Rodrigues, Superior School of Law - Brazilian Bar Association (ESA)

Polyamory and the legal nature under Family Law
Dr Alberto Gentil de Almeida Pedroso, Tribunal de Justiça do Estado de São Paulo – TJSP
Karine Maria Famer Rocha Boselli, Associação Nacional dos Registradores de Pessoas Naturais

Why Value Relationship Stability?
Prof Kaiponanea Matsumura, Loyola Law School, Los Angeles

Protection and Autonomy of Adults 3: Selected Topics

Economic Abuse among Intimate Partners

Dr Arianne Renan Barzilay, University of Haifa Faculty of Law

Access to Parenthood: A Disability-Rights-Oriented Dispute System Design

Adv. Roni Rothler, Bar Ilan University

Autonomy of the Will in End-of-Life Issues

Lívia Possi, student at Lyon III University (France) and University of São Paulo (Brazil)

Locus standi in iudicio - the right of a parent to claim maintenance on behalf of an adult dependent child

Dr R Denson: Senior Lecturer, Head of Private Law Department, Nelson Mandela University

Dr G van der Walt: Senior Lecturer in Private Law, Nelson Mandela University

PIL 4: Panel Debate on Cross-Border Filiation

(R)evolution of international filiation

Prof Cristina González Beilfuss, University of Barcelona

Dr Hab Ilaria Pretelli, Swiss Institute of Comparative Law

Prof Laura Carpaneto, University of Genoa

Associate Prof Máire Ní Shúilleabháin, University College Dublin

Prof Thalia Kruger, University of Antwerp

Youth Law 3

One-stop Child Justice Centres in South Africa

Albert Kruger, Retired judge and Prof extraordinaire at the University of the Free State, Bloemfontein, South Africa

Solitary Confinement of Juveniles: Is it a Cruel and Unusual Punishment

Prof Deborah Paruch, University of Detroit Mercy School of Law

The Main Features of the Korean Juvenile Act and its Future under the Influence of the CRC

Cheolung JE, Hanyang University

The quandry of psychologist in balancing the principle of confidentiality to their clients in juvenile and family matters with their duty to the court

Madam Justice Barbara Cooke Alleyne Supreme Court Barbados

Famigration 3: FAMIMOVE

Families on the Move: the Coordination between International Family Law and Migration Law (FAMIMOVE)

Prof Bettina Heiderhoff, University of Münster

Prof Costanza Honorati, University of Milano-Biccocca

Prof Jinske Verhellen, Ghent University

Prof Marta Pertegás, Maastricht University

Prof Orsolya Agnes Szeibert, Eötvös Loránd University

Families in Europe

Families in Europe: changing Concepts and Overcoming Divergences

Dr Anna Wysocka-Bar, Jagiellonian University

Dr Dafni Lima, University of Durham

Dr Denise Wiedemann, Max-Planck-Institute Hamburg

Dr Tone Linn Waerstad, Faculty of Law, University of Oslo

Prof Dr Konrad Duden, Universität Leipzig

1.00 – 2.00 p.m.
ISFL General Assembly (for ISFL members only)

1.15 – 1.45 p.m.
Book launch

Jurisdiction, Recognition and Enforcement in Matrimonial and Parental Responsibility Matters

A Commentary on Regulation 2019/1111 (Brussels IIb)

Elgar Commentaries in Private International Law series

Cristina González Beilfuss, Professor of Private International Law, University of Barcelona, Spain, Laura Carpaneto, Associate Professor of EU Law, University of Genoa, Italy, Thalia Kruger, Professor, University of Antwerp, Belgium and Honorary Research Associate, University of Cape Town, South Africa, Ilaria Pretelli, Senior Research Fellow, Swiss Institute of Comparative Law, Switzerland and Mirela Župan, Professor, Faculty of Law, Josip Juraj Strossmayer University of Osijek, Croatia

Publication Date: July 2023 ISBN: 978 1 83910 397 1 Extent: 812 pp

This authoritative Commentary on the recast Regulation 2019/1111 on matters of matrimonial and parental responsibility presents a deep analysis of the Regulation and is authored by leading experts in family law and private international law. Employing a granular, article-by-article approach, the Commentary acts as a detailed reference point on the uniform jurisdiction rules for divorce, legal separation and marriage annulment, as well as for disputes over parental responsibility with an international element, including child abduction.

2.00 - 3.30 p.m. Session 3

Plenary 3. Functions and Methods

Respect for Marriage Act? (A Rare Bi-Partisan Moment)

Prof Robin Fretwell Wilson, University of Illinois College of Law (USA)

Translating Scholarship into Law & Policy

Prof Robin Fretwell Wilson, University of Illinois (USA)

Prof June Carbone, University of Minnesota (USA)

Prof Federica Giardini, University of Padua (Italy)

Senator Hazel Thompson-Ahye, H.B.M. (Trinidad and Tobago)

Prof Ruth Halperin-Kaddari, Bar-Ilan University (Israel)

Baroness Ruth Deech (UK)

4.00 – 5.30 p.m. Session 4

What is a Parent 8: Social Parents B - Comparative Perspective

Social Parenthood in Canada

Prof Claire Houston, Faculty of Law, Western University

Social Parenthood in England and Wales

Prof Jens Scherpe, Aalborg University, Denmark

Social Parenthood in Germany

Dr Christiane von Bary, LMU Munich

Social parenthood in Greece - A critical approach

Associate Prof Eleni Zervogianni, Aristotle University of Thessaloniki, Greece

Social Parenthood in The Netherlands

Prof Machteld Vonk, Radboud University

Social Parenthood in the United States

Courtney G. Joslin, Martin Luther King Jr. Prof of Law, UC Davis School of Law

Digital Family Law 2: Parents and Children

Children's Informational Privacy and "digital parenting" in the U.S. and Italy: Ground of Convergence or Litmus Test of an Unbridgeable Gap?

Biagio Andò – Associate Prof of Comparative Private Law, Department of Political and Social Sciences, University of Catania

Cinzia Valente – Senior Assistant Prof of Comparative Private Law, Department of Education and Human Sciences, University of Modena and Reggio Emilia Italy

Influencers or influenced? Children surfing online at risk of sinking

Rosamaria Tristano, PhD student, University of Palermo

Parental Responsibility and Children's Right to Privacy – Balancing Rights and Interests in the Family Sphere

PhD Student Kirsten Kolstad Kvalø, University of Oslo

Popular Post-Separation Parenting Apps: Can they help families avoid conflict?

Prof Bruce Smyth, Australian National University

Prof Jason Payne, University of Wollongong

Money & Property: Upon Death

Elder Familial Alienation in Inheritance Disputes and the Protection of the Intergenerational Connections of Elders

Advocate Anat Lifshitz, Bar-Ilan University

Property Relations between Spouses upon Death: A Comparative and Analytical Study

Prof Ram Rivlin, Hebrew University of Jerusalem

The role of the extended family in changing times - the case of Succession in Ghana and Nigeria.

Ms Augustina Akoto, University of East London

Dr Olubunmi Onafuwa, University of East London

Who are Family in Inheritance Law? Limitations and Extensions of the Intestate Heirs

Prof John Asland, University of Oslo

The gendered nature of the transmission of wealth

Prof Dr Elisabeth Alofs, Vrije Universiteit Brussel (Free University of Brussels)

Chloé Harmel (University Saint-Louis-Bruxelles)

Yves-Henri Leleu (University of Liège)

Changing Perspectives in National Family Law 5

Recent Developments in Turkish Family Law

Assistant Prof Mehmet Oğuz Vuraloğlu, İzmir Bakırçay University

The "Daily Laws" - Muslim intended parents dealing with childlessness and (in)fertility

Dr Federica Sona, Senior Research Fellow Affiliation: Max Planck Institute for Social Anthropology, Department 'Law & Anthropology'

A critical analysis of the application of Muslim Family Law in South Africa

Dr Muneer Abduroaf, Senior Lecturer at the University of the Western Cape South Africa

General Evolutions 4: Past and Future of Family Law B

Reviewing the CEFL's Attempts to Harmonise European Family Law

Prof Nigel Lowe KC (Hon) Emeritus Prof, Cardiff University

How IVF and the Family Have Transformed Each Other Over 50 Years

Baroness Ruth Deech, Oxford University

More family or less? Developments during the last 50 years on the role of the state and family in law: who is family and what does that matter?

Prof Wendy Schrama, UCERF, Utrecht University

Work visits

1. **Integration Agency** - migration law and international family law section
2. **Central Authority International Child Abduction**
3. **City of Antwerp,** department of sham relations
4. **Het Huis Antwerp** – center for contact between (grand) parents and (grand) children
5. **Court of First Instance** – Family Court Antwerp
6. **Child abuse trust center Antwerp**

7.00 p.m.
Conference Gala Dinner (registered participants and accompanying persons only)

Conference Gala Dinner in the Palace of Justice ('Vlinderpaleis')

Bolivarplaats 20, 2000 Antwerpen

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Programme

Saturday 15 July 2023

	Room	Panel	Chair
	K-Building	8.30 - 9.00 a.m. Coffee Registration Desk open throughout Conference	
	B/C-Building	9.00 - 10.30 a.m. SESSION 1	
What is a Family?	B.001	What is a Parent 9: Panel Debate on ART	Dr Nishat Hyder-Rahman (Vrije Universiteit Brussel; Tilburg University)
What is a Family?	B.002	Protection and Autonomy of Adults 4: the work of FL-EUR	Prof Masha Antokolskaia , VU Amsterdam
What is a Family?	B.004	Youth Law 4	Prof Virginia Zambrano, University of Salerno
What is a Family?	C.002	Money & Property: Upon Separation 2	Prof Emma Hitchings, University of Bristol
What is a Family?	C.101	Child Custody, Contact and Information 3	Prof Charlotte Declerck, Hasselt University
What is a Family?	C.102	Changing Perspectives in National Family Law 6	Prof Bea Verschraegen, Universität Wien
What is a Family?	C.103	General Evolutions 5: Past and Future of Family Law - a comparative and normative analysis	Prof Ayelet Blecher-Prigat, College of Law & Science, Israel
	K-Building	10.30 - 11.00 a.m. Coffee break	
	B/C-Building	11.00 a.m. - 12.30 p.m. SESSION 2	
International Family Law	K.001	Plenary 4. International Family Law	Prof Elise Goossens, University of Antwerp
		End of conference	

9.00 - 10.30 a.m. Session 1

What is a Parent 9: Panel Debate on ART

Assisted Reproductive Technologies, Families, and the Law: exploring the intricacies, limits, and future of the role of law in determining 'family'

Dr Géraldine Mathieu (University of Namur)

Dr Nishat Hyder-Rahman (Vrije Universiteit Brussel; Tilburg University) - moderator

Ms. Aurelie Cassiers (University of Hasselt)

Prof Machteld Vonk (Radboud University)

Prof Tim Wuyts (University of Hasselt)

Protection and Autonomy of Adults 4: the work of FL-EUR

FL-EUR: Empowerment and Protection of Vulnerable Adults – An Overview

Prof Masha Antokolskaia, VU Amsterdam

Support agreements in the 2021 Spanish reform on legal capacity: Breaking new ground for people with intellectual and psychosocial disabilities?

Prof Jordi Ribot Igualada, University of Girona

"Support before representation": Adult autonomy and the institute of custodianship in Germany after the reform of 2023

Mr Felix Leven, Mag. iur., Institute for German, European and International Family Law, University of Bonn

How to secure legal capacity and the adult's "will and preferences" in state-ordered measures. Article 12 CRPD discussed in the light of Norway's updated 2023 legislation.

Associated Prof Katrine K Fredwall, Institute of Private, Law Faculty of Law, University of Oslo

Comparative perspectives on legal capacity and guardianship-like measures for older persons in Europe

Ms Fiore Schuthof LLM, VU Amsterdam

Youth Law 4

Support to maximise success: providing post-proceedings support to parents graduating from Family Drug and Alcohol Court

Dr Mary Baginsky, King's College London

The "Jus corrigendi" between educational purpose and child abuse

Prof Virginia Zambrano, University of Salerno

You only know me by reports" – a therapeutic approach to social reports

Dr Shiran Reichenberg, Hebrew University, Jerusalem

Money & Property: Upon Separation 2

Academic research on the financial position of partners after a divorce

Ms Bregje Dijksterhuis, Faculty of Law, Universiteit van Amsterdam (UvA)

Fair shares? Sorting out money and property on divorce

Prof Emma Hitchings, University of Bristol

Is there a future for the default community property regime?

Ms Hannelore Thijs, KU Leuven

Child Custody, Contact and Information 3

Grandparents' engagement with mediation: Navigating away from the 'nuclear norm'

Dr Charlotte Bendall, University of Birmingham

Dr Samantha Davey, University of Essex

Grandparents' and grandchildren's right to contact under the European Convention on Human Rights

Prof Kirsten Sandberg, University of Oslo

The child's right to personal contact with other relatives from a comparative perspective

Prof Dr Charlotte Declerck, Hasselt University

The right of a grandchild and grandparents to have mutual contact

Dr Christina Jeppesen de Boer, Utrecht University

Dr Merel Jonker, Utrecht University

Changing Perspectives in National Family Law 6

Latest developments in Austrian Family Law and their implications on Conflict of Laws. Rights of registered partners, transgender persons, intersex persons and access to medically assisted procreation

Prof Bea Verschraegen, Universität Wien

The amendments to the Constitution of the Russian Federation and its influence on the upcoming family law reform

Prof Olga Dyuzheva, Lomonosov Moscow State University

Italy – From "till death do us apart" to the temporary marriage

Livio Corselli, PhD, University of Palermo

Metamorphoses and breaking points: up to what point should parentage be rethought in french law?

Mathilde Mosiek, PhD Student Jean Moulin Lyon 3 University, Family Law

The Definition of Family in the International and European Context

Eleni Varvarousi, PhD Candidate, Democritus University of Thrace

General Evolutions 5: Past and Future of Family Law - a comparative and normative analysis

The past and future of family law: Canada

Brenda Cossman, University of Toronto

The past and future of family law: The U.S.

Laura Kessler, S.J. Quinney Endowed Chair, College of Law, The University of Utah (USA)

The past and future of Israeli family law

Prof Ayelet Blecher-Prigat, College of Law & Science, Israel

Prof Ruth Zafran, Reichman University, Israel

11.00 a.m. - 12.30 p.m. Session 2

Plenary 4. International Family Law

Human Rights as a Normative Framework for Families

Prof Barbara Stark, Hofstra University, NY (USA)

International family law and migration law: Living Apart Together in a globalized world

Prof Jinske Verhellen, Ghent University (Belgium)

Torture camps: A comparative analysis of legislation on Rehabilitation Centers in Nigeria and other Common Law Jurisdictions in Africa.

Adesuwa Omozusi, Legal Consultant, ForestHill Law Practice, Lagos, Nigeria.

Conference closing remarks

The Conference Conveners and the ISFL President-elect

Notes

Notes

Notes

Social programme
registered participants and accompanying persons only

Wednesday 12 July 2023

Guided city walk through Antwerp

Discover the beautiful city of Antwerp through the eyes of a local
This tour starts at Grote Markt 13 in Antwerp (2.00 - 4.00 p.m.).

Welcome reception

Let's connect during the ISFL 2023 welcome reception.

University of Antwerp, City Campus
Kleine Kauwenberg 14, 2000 Antwerp (5.30 - 7.00 p.m.)

Free of charge - offered by the conference sponsors

Thursday 13 July 2023

Royal Museum of Fine Arts

An exclusive evening opening for ISFL 2023 with **a guided tour through the Royal Museum of Fine Arts** in Antwerp

Leopold de Waelplaats 1, 2000 Antwerpen
8.00 (start of tour 8.15 p.m.) - 10.00 p.m.

Friday 14 July 2023

Conference Gala Dinner

Conference Gala Dinner in the Palace of Justice,
an architectural landmark in Antwerp

Bolivarplaats 20, 2000 Antwerpen (7.00 p.m.)

LinkedIn Community

We've created a LinkedIn-eventpage: a group just for you. Please feel free to share your pictures and connect with fellow participants. You can join via this **this link** (or by scanning the QR code). On this LinkedIn-eventpage, last minute changes will be communicated as well.

Practical information

Arriving in Antwerp

Antwerp is in the centre of Belgium and is easily accessible by **plane**, **train**, **car** and **bus**. The international airport of Brussels (BRU) is the most frequently used gateway to Antwerp, but you might also want to consider the low-cost airport of Brussels South Charleroi (CRL) or the nearby airport of Antwerp (ANR) itself.
Antwerp can be reached easily by train. International railway lines link Brussels and Antwerp to several other major European cities. Eurolines and FlixBus buses are other low-cost transport options.
For more information and details, please visit **this webpage**.

Getting around

Trams and buses Antwerp has a dense public transportation network. Buses and trams are available to take you to different parts of the city. More detailed information can be found on **www.delijn.be**. A single ticket within the city is €2,5 and allows you to use public transportation (buses and trams) for one hour. You can consider buying a Lijn card (10 rides for €17), a day of unlimited travel (€7,50) or a 3-day ticket (€15). Tickets can be purchased in advance via de app, the website or at the **sales points in the city**.

Cycling, walking, scooting and riding
Antwerp is a bike-friendly city. The distances are doable as it won't take you more than 15 minutes to get from one side of the city to the other. The bike lanes are flat and with the right gear, you can cycle all year round.

Velo is Antwerp's metropolitan bike scheme. There are check-in and drop-off zones of the city bikes throughout the entire city. To ride Velo you have to register beforehand. You can buy a day pass for €5 or a week pass for €12. After purchasing a day or week pass, you can use the bikes for free for a maximum of 30 minutes per session. Find more information on **www.velo-antwerpen.be/en**.

Donkey Republic is a convenient bike rental service. It offers normal and electric bikes; short or long bike rentals and you pay as you go via the app. Find more information on **www.donkey.bike/cities/bike-rental-antwerp/.**

Bird is a reliable electric scooter rental service. Use the app to find the closest Bird and scan the QR code. After your journey, leave the scooter in a place where it cannot obstruct traffic and end your journey in the app.
Find more information on **www.bird.co.**

Internet access

You will be able to **access the UAntwerp wifi** network during the entire the conference on campus. Please log in to the network by selecting the UAntwerp wireless network on your device and logging in with the login and password provided at the start of the conference. Alternatively, you can also use the Eduroam network of your home university. In case of problems, check out our website.

Presentations

We will be collecting all the PowerPoint presentations during the conference. You can access the website with all the presentations through this link or by scanning the QR-code below, and by entering the password code: ISFL2023
If you have any questions about the presentations, please contact us at **administration@isfl2023.org**.

About...

Your host: University of Antwerp

The University of Antwerp was founded in 2003 and has about 21,428 students, 146 programmes and 9 faculties. The University of Antwerp is characterised by its **high standards** in education, internationally competitive research and its **entrepreneurial approach**.

Antwerp, the city of diamonds

Located in the heart of Belgium and Europe, the city of Antwerp is well known for its major international port and for being the world centre for diamond trade. Antwerp has always played an important role in the political and cultural history of the Low Countries. It is a charming city with many excellent museums and an important cultural heritage with Pieter Paul Rubens as its most famous ambassador.

Map of the City Campus

Abstract Book

Alphabetical Order per First Presenter

Dr Muneer Abduroaf University of the Western Cape

A critical analysis of the application of Muslim Family Law in South Africa

Changing Perspectives in National Family Law 5

Muslims have been living in South African for almost 400 years. These Muslims predominantly follow the Shaafi'ee and Hanafee Schools of law. The laws within these schools are largely the same within some variations. There has to date been no legislation enacted by the South African government to enact Muslim Family Law. There has however been a number of attempts by structures within the South African government to draft legislation that governs Muslim marriages. This article analyses the question as to which Muslim Family laws were incorporated into the proposed legislation that would govern Muslim marriages within the South African legal context. An overview of Muslims in South Africa is looked at by way of introduction. The current status of Muslim Family law in South Africa is then analysed. The various attempts by the South African government (and the reasons behind the attempts) are then investigated. The article concludes with an overall analysis of the findings and a recommendation.

Erni Agustin Universitas Airlangga

The Principles of Intercountry Adoption in Indonesia: Strengthening the Child Protection

Changing Perspectives in National Family Law 4: Asia

The adoption of a child is carried out not merely for the benefit of the parents, but prioritizing the interests of the child, namely for the welfare of the child. Adoption of children in Indonesia is regulated in Government Regulation No. 54 of 2007 on Implementation of Child Adoption which concerns not only domestic adoption but also inter-country adoption. This cross-border adoption must meet requirements stipulated in the regulation in order to provide protection for the adopted children, so that their rights are not violated and the purpose of adopting children can be implemented. The inter-country adoption is vulnerable to evasion of law when the adopted child becomes a victim of child trafficking which will certainly harm the child. This paper discusses the principles of inter-country child adoption in Indonesian law and its readiness to provide legal protection for the child. This is a normative legal research using statute and conceptual approach. The result of this study is that inter-country adoption must be carried out for the best interest of the child and becomes the last resort for the well-being of the child. In order to protect Indonesian children from losses and harm due to inter-country adoption, the inter-country adoption must be carried out through a court decision, that a lawsuit must be filed and the judge will examine before deciding since it relates to the future of the child
Key Words: Inter-country Adoption; Child; Principles; Legal Protection

Ms Augustina Akoto and Dr Olubunmi Onafuwa University of East London

The role of the extended family in changing times - the case of Succession in Ghana and Nigeria.

Money & Property: Upon Death

The extended family has a pivotal role in the concept and idea of the family in many African countries. Legislative reforms in Ghana such as the Head of Family (Accountability) Law P.N.D.C.L 114 (1985) have seemingly limited it's role however. This can be seen as regards intestacy under the Intestate Succession Law P.N.D.C.L 111 (1985) which favours the spouse and children. In comparison, the legal remit of the extended family in Nigeria is not clearly defined as it is in Ghana. In regards to intestacy in Nigeria, the estate will be distributed in accordance with the Succession Act 1964, with customary rules determining the mode of distribution. Cases such as Suberu v Sumonu (1957) 2 FSC 33 are illustrative of the discrimination faced by female spouses. Most parts of Nigeria practice patrilineal inheritance so the law on intestacy privileges the extended family. It can be seen that Ghana has to a degree acknowledged the changing role of the extended family, whereas this does not appear to be the case in Nigeria. This paper will explore the reasoning behind this and the implications of these trends for the role of the extended family in each jurisdiction.

Janaína Albuquerque University of Lisbon

The approach to the cross-border recognition of legal parentage arising from international surrogacy arrangements in South American States

PIL 3: Cross-Border Parenthood

Surrogacy has taken the spotlight of the cross-border conflicts relating to legal parentage due to the unbridled flourishing of a global reproductive tourism industry. Intending parents coming from States where the practice is forbidden or financially inaccessible enter into arrangements abroad and encounter issues when trying to have their children's legal parentage recognised upon their return. Maternity is usually attributed to the woman who gives birth to the child, whereas paternity is often presumed in favour of the birth mother's husband; notwithstanding, children born as a result of international surrogacy arrangements may not share a biological or genetic connection with the intending parents. As the market expands and new key actors emerge, the idea of establishing parentage by intention gains growing support and certain legal systems, particularly South American States, seem to be more open to it. This article aims to provide a comparative analysis of the approach to the cross-border recognition of legal parentage arising from international surrogacy arrangements, taking Brazil, Argentina, Colombia, and Uruguay as case examples. It ultimately argues for the redefinition of parenthood and what it entails, considering that reproduction technologies are constantly advancing and that the law should be able to accompany these changes.

Prof Ana Rita Alfaiate Faculty of Law - Coimbra University

Domestic violence in Portugal - unprotected family members

High-Conflict Family Disputes 1: General

The crime of domestic violence, provided for in Article 152 of the Penal Code Portuguese, calls, for the purposes of a material qualification, the importance of respect between those who live a special relationship of existential proximity, which makes it a specific crime. Incrimination is justified by what it adds to the traditional protection of physical and mental integrity, personal and sexual freedom, image and honor of the victim, taking into account the specificity of guardianship of the relationships of those who have or have already had an intimate relationship, those who following that relationship had children and also those who, belonging or not to the same family, they are united by a relationship of care, dividing the domestic space. This is what allows punishing conduct that in other circumstances would not be a crime, such as conduct that alone cannot be considered covered by traditional legal types, but which generate, by the relationship of proximity between the agent and the victim, a discomfort that compromises the common life. The existential proximity required in the legal type, limited by the family legal relationship (or similar) or the cohabitation between agent and victim, does not allow, however, to understand why are not domestic violence the aggressions practiced by a family member, caregiver, on a child who is not his descendant or who does not cohabit with the aggressor (this is the case of all children in charge in situations of guardianship or civil patronage); nor are domestic violence the aggressions committed on vulnerable adults, by family caregivers with whom they do not cohabit, especially when cohabitation is not even a legal requirement of the current regime of accompaniment in Portugal.

Prof Elisabeth Alofs Vrije Universiteit Brussel

Children with intellectual disabilities and their parents. Autonomy and/or protection?

Protection and Autonomy of Adults 1: Intellectual Disability

GENERAL ABSTRACT

This panel deals with the legal position of (minor and major) children with intellectual disabilities in Belgium/Flanders in relation to their parents. It makes an evaluation of this position to the principle of autonomy as it is embedded in the United Nations Conventions on the Rights of Persons with Disabilities (hereafter: CRPD) and (for minors) on the Rights of the Child (hereafter: CRC).

First, a CRPD and CRC-based evaluative framework will be developed. The question arises to what extend children with disabilities enjoy a right of autonomy in the relationship to their parents, and to what extent protection should be possible. It will be examined in which way the CRPD and CRC instruments facilitate, or do not facilitate, the position of the child with a disability in relation to the right of autonomy (contribution 1). Second, the evaluative framework will be applied to three domains in which the question of autonomy might arise: family law (contribution 2), health law (contribution 3) and social law (contribution 4). The conclusion and subsequent discussion will explore whether these diverse areas of law can inspire each other.

This panel is innovative in that it does not merely focus on either the position as a child or the position as a person with a disability but examines them together. Moreover, in doing so, it sheds a legal light on the for persons with intellectual disabilities often challenging transition from minority to majority.

PRESENTATION 1. Evaluative framework - Noami Blomme
PRESENTATION 2. Family law - Veerle Vanderhulst
PRESENTATION 3. Health law - Tim Opgenhaffen
PRESENTATION 4. Social law - Elisabeth Alofs

Prof Elisabeth Alofs Vrije Universiteit Brussel
Chloé Harmel University Saint-Louis-Bruxelles
Prof Yves-Henri Leleu University of Liège

The gendered nature of the transmission of wealth

Money & Property: Upon Death

Unlike the wage gap and the impact of marital separation on women's living standards, the gendered nature of the transmission of wealth has not been studied in Belgium. This issue has received political attention, and funding has been provided from the Institute for the Equality of Women and Men to examine it. The ambition of this research is, on the one hand, to highlight gender biases induced within families during the transfer of capital and assets, whether during the life of a couple, or after divorce, separation, or death; on the other hand, it is to verify whether such gender biases might be due to the implementation of the different legal tools for the management, protection and transfer of assets. These various legal mechanisms in Belgian law will be studied through the prism of gender in order to highlight the wealth inequalities between men and women towards which they might contribute. Moreover, legal practice is often blind to the gender biases conveyed in legal arrangements (from marital agreements to separation and divorce agreements through to inheritance agreements) which are formally gender-neutral, but in their implementation are of greater benefit to those who have the means to conserve, maintain, and grow their assets. Therefore, this study aims to analyse the professional practices of those who accompany a couple through all the key stages of this facet of family life (marriage or legal cohabitation, starting a company, purchasing a property, divorce or separation, succession etc.). The results of this interdisciplinary and empirical study will be presented in three parts: (1) the legal mechanisms contributing to inequalities between men and women in a couple (at formation, throughout, and at the end of their life as a couple); (2) the professional practices observed; (3) the recommendations made to policymakers to rethink equality in family (property) law.

Prof Elisabeth Alofs, Dr Marco Giacalone, Dr Nishat Hyder-Rahman

Artificial Intelligence and Algorithms in Family Law

Digital Family Law 1: General

Over the last three decades the use of artificial intelligence (AI) and algorithms has gained traction in the practice of family law. Popular representations of family law disputes, such as divorce, maintenance, and property settlement, still revolve around images of courtrooms, with the litigating parties and their lawyers appearing before a judge. Yet, from obtaining a divorce to dividing marital assets to arranging shared child custody, family law matters are increasingly conducted online via an app or a website. In this paper we provide an overview of the use of AI in (the practice of) family (property) law today. We trace the emergence of AI tools in traditional litigation processes, as well in alternative dispute resolution (ADR) processes, and particularly in online dispute resolution (ODR).
This paper begins by explaining the technology and exploring the application of these AI technologies in general legal practice and family (patrimonial) law practice. Through real-world examples, we examine the current usage of AI in family law practice around the world. Advantages and shortcomings of these technological tools are analysed. Reflecting on the use of AI in family law practice to date, we critically analyse the success stories and the failures, and draw out the lessons learned. Finally, we consider what value AI and algorithms can add to family law practice, now and in the future, focusing particularly on Europe.

Prof Erez Aloni University of British Columbia

Rich Dad, Gay Dad: The Wealth Traps of Gay Fatherhood

Families: the Rich and the Poor

Legal and societal progress have enabled gay fathers to form families, but a critical blind spot persists in our understanding of their financial

well-being. Evidence suggests that a significant wealth gap may exist among gay father households. This article introduces a novel taxonomy of the obstacles that contribute to this wealth gap, including surrogacy and adoption costs, legal recognition expenses, parental leave policies, discrimination in housing and borrowing, and limited support from families of origin. These obstacles reflect the structural features and prejudices that disproportionately affect households led by non-heterosexual fathers. The article highlights the harm created by the wealth gap, conceptualizing it alongside the racial and gender wealth gaps. Further, it argues that policies that create wealth barriers cannot be justified merely by biology, but are a result of thestructural features and prejudices. The article suggests possible interventions to reduce this harm, while emphasizing that policies aimed at reducing the wealth gap will also challenge the status quo of gender role division. Overall, this article fills a gap in our understanding of wealth disparities among gay father households and challenges the notion of gay fathers as a uniform and privileged group. It highlights the need for more research and attention to the distinct wealth barriers faced by different types of families.

Carolina Alt da Silva Federal University of Rio Grande

Parental alienation beyond borders: an analysis of the international adbuction of children

PIL 2: International Child Abduction

This paper aims to examine the international abduction of children as a practice of parental alienation. Initially, the parental alienation is characterized as an interference in the psychological formation of the child made by one of the parents or by someone who has the child under their authority, in order to repudiate the non-guardian parents or cause harm to the development of affective bonds with them. This institute characterizes a form of mistreatment and abuse of the child, besides generating great psychological consequences; afterwards, it is noted that the international abduction of minors consists of the illegal transfer of a child from their country of habitual residence to a country other than that, by a parent or legal guardian, without parental authorization, nor, without any judicial support. Finally, it seeks to analyze and consider the Hague Convention of 1980 through the observance of its objectives to ensure the immediate return of children illicitly transferred, as well as to guarantee the right to custody and family life as an effective method for the prevention and mitigation of possible damages and losses to the affective, emotional, and psychological development of children involved in this harmful family situation substantiated by parental alienation.

Prof Scott Altman University of Southern California

A Right to Adopt and Parental Licensing

What is a Parent 1: Selected Topics

No court recognizes the right to adopt a child. By contrast, we embrace family formation rights and protect choices about whether to marry, procreate, and rear biological children. These rights are needed because families play a key role in society and family formation is central to a happy and self-directed life. For similar reasons, we should recognize the right to adopt and stop aggressively screening adoptive parents in ways we would not tolerate for biological parents.

Some advocates of child-centered morality think we should equalize the treatment of adoptive and biological parents in the opposite way—scrutinizing biological parents' homes like adoptive homes and requiring people to get a license before rearing children.
I argue against these positions. Parental licensing would exacerbate the discrimination in our child welfare system, prevent too many non-abusive parents from forming families, and harm more children than it helps. Aggressive adoption screening is wrong for the same reasons: it discriminates, deprives many prospective parents of a chance to form families, and harms more children than it helps. Arguments to the contrary based on child-centered morality, or practical differences between adoption and procreation, are unpersuasive.

Dr Denise Amram Scuola Superiore Sant'Anna

European Certificate of Parenthood

PIL 3: Cross-Border Parenthood

This paper will analyse the recently introduced Proposal for a Council regulation on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood. In particular, we will identify how the protection of the fundamental rights and other rights of children in cross-border situations will be addressed in order to facilitate the establishment of parenthood despite the differences in national laws.

The Proposal will be assessed also in light of the challenges launched by the Council of Europe in its Strategy on the Rights of the Child (2022-2025) in terms of equal opportunities for all children, right to participation, and child friendly justice.

Biagio Andò Department of Political and Social Sciences, University of Catania

Children's Informational Privacy and "digital parenting" in the U.S. and Italy: Ground of Convergence or Litmus Test of an Unbridgeable Gap?

Digital Family Law 2: Parents and Children

In recent years, family relationships seem to be affected by the interference of social networks; technology entails the adoption of different family governance strategies to face unique challenges offered by the digital world, which enables users to make recourse to new forms of communication but at the same time raises serious concerns about minors' protection. In this context, the parents-child relationship must be reconsidered by focusing on the threats related to the digital dimension and privacy protection without compromising the child's self-determination. This proposal aims to compare the US and the Italian minors' informational privacy models in connection with "digital parenting". Whereas in the US information privacy may be represented as a "negative" freedom, shielding its holder from external constraints on her personal decision making, in Italy it underwent – well before the GDPR – a significant expansion of its semantic sphere, being also understood as a "positive" freedom having at its core the control over one's personal information. We wonder if these divergent approaches impact differently on the parental relationship and where the balance has to be struck between the recognition of greater autonomy and self-determination of the child in the management of his/her own data and the claim for a parental control able to afford an effective protection to minors. We will analyze the existing regulations (in the US, the 1998 Children's Online Privacy Protection Act and bills recently introduced, but not yet enacted; in Italy, the GDPR and the Personal Data Protection Code amended in 2021) in order to assess – by resorting to comparative law methodological tools – whether the two models ensure an effective protection to children or rather excessively hinder the business interest to have access to a huge amount of personal data and how parents should act in order to ensure minors' welfare.

Prof Alongi Annalisa University of Palermo

To be or not to be a family: living alone and legal perspective

What is a Partner 3: Platonic Relations

In Italy we say that the best companies are those with an odd number of less than three participants. And what about family?
In Italy, the share of adults who live alone nearly doubled over the last 50 years. In this perspective the restrictive definition of family, limited to exclusive bonds of marriage and parenthood, has been criticized for its inability to reflect social reality.
Social connections are important for our health and emotional well-being and there will be new challenges to connect and provide support to those living alone. In this field some institutions are recognizing the potential of cohousing to help achieve social policies, while business can seize the opportunities cohousing offers from a legal perspective.
However, in Italy there is no legal framework for co-housing, which follows the civil law on apartment buildings and makes use of existing legal institutions.
Despite the evident advantages, cohousing is limitedly diffused among elderly and less elderly people. Cultural obstacles represent a barrier that has prevented the measure to develop, especially in Italy where traditional family models are still importantly valued. Indeed, socialization and care almost exclusively take shape within families and accommodation models remain majorly classic: people generally don't like living with other people, dislike sharing spaces and objects and tend to be reluctant in changing house or neighborhood.
Nonetheless, it is reasonable to believe that in the years to come, such a trend could change. This could be the result of a necessity: changes within familiar and social structures will impose to look for care and socialization even externally to the familiar nucleus.
This paper considers all these questions in the light of the Italian case law and of the contractual practice in this field.

Prof Masha Antokolskaia VU Amsterdam, President of the ISFL

50 Years Development of Family Law in Westernised World: Where We Stand and Where We Go?

Plenary 2. Golden Jubilee

In 2023 the ISFL celebrates its golden 50-years jubilee. If we look back at the last half century, it appears that no other period in the history of family law that witnessed so many almost profound changes. At least formal equality between men and women has become the fact. Legal marriage has lost its exclusive status and made place to the whole range of varieties of legally recognised intimate relationships. As result of no-fault divorce revolution hardly any country presently maintains fault as the only divorce ground. The whole concept of illegitimacy is abandoned. A child is seen as a growing personality with its own rights and voice. In the field of protection of persons with disabilities this period has witnessed a genuine paradigm shift from the old protection to the modern empowerment paradigm.

The motor of the change was everywhere the same: the second demographic transition, the emancipation of women and the welfare state created the conditions that made unrestrained implementation of the Enlightenment ideas into family law possible. These changers of that period have affected the whole of the Westernised world, however the pace and the profoundness of the transformations differed from country to country, as they depend on the national balance of political power between 'progressive' and 'conservative' camps.

Anno 2023, it seems that the previous generally progressive period, is now coming to an end. Political power of conservative forces is growing. This trend has its immediate reflection on family as family law often becomes the one of the first battlefields of the new cultural wars. So, the extreme conservative Putin's regime is busy with reversing the long-standing tradition of progressive family law in Russia under the motto of defending traditional family values from the gay parades. The extreme-conservative Trump's supporters lounge similar attack on the progressive elements of the USA family law. The same tendency is manifest in Poland and Hungary

Prof Masha Antokolskaia VU Amsterdam, President of the ISFL

FL-EUR: Empowerment and Protection of Vulnerable Adults: An Overview

Protection and Autonomy of Adults 4: the work of FL-EUR

FL-EUR (Family Law in Europe) is an academic network which unites 30 prominent experts in the field of family & law. The activities of the network are aimed at substantive family law, child law, the law of persons and related subjects of inheritance law. As a first working field, the members of FL-EUR chose 'Empowerment and Protection of Vulnerable Adults'. The research led to country reports (based on questionnaires) and a general report on the common core, best practices and pitfalls. In this panel, the most important results of FL-EUR's research into this topic will be discussed.

Prof John Asland University of Oslo

Who are Family in Inheritance Law? Limitations and Extensions of the Intestate Heirs

Money & Property: Upon Death

The paper will examine how and why the group of family heirs has been limited and partly replaced by or extended to intestate heirs based on marriage, cohabitation and adoption during the last century. The paper mainly focuses on the Nordic countries, but the findings in the Nordic countries are expressions of an international trend.

The paper has a comparative and legal history approach. However, the paper studies the development in the context of international human rights. International human rights may lead the direction of future changes in the extent of the group of intestate heirs.

There has always been tensions between biology, status and sociology in deciding whom the law shall protect as intestate heirs. New family forms and methods of reproduction gives rise to new discussions and new dilemmas in inheritance law.

Dr Mary Baginsky King's College London

Support to maximise success: providing post-proceedings support to parents graduating from Family Drug and Alcohol Court

Youth Law 4

Background

The paper will report on an evaluation of the Gloucestershire's Family Drug and Alcohol Court's (FDAC) post-proceedings support (PPS) which has been in place since 2013, delivered by the same multiagency team as delivers FDAC, managed by a social work service manager. This service is a very different from those in place in other FDACs in England and is jointly commissioned and funded by children's services and public health nursing. Although there are support arrangements for those parents who have successfully graduated from other FDACs, none are as structured nor as integrated into child protection and safeguarding services as this model and usually last for a considerably shorter period.

Research questions and methodology

The evaluation sought to answer these questions:

- Feasibility and acceptability of PPS
- Evidence of promise especially in relation to maintain parental positive behaviours
- Readiness for trial elsewhere.

It consisted of interviews with parents and professionals, including judges and lawyers, examination of data on PPS since 2013, a cost study of PPS and an examination of any PPS in other FDACs.

Findings
It was well received by most parents and valued as an essential extension of FDAC by professionals. When compared with other research conducted on FDACs the findings look broadly positive, but the small sample size, varying lengths of time since PPS completion, incomplete data and the impact of COVID-19 mean that finding should be treated as indicative. Any potential manualisation should focus on those areas consistent across most of Gloucestershire's PPS: substance misuse, mental health, family/parenting support and various therapies.

Implications
The logic model focused on a reduction in both relapse and placement breakdown, both of which showed promise. However, given the timescales around recovery, it would only be possible to assess the success of PPS in the years that follow.

Prof Nicholas Bala Queen's University

Litigation Abuse in the Family Courts
High-Conflict Family Disputes 1: General

Some separated parents in high conflict cases misuse legal and administrative processes to harass, intimidate or exhaust their former partners, to either achieve outcomes on parenting or economic issues that are not legally justified, or that endanger former partners or their children, or that reflect personality disorders. Such litigation abuse may include such actions as: taking unreasonable positions regarding settlement; defying court orders; hiding information about their finances; causing unnecessary delay and dragging out proceedings; filing abusive documents with the courts; and making false reports about the other parent to child protection or agencies or the police. Abusers who have engaged in coercive controlling behavior during cohabitation may use the legal process to maintain control over former partners. Litigation abuse causes ongoing emotional harm and financial expense and wastes the resources of the family justice system. However, it is not always clear when "litigation abuse" is occurring, and understanding of this issue is still embryonic. This presentation will include an analysis of Ontario family cases involving litigation abuse, including a breakdown the extent to which judges have found that gender is related to engaging in a range of abusive tactics.

Associate Prof Małgorzata Balwicka-Szczyrba and Associate Prof Anna Sylwestrzak University of Gdańsk

The capacity of elderly persons to fulfill family roles – a Polish perspective
Protection of the Elderly

Introduction:
cording to the latest research, Poland is expected by 2100 to rank first in terms of the ratio of the elderly to the rest of the population, and thus to be Europe's oldest country. It is therefore important to evaluate the current system of family, inheritance and civil law in Poland, with a view to adequately safeguarding the interests of the elderly in civil-law transactions. The assumption is that the elderly should be able to engage in such transactions for as long as they can, given adequate support. Additionally, the institution of legal incapacitation, which is frequently used against the elderly in Poland, does nothing to safeguard their fundamental human rights, being instead discriminatory in many cases.

Objective:
The aim of the paper is to analyse the family law system in force in Poland with regard to the capacity of elderly persons to fulfil family roles, and in particular their capacity to marry and administer joint property. Another important issue is the admissibility of medically assisted procreation for the elderly. A third area of concern is related to adoption by older persons. Issues relating to the role of grandparents within the family will also be analysed, especially in the context of their contact with grandchildren and the testator's maintenance obligations towards his/her grandparents. The paper will address what is known as 'emergency situations', including the ability of grandparents to act as a foster family, guardians or curators of a child.
The dogmatic-legal and comparative research method was used.

Conclusions:
Polish family law makes provision for beneficial arrangements relating the ability of seniors to fulfil family roles, a case in point being the lack of an upper age for marriage or the lack of an explicitly indicated age barrier for adopters. However, there are areas in which the elderly are barred from or hindered in their family relationships. Above all, it seems necessary to abolish the institution of legal incapacitation and promote their inclusion in certain family relationships. With the currently on-going social trends, it is necessary to review other special regulations indicated in the paper in order to provide elderly person with the fullest possible enjoyment of relations under family law.

Prof Renate Barbaix and Mr Damiaan Leire University of Antwerp

The division of care services for the parent between the children

Caring and the Law

In Napoleonic private law, services often remain underexposed, including the material care of children for their parent(s). That care is being increasingly provided by the children, given the ageing society and a social system under pressure. Regularly, those care efforts are unequally divided between the children. This creates a disparity in efforts, earning opportunities and/or free time, especially when one of them takes a step back professionally in order to care for the parent. Therefore, the question of how care for the parent(s) should be divided between the children needs more consideration.

This presentation uncovers whether and how a general obligation of intergenerational solidarity can play a role in the division of care services for the parent between the children, in addition to the legal maintenance obligation laid down in article 205 of the old Belgian Civil Code. The analysis extends beyond financial assistance in case of a state of need and addresses the question of material assistance in case of care dependency. Non-compliance with financial obligations by one of the children has clear legal consequences, which are lacking in the event of non-compliance with non-financial obligations. This presentation discusses the possible legal basis for an obligation of parental care (obligatio), as well as the division of such care services between the children and potential legal mechanisms to rectify an unequal division (contributio).

Prof Anne Barlow and Dr Jan Ewing University of Exeter

Empirical Methods in Family Law Research – Learning from experience

Methodology 1: Enhanced Practices & New Frontiers in Family Law Research?

Methods should be chosen to address the question posed. Given family law and justice systems affect many people, often at moments of crisis, whilst statutory reform is slow to adapt to social change or is driven by policy ideas, rather than evidence, we argue that empirical research is important to the development of family law and practice. This is particularly so where reported cases do not reflect typical experiences and where there is encouragement to settle family disputes outside court.

Drawing on examples from our research, we will first look at how a mixed methods approach to gathering empirical evidence examining attitudes to cohabitation, civil partnership and marriage can influence policy and legal reform. The value of longitudinal approaches will be considered. We will then look at how the otherwise silent voices of children can be captured through qualitative research methods to expose ways in which practice can improve the experiences of the most vulnerable caught up in the family justice system in England and Wales.
We will critically reflect on the advantages and limitations of such methods, as well as the ethical and practical issues encountered in pursuing this kind of research in the family law and policy context.

Dr Adrienne Barnett Brunel University London

Parental alienation, domestic abuse and family court proceedings in England and Wales

High-Conflict Family Disputes 2: Parental Alienation

Parental alienation (syndrome) entered private law family court proceedings in England and Wales in the 1990s. While this concept was rejected as a syndrome by the Court of Appeal in 2000, its subsequent manifestation as parental alienation (PA) gained increasing acceptance, and over the last five years claims of PA appear to have become prolific in such cases. Available empirical research indicates that allegations of PA are deployed as a strategy to detract attention from and negate mothers' allegations of domestic abuse, which can put mothers and children at risk of harm. This presentation will explore findings from research on the consequences of the use of PA in the family courts in England and Wales. These include the way in which PA allegations silence victims of domestic abuse by deterring them from raising allegations in proceedings, silence children's voices, and can lead to high risk contact arrangements or the removal of children from protective mothers to the custody of abusive fathers or to institutional care. The role of PA 'experts' in promulgating PA through the family court system will also be explored.

Prof Timea Barzó University of Miskolc

Children's rights in healthcare in Hungary

Minors and Medical Decision-Making

In the presentation I would like to talk about a practical topic, the minors' rights in health care, which topic is in the borderlines of family law and health law. The person who uses or receives health care, that is, the patient, has detailed rights and obligations under the Hungarian Healthcare

Act. This includes the patient's right to self-determination in health care, which, in a broader sense, includes several separate patient rights. A patient with full legal capacity can exercise these rights fully independently, while for children, the right of self-determination is typically exercised only with the involvement of a statutory representative. In my presentation, I would like to present two areas: the issue of decisions related to the child's health care and the child's right to medical confidentiality and access to health care documentation.

Dr Arianne Renan Barzilay University of Haifa Faculty of Law

Economic Abuse among Intimate Partners

Protection and Autonomy of Adults 3: Selected Topics

Economic Abuse in intimate partner relationships is a form of coercive control manifested in and through economic means. In recent years, economic abuse has come to be acknowledged as an insidious form of intimate partner violence. Worldwide, some jurisdictions have included economic abuse in their domestic violence laws, while others have not. Yet, despite the growing literature on economic abuse, primarily in the social sciences, about its prevalence, manifestations, and consequences, little is known about its de-facto legal treatment at the ground level and in the daily lives of families. Responding to this neglect, the paper investigates the state's de-facto law on economic abuse. The article presents empirical data on the actual legal regime concerning economic abuse, discerning how the state perceives and treats economic abuse and its victims and survivors. Three tenants of the de-facto policy emerge: naming, trivializing, and privatizing. State agencies conceptually and discursively acknowledge acts of economic abuse as intimate partner violence, name and identify them as such, and have de-facto inscribed economic abuse in their domestic violence policy. Yet, they also trivialize the consequences of economic abuse for victims and survivors and shift responsibility for these consequences from the state to the private sphere. Although the paper investigates the situation in Israel, it raises concerns for various jurisdictions grappling with economic abuse and intimate partner violence more generally.

Prof Ursula Basset Director of the Center of Research in Family Law, Pontifical Catholic University Argentina

Rethinking the links between the changing family law and gender

Gender & the Law 2

Relations between family law and gender has been a quite revisited subject. If the title of this conference is a tribute to Alison Diduck Law's families, this proposal goes in the line of another of Diduck's contributions: Family, Gender and the State, to review the balances struck (or not) by contemporary family law after years of feminism (s). Three problems will be addressed: (i) current theoretical discussions coming from the feminism (s) and family law; (ii) practical consequences in the changing conjugality and structures of care, iii) what to look at and possible working lines.

Dr Charlotte Bendall University of Birmingham
Dr Samantha Davey University of Essex

Grandparents' engagement with mediation: Navigating away from the 'nuclear norm'

Child Custody, Contact and Information 3

This paper focuses on the relationships between grandparents and their grandchildren, and the ways in which those might best be preserved. Many grandparents are involved in tasks such as collecting their grandchildren from school and keeping them occupied until their parents finish work, or even looking after them for the day whilst their parents are out at their paid employment. However, in the event of family network fragmentation, the courts and legal frameworks have minimised and, in many cases, ignored the practical involvement that grandparents can have on an everyday basis. Grandparents have no specific legal rights that are recognised in the law of England and Wales, with a blanket preference instead being shown towards parents. Private child law matters have, in this way, failed to accommodate more diverse family arrangements, with preference being shown towards the traditional 'nuclear' family.

When it comes to dispute resolution in this context, we argue that it is important to focus on the child's wider relationships, rather than to view the family in such a restrictive way. This helps to recognise not only that we, as people, are interconnected and interdependent, but also the importance of multi-generational bonds for children's wellbeing and support. We identify how stepping outside of the legal frameworks, vis-à-vis mediation, can foster greater 'relationality', reinforcing the connections not only between grandparents and grandchildren, but also with the parents themselves. This is both in the sense that mediation can be less confrontational than the court system, and in that it enables parties to

reach outcomes that break away from conclusions that the law might draw. Mediation offers important opportunities to 'write in' those that are 'other' to the 'nuclear' family, and who are virtually unseen by the 'formal' law, and yet who perform a crucial caring role in many children's lives.

Prof Clémence Bensa Université du Quebec en Outaouais
Prof Michelle Giroux University of Ottawa

The Legal Framework of the Child-Stepparent Relationship in Quebec Civil Law within the Canadian Context

What is a Parent 7: Social Parents A

All over the world, the law is struggling to find a way to regulate child/stepparent relationships. In the Quebec Family Law Reform of June 2022, stepfamilies have gained recognition, but the stepparent remains a third party towards the spouse's child. The prevalence of bi-parentage and bi-parentality often prevents the recognition of additive parentage in civil law. Concurrently, empirical research shows that the importance of a stepparent in the life of a child may vary greatly. More globally, the presentation will discuss with both comparative and interdisciplinary approaches the relationship between parents, children and the extended family. It will question how the law can recognize the place of the stepparent and the complexity of stepfamilies as highlighted by empirical research. The comparison of civil law systems (eg in the Province of Quebec) with common law (eg in the Province of Ontario) will highlight the different legal approaches in the matter, which seems to be less relying than civil law to the two parents rule only. It will also raise the question of whether the current concepts are sufficient to deal with the multiplication of parental figures to better articulate the biological and socio-emotional ties in the best interests of the child.

Prof Christine Bidaud Jean Moulin Lyon 3 University, Family Law Department

Will the new proposal for an EU regulation on parenthood allow for the recognition of all parenthoods?

PIL 1: General

For many years now, the European Union has been developing regulations to facilitate the movement of persons, families and their status within its territory. After divorce and parental responsibility, after matrimonial property regimes and registered partnerships, after maintenance obligations, the European Commission proposed on 7 December 2022 a new regulation on parenthood. This text concerns: "jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood".

It would therefore be an apparently very complete instrument. But will it really allow the recognition of all parenthoods? Does the use of connecting factors such as "the habitual residence of the person giving birth" in order to determinate the applicable law to the establishment of parenthood (Article 17) without reference to "the mother" not presage delicate discussions? Can the creation of a European certificate of parenthood allowing the parental status of the child to be invoked (Article 47) in all Member States be achieved? It is highly likely that the text can only be adopted through an enhanced cooperation agreement. But, beyond that, would it allow the circulation of all parenthoods? The refusal of same-sex parenthood of any kind (adoption or MAP) and the prohibition of surrogacy are deeply rooted in the law of some EU Member States and it is not certain that, in the name of freedom of movement, a common text could be adopted, even between some Member States only.

Dr Giulia Binato University of Padova

A genderless family law for gender-fluid families? Parentage rules and the right to gender identity

Gender & the Law 1

For thousands of years, parenthood has been a matter of connecting a child to both a mother and a father. Specifically, Roman law left Western jurisdictions with one dogma: mater semper certa est.

In the last decades, the evolution of reproductive technologies has challenged the strict identification of pregnancy with motherhood. A shift in the interpretation of human rights drove many European States to adopt laws that link legal gender mobility to self-determination, thus abandoning medical requirements. Some countries even abandoned a binary system of legal sex, introducing a so-called third gender. Most of these rules, which modify the laws on civil registration, lack a comprehensive reflection on the consequences on parenthood.

How should we address a legally male person who gives birth to a child? Should we disconnect the meaning of "mother" and "father" from the social perception of their gender? Do we need law reforms that treat parenthood as a genderless phenomenon?

By using a comparative approach, the paper explores the struggles in the applicability of the current legal frameworks on parenthood to gender-fluid and non-binary families.

Dr Rachel Birnbaum King's University College at Western
Prof Nicholas Bala Queens University

Parental Alienation: Long-Term Effects of Court Orders

High-Conflict Family Disputes 2: Parental Alienation

Parental alienation refers to cases in which a child is resisting contact with one parent post-separation due to the influence of the other parent; these cases need to be distinguished from cases in which a child is justifiably "estranged" due to their own experiences with the rejected parent. There has been an increase in high conflict separations and cases raising alienation claims in Canada's family courts, although the growing awareness of "alienation" may have contributed to the increased use (and misuse) of the concept in the courts. Legal responses to alienation are very significant to the family courts as these high conflict cases consume a disproportionately large amount of time of judges, mediators, assessors and family lawyers, as well as having profound effects on parents and children. There is, however, very little research about the long-term effects of legal responses to these highly contentious cases. This presentation will report on a retrospective follow-up study by Birnbaum and Bala of Ontario cases in which courts found that there was "alienation," including interviews with parents and children about the effect of court orders to "reverse custody" or not.

Prof Kees Blankman VU University Amsterdam

Elder abuse within the family and legal remedies

Protection of the Elderly

The risk of abuse, especially financial abuse is likely to increase with age.
Stopping the abuse and applying legal remedies as ultimum remedium encounters several problems. Elder abuse can stay unnoticed and the elderly persons may not see themselves as victims. Moreover finding the balance between respect for autonomy and the right to be protected might result in not intervening. A continuing power of attorney is meant to support and protect elderly persons at risk or being abused but are also applied as an instrument for family members to gain control over the assets of an older family member. Legal intervention could as a last resort also be unvoluntary admission into a care facility but applying mental health legislation requires the presence of a disorder or a disability assessed by an independent medical expert.

Compared to the legal provisions, government policy and infrastructure aimed at protecting the rights of children at risk, protecting the rights of vulnerable older adults against abuse by family members is underdeveloped. International human rights such as set out in the articles 12, 14 and 16 CRPD (Convention on the Rights of Persons with Disabilities) urge us to focus more on this problem.

Prof Ayelet Blecher Prigat, College of Law & Science
Prof Ruth Zafran Reichman University

The past and future of Israeli family law

General Evolutions 5: Past and Future of Family Law - a comparative and normative analysis

Although the Israeli legal system is generally secular, significant portions of family law are an exception to this rule, and religious institutions enjoy a monopoly over marriage and divorce. Over the years, the Israeli legal system has developed partial solutions to ameliorate some of the difficulties the religious-based marriage and divorce laws involve. Some of these solutions affect what is considered as "family law".
First, the Israeli civil court system has narrowed the practical significance of legal marriage in a manner not seen in other legal systems, so that the legal institution of marriage is being disintegrated. So far no alternative legal institution has taken the role of marriage under Israeli law. Thus, the Israeli civil legal system not only regulate many aspects of intimate relationships outside the legal framework of "marriage," but it also uses general private law doctrines to do so.

This leads to the second phenomenon that will be discussed: the Israeli legal system provides varied examples for the use of contract law, torts, and other areas of private law to regulate issues that in other legal system are typically governed by the rules of marriage. The Israeli legal system allegedly provides varied examples for the use of contract law, torts, and other areas of private law to regulate various issues that in most other legal system are ordinarily governed by the rules of marriage. As such, the Israeli experience offers a real-life laboratory to examine the ability and adequacy of private law to regulate adult intimate relationship and test the "family law exceptionalism" approach that characterizes Anglo-American family law

Naomi Blomme Vrije Universiteit Brussel and VIVES University College

Children with intellectual disabilities and their parents. Autonomy and/or protection?

Protection and Autonomy of Adults 1: Intellectual Disability

This panel deals with the legal position of (minor and major) children with intellectual disabilities in Belgium/Flanders in relation to their parents. It makes an evaluation of this position to the principle of autonomy as it is embedded in the United Nations Conventions on the Rights of Persons with Disabilities (hereafter: CRPD) and (for minors) on the Rights of the Child (hereafter: CRC).

First, a CRPD and CRC-based evaluative framework will be developed. The question arises to what extend children with disabilities enjoy a right of autonomy in the relationship to their parents, and to what extent protection should be possible. It will be examined in which way the CRPD and CRC instruments facilitate, or do not facilitate, the position of the child with a disability in relation to the right of autonomy (contribution 1). Second, the evaluative framework will be applied to three domains in which the question of autonomy might arise: family law (contribution 2), health law (contribution 3) and social law (contribution 4). The conclusion and subsequent discussion will explore whether these diverse areas of law can inspire each other.

This panel is innovative in that it does not merely focus on either the position as a child or the position as a person with a disability but examines them together. Moreover, in doing so, it sheds a legal light on the for persons with intellectual disabilities often challenging transition from minority to majority.

PRESENTATION 1. Evaluative framework - Noami Blomme
PRESENTATION 2. Family law - Veerle Vanderhulst
PRESENTATION 3. Health law - Tim Opgenhaffen
PRESENTATION 4. Social law - Elisabeth Alofs

Aline Bodson University of Namur

Separation of children from their parents: a comparison of the role of the best interests of the child principle in ECtHR child protection and immigration case law between 2018 and 2022

Famigration 2: Children

Article 8 of the European Convention of Human Rights enshrines the individual right to respect for the family life and specifies that any interference by a public authority with this right must be in accordance with the law, necessary in a democratic society and pursuing a legitimate aim. Article 3 of the International Convention on the Rights of the Child states that the best interests of the child (hereinafter "BIC") shall be a primary consideration in all actions concerning children. The European Court of Human Rights (hereinafter "ECtHR") has long referred to this article 3, considering the BIC principle as a generally internationally recognized concept.
In this presentation, we will compare how the BIC principle has been applied to the ECtHR's jurisprudence on immigration and child protection from 2018 to 2022. We will compare our results with those of M. Sormunen, who conducted a comparable analysis of the Court's case law until 2017. More precisely, we will pay close attention to the elements considered while assessing the BIC, the weight given to it, and the status granted to this principle by the ECtHR when separating children from their parents is being considered or carried out by a public authority.

Katažyna Bogdzevič Mykolas Romeris University in Vilnius

Faster, more accessible, cheaper – but are they? Extrajudicial divorces in the light of the CJEU case C-646/20Bogd

PIL 1: General

In recent years several countries introduced a possibility for couples to obtain a divorce without applying to the court (e.g., Italy, France, Portugal, Estonia, Lithuania). In literature, such divorces usually are called "private", "non-judicial", or "extra-judicial" divorces. The idea of this kind of divorce is, under certain circumstances, to allow couples to divorce faster and easier, decrease the cost of the divorce and, on the other hand, reduce the workload of the courts.

However, in the case of international couples, such divorce can bring additional troubles, namely – recognition of such divorce abroad. Within the EU, the latter until 2022 has been regulated by the Brussels II bis Regulation (2003), which was replaced by the Brussels II ter Regulation (2019) in 2022. The doctrine and the courts' main question was whether the same rules apply to recognizing judicial and extra-judicial divorce. To some extent, this question has been answered by the Court of Justice of the European Union in the CJEU case Senatsverwaltung für Inneres und Sport, C-646/20.

The CJEU ruled that "a divorce decree drawn up by a civil registrar of the Member State of origin, containing a divorce agreement concluded by the spouses and confirmed by them before that registrar in accordance with the conditions laid down by the legislation of that Member State, constitutes a 'judgment' within the meaning of Article 2(4)". The presentation aims to analyze the importance of the abovementioned judgement and its relevance for the interpretation of the new Brussels II Regulation.

Prof Amanda E. Boniface University of Johannesburg

The Impact of Bwanya v Master of the High Court (CCT 241/20) [2021] ZACC 21 on Women's Rights in South Africa

What is a Partner 2: De Facto Unions

In this paper I briefly discuss the facts of the Bwanya case and thereafter concentrate on two aspects, namely the formation of families in South Africa and the possible extended protection of women in vulnerable and dependent relationships in South Africa, brought about by this judgment. When discussing the last-mentioned aspect, I will briefly refer to the prevalence of gender-based violence in South Africa and the role of and influence that patriarchy plays in South African society.

In this case that was before the South African Constitutional court the court ordered that the definition of "survivor" as found in Section one of the Maintenance of Surviving Spouse Act 27 of 1990 is unconstitutional because it does not contain the words "and includes the surviving partner of a permanent life partnership terminated by the death of one partner in which the partners undertook reciprocal duties of support and in the circumstances where the surviving partner has not received an equitable share in the deceased partner's estate". Additionally, the terms "spouse" and marriage were declared to include persons who are in a permanent life partnership. The declaration of invalidity was suspended for 18 months to give the legislator time to fix the defect.

The facts of this case were that the parties were engaged and in a long-term relationship with elements of mutual support when one of the parties died. The parties were not yet married and were due to conclude lobola negotiations the following month.

In this discussion I will focus on and examine the majority judgment; compare the judgment to the Volks v Robinson [2005] ZACC 2 decision; deal with some important matters mentioned by the majority that deal with the formation of families in South Africa and the protection of women; examine whether women in South Africa always have a choice to marry or not marry (the choice argument); briefly mention the recognition of the diverse ways in which families are formed in South Africa and lastly examine gender inequalities; domestic violence and the role of the patriarchy in influencing the decisions of women in South Africa.

Prof Ingrid Boone KU Leuven Institute for Family Law and Juvenile Law, KU Leuven Child & Youth Institute

Cato Deprez Research Master KU Leuven Faculty of Law and Criminology

Medical Decision-making in Adolescence: a Comparative Perspective

Minors and Medical Decision-Making

Adolescence is a life stage characterized by growing opportunities and capacities, but also significant vulnerability. According to the UN Convention on the Rights of the Child (CRC), the implementation of children's rights, including the right to be heard and to participate in decisions relating to their health and the right to privacy and confidentiality with respect to medical counselling, should take account of children's development and their evolving capacities. States parties should introduce or review legislation recognizing the right of adolescents to take increasing responsibility for decisions affecting their lives (Committee on the Rights of the Child, General Comment No. 20 on the implementation of the rights of the child during adolescence). The right of adolescents to exercise increasing levels of responsibility, however, does not obviate States' obligations to guarantee protection. Also, the role of parents in providing security and protection to their children remains important throughout adolescence.

In seeking to provide a balance between respect for the evolving capacities of adolescents and appropriate levels of protection, States have adopted various legal provisions with regard to informed consent to medical treatment of children and access to confidential medical counselling for children. Some national legislations have introduced minimum age limits for adolescents to exercise their rights autonomously, while other legislations refer to the child's maturity and/or require parental consent.

In this presentation we will first compare the legislations of four European States (Belgium, France, Germany and the Netherlands) with regard to the rights of adolescents to consent to medical treatment and to have access to confidential medical counselling, to sexual and reproductive health services and abortion. Secondly, we will evaluate whether the various national approaches are compatible with the CRC and the relevant recommendations in General Comment No. 4 on adolescent health and development and General Comment No. 20.

Dr Alan Brown University of Glasgow
Dr Elizabeth Chloe Romanis Durham University

Legal Parenthood and Emerging Reproductive Practices

General Evolutions 2: Parents and Children

This paper (re)examines the attribution and determination of legal parenthood in the United Kingdom in light of potential future developments in reproductive practices and technologies that change fundamental aspects of the process of reproducing.
Our starting point is that the existing rules on the attribution and determination of legal parenthood are being stretched and strained by a combination of developments in assisted reproductive technologies, and the growing diversity of family forms and structures. Over the past thirty-five years, there have been a series of legislative reforms relating to parenthood and assisted reproduction, but these have not created a framework that effectively encompasses the diversity of either family forms or reproductive practices. The law continues to face challenges in various existing contexts - surrogacy arrangements, trans parenthood and collaborative co-parenting – that it is struggling to resolve.

However, these existing assisted reproductive technologies do not fundamentally challenge the basis upon which reproduction takes place – the need for sperm, eggs, and someone to gestate the pregnancy. This paper will consider potential future reproductive technologies and practices that do fundamentally challenge that underlying reproductive process – ectogestation/artificial placentas, uterine transplants, and In Vitro Gametogenesis (IVG) – and their implications for the attribution and determination of legal parenthood.

The literature on these emerging reproductive technologies and practices has focused on moral and ethical questions around their permissibility, and regulatory questions regarding access to such technologies. Consequently, there has been limited consideration of how these novel technologies and practices will challenge the framework that determines legal parenthood. In this paper, we argue that these emerging reproductive technologies force the law to examine the principles that are valued most when attributing parenthood, and therefore, the potential of such technologies provides an opportunity for a principled reconsideration of legal parenthood - its purpose, its functions, and its basis.

Dr Alan Brown University of Glasgow
Dr Peter Dunne University of Bristol

Trans Parenthood in the UK: The "Unanswered Questions" of the McConnell Decision

What is a Parent 1: Selected Topics

This paper considers some of the unanswered questions raised by the decision in R (McConnell and YY) v Registrar General for England and Wales [2020] EWCA Civ 559, which held that a trans man (who had a Gender Recognition Certificate) who gave birth must be registered as 'mother' on his child's birth certificate in England and Wales. The judgment was narrowly focused on the interpretation of the Gender Recognition Act 2004 and on human rights arguments. Therefore, the underlying factual and legal context of fertility treatment provided to trans men in the UK is not fully explored by the judgment.

The paper will consider three such unanswered questions: (i) whether the fertility treatment provided to Mr McConnell was lawful under section 2 (1) Human Fertilisation and Embryology Act 1990? (ii) whether a trans man (with a GRC) who accesses reproductive services has obtained his GRC by 'fraud' in terms of section 8 (5) Gender Recognition Act 2004? and (iii) what are the implications of the judgment for trans parenthood following assisted reproduction more widely under the 'parenthood provisions' in sections 35-48 Human Fertilisation and Embryology Act 2008? The first and second of these questions are mentioned but not resolved by the courts, whereas the third question was (understandably) not relevant to the specific factual circumstances of McConnell.

Therefore, the purpose of this paper is to consider these questions and the issues they raise in order to clearly situate the decision in McConnell within the wider context of the legal regimes in the UK concerning access to fertility treatment, gender recognition, and parenthood in cases involving assisted reproduction. From this, we argue that more clearly establishing the current legal position regarding trans parenting and assisted reproduction will provide the proper context to facilitate and enable any subsequent legal reforms.

Leontine Bruijnen University of Antwerp and University of Ghent

Recognition of child marriage in family law and migration law: two sides of the same coin or contradictory?

Famigration 2: Children

Migration of non-European Union (EU) citizens to the EU also leads to migration of their legal status. Such legal status may depend on a legal

institution that does not exist in Western-European legal systems or a specific form of this institution does not exist. An example of the latter is child marriage. When a spouse in a child marriage migrates from a third State to an EU Member State, the question arises whether and how EU Member States recognise the child marriage.

The recognition of a child marriage has consequences for family law purposes, such as filiation, but also for migration law purposes, such as family reunification. If a child marriage is recognised for family law purposes but not for migration law purposes, or the other way around, this can cause problems; migrant families can be faced with legal limping situations and legal uncertainty.

The presentation aims to examine the recognition of child marriages in the Belgian and German legal system for family and migration law purposes. More precisely, I will assess whether private international law is the overarching instrument to interpret the concept of spouse in both areas of law. The Belgian and German legal framework and illustrative case law will be addressed. These jurisdictions are compared because in 2017, Germany introduced the Law to Combat Child Marriages, which in principle makes the conclusion of a child marriage impossible. The stricter rules in German family law also affected the recognition of foreign child marriages. In contrast, Belgium seems to have a more nuanced approach to child marriages. A comparison will clarify the role of private international law in both legal systems in the recognition of a child marriage for family and migration law purposes.

Prof Marielle Bruning and Dr Kartica van der Zon University of Leiden

Deciding about the future of children in alternative care

General Evolutions 2: Parents and Children

In child protection cases, the core question often revolves around deciding about the best future for a child that is removed from home: long-term placement in a family-based setting or reunification with the original family? International and regional human rights standards focus on the right of children and parents to be reunited after a removal from home whenever this is feasible. In 2015, in the Netherlands the Child Protection Act 2015 came into force. One of the aims of this new law was to better protect the rights and interest of children when deciding on the future of children in care. In 2022 we evaluated this Act to see whether the best interests of children indeed were decisive when deciding between reunification or long-term placement. We will discuss the outcomes of the law evaluation and show which factors play a role in deciding about the future of a child in alternative care. We will also identify which difficulties professionals encounter when making these decisions, including the influence of current problems in the system, and relate the outcomes to relevant European developments.

Marit Buddenbaum Vrije Universiteit Amsterdam

New divorce procedures for parents with child-related disputes in the Netherlands

Conflict Handling

The problem of divorce-related and post-divorce parental conflicts occupies a top position on the Dutch political agenda for several decades. In order to tackle this problem many changes to divorce (procedural) law have been made, including: automatic continuation of joint parental responsibility after divorce (1); judicial referral to (forensic) mediation (2); compulsory parenting plan (3). Yet, despite all efforts of politicians, researchers and practitioners (judges, lawyers, mediators), the number of high conflict divorce remains high and calls for new initiatives.

In 2021, two new pilots, aimed at reducing the risk of (further) escalation of the divorce-related conflicts, have been started. The first concerns a new joint non-adversarial divorce procedure, providing parents, who are unable to resolve their disputes themselves, with an alternative to the traditional adversarial divorce procedure. While the traditional adversarial divorce procedure incites parents to take opposite stands (which harbours the risk of polarisation and conflict escalation), the new non-adversarial procedure allows parents to file a joint divorce petition that includes in neutral non-polarising terms both the points they have agreed on and the remaining disputed points. The second pilot introduces a new player in the divorce field: a multi-partial family attorney (gezinsadvocaat), who represents both parents and their child(ren) throughout the whole divorce process. This family attorneys assesses the levels of parental conflict and directs them to its amicable resolution – including early application of mediation and other interventions.

In this presentation, the strengths and the weaknesses of these pilot procedures will be analysed by i.a. testing them on compliance with basic principles such as the right to a fair trial, access to court and audi alteram partem. The ultimate question to be answered is: to what extent would these initiatives bring us closer to preventing the escalation of parental disputes into high conflict divorces?

Ms Cristiana Burger Expatriate Law

Placing Surrogacy in a Legal and Feminist Framework

What is a Parent 6: Surrogacy

Surrogacy is an incredible tool for people having issues with conceiving, and is becoming an increasingly desired method of reproduction. This individual paper will explore surrogacy within a legal framework, looking at its surge in popularity since becoming legalised in the UK in 2008 as part of the Human Fertilisation and Embryology Act. I will explore various disputes surrounding surrogacy while arguing that the recent backlash against reproductive freedom is in response to the ever evolving increase in equality among genders. This paper will look at surrogacy in relation to abortion, and conduct an international comparative approach looking at access to both surrogacy and abortion in the United Kingdom and United States. I will look at the options and legal challenges of going abroad for access. Surrogacy is currently being framed by its swell of celebrity approval, notably among members of the Kardashian family, Jamie Chung, Neil Patrick Harris, and Sarah Jessica Parker. It is a very topical matter in the UK, as the Law Commission has recently been highlighted for delaying new recommendations around current surrogacy laws, and this paper will explore the information available about their various proposals.

Dr Nola Cammu and Dr Geeske Ruitenberg UHD, Vrije Universiteit Amsterdam

Towards a legal framework for surrogacy in the Netherlands: Past and current debate

What is a Parent 6: Surrogacy

The (legal) implementation of a framework for surrogacy poses many challenges of civil and criminal legal nature, as well as important questions for the transnational application of surrogacy in private international law and human rights law. As many jurisdictions across the globe have provided legal responses to surrogacy, a wide array of (proposed legal changes to) surrogacy regulations has emerged. Although the pace and direction in which jurisdictions are moving is far from uniform (e.g. from pioneering to reluctant and from prohibitive to permissive), a global trend towards an increasing regulation and recognition of surrogacy has been noticed (Fenton-Glynn & Scherpe 2019). By proposing a legal framework for surrogacy in 2016 (Staatscommissie Herijking Ouderschap) and in 2019 (Wetsvoorstel kind, draagmoederschap en afstamming), The Netherlands is finding itself in line with the aforementioned global trend.

In this paper, we will employ (policy) document analysis (Bowen 2009) to probe the discussions that preceded and followed suit the aforementioned legal propositions. Doing so will enable us to critically analyse the (implicitly or explicitly present) normative predispositions that have underpinned the legal propositions on surrogacy in the Netherlands, to date. In addition, we will carry out a (non-exhaustive) reception study of the aforementioned legal propositions by looking at publicly accessible responses to the aforementioned from (non-) governmental entities, such as judicial and governmental organs, legal professionals, the academia, and civil society groups. This combined analytic approach will result in a broader overview of and interactions between legal and policy debate on the topic of surrogacy in the Netherlands between the years 2016-2019 (preliminary phase) and 2019-2022 (aftermath).

Prof June Carbone Robina Chair of Law, Science and Technology University of Minnesota Law School

The Triple System of Family.

Families: the Rich and the Poor

In this presentation, I will argue that in the United States, with a changing economy, there is no longer a single system of family law. Instead, there are three: a mainstream system, tailored to the needs of the upper middle class, that is still marriage centric; a second, single parent system, that becomes most visible (and subject to legal regulation) when poorer families interact with public systems of support; and a third, relatively new system, rooted in working class realities, that reflects cohabitation norms and that accords families the most autonomy when they succeed in staying out of court. I will argue that the third system has yet to be recognized on its own terms as an adaptation to working class needs in a changing economy, and that it challenges the gender norms that underlie the other two systems.

Jole Carlé KU Leuven

De interne rechtspositie van minderjarigen in gesloten opvang in Vlaanderen

Youth Law 1: Legal position of minors

De internationale en Europese bronnen inzake kinderrechten schrijven voor hoe de rechtspositie van minderjarigen in gesloten opvang en, daarmee samenhangend, de positie van de organiserende voorzieningen en het toezicht daarop, er internrechtelijk zou moeten uitzien. In Vlaanderen werd vastgesteld dat er op dit vlak nog heel wat (legislatieve) verbetering mogelijk is, o.a. omdat belangrijke aspecten (zoals bv. het fouilleren van minderjarigen) niet of nauwelijks geregeld worden.

In 2019-2020 werd, via het Steunpunt Welzijn, Volksgezondheid en Gezin, een onderzoek gevoerd, met de betrachting een kader aan te reiken voor de creatie van een meer solide regelgeving inzake de interne rechtspositie van minderjarigen in gesloten opvang in Vlaanderen. Er werd gewerkt rond twaalf uiteenlopende thema's (waaronder infrastructuur, persoonlijke levenssfeer, en veiligheid). Voor elk van de thema's werd onderzocht wat de internationale en Europese bronnen ter zake voorschrijven, om er vervolgens de Vlaamse regelgeving aan te toetsen; op basis van die toetsing werden beleidsmatige aanbevelingen geformuleerd, waarbij ook inspiratie werd gehaald uit de regelgevingen in de Franse Gemeenschap en Nederland.

In deze bijdrage worden de belangrijkste resultaten van het onderzoek besproken, waarbij er ook enkele concrete casussen worden toegelicht. Tot slot wordt ingegaan op het beleidsmatige werk dat is gebeurd sinds de oplevering van het onderzoek.

Laura Carpaneto University of Genoa

(R)evolution of international filiation

PIL 4: Panel Debate on Cross-Border Filiation

Over the past years the European Commission and the Permanent Bureau of the Hague Conference on Private International Law (HCCH) have been working on cross-border aspects of filiation. Filiation is subject not only to an evolution, but a revolution, due to the growing use of artificial reproduction techniques and the resulting pressure on existing legal frameworks. Policy makers world-wide are aware of a global market of reproduction (e.g. surrogacy) and also of the difficulties families face to have filiation ties recognised trans-nationally. These difficulties are prevalent in but not limited to non-traditional forms of filiation. Drafting international or even EU legislation has proved to be particularly difficulty, not only due to ethical, but also on a legal-technical level. First, filiation is often recorded in public documents and these documents have different consequences across borders. Some States' laws require a reassessment of the law that was applied while others recognise the document unless there are public policy or other serious concerns. Second, public documents are submitted to population or civil registries, who are not always ready to apply complex legal reasonings.

Method: Panel debate with a moderator; participants provide answers and encourages discussion with the audience on:

- What has been done by the HCCH or can be done internationally to regulate cross-border filiation?
- How can we regulate or set standards in the international fertility market (eg. Verona Principles; UN Special Rapporteur and UNICEF)?
- What is the EU doing to regulate cross-border filiation?
- What is the relevance of the principle of free movement within the EU?
- What is the role of contracts for filiation?
- How can we guarantee the child's right to know their origins?
- How can States cooperate to gain evidence on filiation and find information about foreign law?

Dr Rachel Carson Australian Institute of Family Studies

Compliance with and enforcement of family law parenting orders – the Australian experience

Child Custody, Contact and Information 2

New measures to support cost-effective property settlements for separating families in Australia

Conflict Handling

The vast majority of married and de facto couples separating in Australia have modestly valued asset pools with simple asset profiles. This panel presentation discusses two complementary initiatives aimed at addressing the gap in the availability of simple, quick and cost-effective dispute resolution options for separating couples with small value asset pools in Australia. These initiatives are the Small Claims Property Pilot, also known as the Priority Property Pools under $500,000 operating in the Federal Circuit and Family Court of Australia, and the Lawyer-assisted

Family Law Property Mediation Trial implemented by legal aid commissions in each Australian state and territory. These initiatives aim to increase access to mechanisms to resolve post separation property matters for separating couples (particularly women) in cases where the value of the property pool means that it is not cost-effective to pursue an outcome through family law system. The presentation will outline key findings from the two large-scale, mixed-method evaluations of these initiatives undertaken by the Australian Institute of Family Studies, commissioned and funded by the Australia Government, Attorney-General's Department. These evaluation findings identified the initiatives as efficient mechanisms for facilitating resolutions in post-separation property and financial matters for parties with modest asset pools.

Prof Salvatore Casabona University of Palermo

Family law facing the "social banalization" of adultery: trends and strategies

What is a Partner 1: Separation

Family law seems today to place the duty of fidelity in a very sensitive junction between a kind of "legal sexuality" and a "tolerated sexuality". According to the first one, adultery is (was it?) the prohibition par excellence safeguarding a specific family model, traditionally based on marriage. On the contrary, in the framework of toleration, the morality of the single individual and ethical pluralism does represent the backbone of the multiplication of family models and the daily concretization of the couple's menage. On this balance, by definition precarious, between legal-tolerated-illegal, it seems to lay down the duty of sexual fidelity: its normative and jurisprudential use construes the duty of fidelity as an indispensable requirement of a family model "designed" (better, desired) by the legislator in a specific historical period; or differently, in force of complex hermeneutic processes, it assesses the behaviour of couple towards the reciprocal sexual fidelity duty as a mere litmus test of the society's feeling and the evolutionary trend of its habit and custom (for example, open couples who exempt reciprocally from fidelity; de facto separation without divorce); or finally, in case of particularly hateful and prejudicial modes of breach of the marital duty, it inscribes the conduct in the broader framework of civil liability.

Giada Cascio University of Palermo

Surrogacy: between autodetermination and paternalism

What is a Parent 6: Surrogacy

Surrogacy (GPA in Italian, "Gestazione per altri") has been, and still is, the subject of wide-ranging debates, in the medical, legal and social fields. This research aims to investigate this practice from a legal point of view, in the context of comparing different systems. In particular, various models of regulation will be taken into account to verify whether the most harsh criticisms of the practice, related to the commodification of the female body, can be overcome. To this end, the concept of "self-determination", examined from the perspective of moderate legal antipaternalism, will be a fundamental starting point.
The objective of this work is to configurate, if it's possible, a surrogacy's model that can answer to the social esigence of a lot of "different" family that want ot have a baby; it's important to focus on the possibility that a technique like this one, inside a capitalistic society, can be dangerous for people that live in difficult economic situations. It's important to focus on too the fact that the legislations that regulate this kind of technique it's influenced by our paternlistic vision of the world.
Which results can we find for all those family that are not protected by law?

Ms Claire Casha University of Malta

Understanding Child Maintenance Obligations: A Relational Ethics Perspective

Child Custody, Contact and Information 2

Child maintenance payment is linked to positive child development outcomes and plays a role in poverty reduction for payees and their children. This paper aims to make sense of child maintenance compliance challenges which persist on a global level due to differing degrees of congruence between the legal prescriptions of family law and their moral underpinnings on the one hand; and payers' views on "doing family" on the other. It will discuss findings from international qualitative studies, including the author's Ph.D. study carried out in Malta, about factors underpinning the degree of fathers' willingness to pay child maintenance. These will be interpreted from the lenses of four main theoretical frameworks: the theory of negotiated commitments; theory on the symbolic meanings of child maintenance monies; equity theory; and social negotiation theory. These theories encompass relational ethics which deals with the subjective perception of fairness and justice regarding what one is obligated to give and what one is entitled to receive in a relationship. Tensions in a contemporary context of increasing egalitarianism alongside existing gendered assumptions underpinning child maintenance obligations provide important implications for policy. The paper concludes with reflections on how family law can embrace a more relational perspective.

Dr Aurélie Cassiers Hasselt University

Biotechnologies and "perfect children": how can we protect the best interest of the child when parents want to choose the genetic characteristics of their children?

Unborn Human Life 1: General

The development of biotechnologies allows parents to make more and more choices in the procreation process. Nowadays, medicine not only helps people to conceive but also select which child they want with the help of e.g. preimplantation genetic diagnosis, prenatal tests, and even, as science advances, choose many of the child's characteristics with the use of CRISPR-cas9. Parents may be happy to have more control over their reproductive possibilities, but is this development a good evolution for everyone? Other interests, like these of the (unborn) child and the society, may be in danger. Even if some authors pretend it is in the child's best interest to be born with the best possible genetic background, others warn of negative consequences for the children's rights.
In this presentation, we will focus on the child's best interest principle. We will see if we can protect unborn and future children and how we can apply this principle to these categories of children, which does not seem to be foreseen in the Convention on the Rights of the Child.

Dr Aurélie Cassiers University of Hasselt

Assisted Reproductive Technologies, Families, and the Law: exploring the intricacies, limits, and future of the role of law in determining 'family'

What is a Parent 9: Panel Debate on ART

Many people turn to assisted reproductive technologies (ART) to help found/grow their family. This panel explores law's families in the context of ART, critically examining the current complexities and limits of the law, as well as prospective legal reforms, in the context of the ethical discourses that underpin ART. Through comparing national legal regimes and engaging with relevant international law, at the same time considering the bioethical narratives reflected in law, this panel aims to facilitate a discussion on the role of law (current and future) in determining 'what is family?'.

The topic is broad, and intentionally so, in order to allow the discussion to flow spontaneously between the panellists and the audience. Of course, the ongoing discourse pertaining to the legal determination of parenthood given the splitting of the genetic/gestational/social or intentional elements of parenthood via contemporary ART practices (i.e. gamete extraction and preservation, gamete/embryo donation, IVF, surrogacy) will necessarily form part of the panel discussion. However, panellists will also be invited to think further ahead and consider the legal and ethical implications of emerging and future ART (e.g. mitochondrial replacement therapy (MRT), CRISPR-CAS9 gene editing, in vitro gametogenesis (IVG), and artificial wombs) vis-à-vis the notion of 'family' in law. What do these technological advances mean for reproductive rights and intentional family planning? And what do they mean for the resulting child and their establishment as a person in the context of their family, the law, and broader society? How do we balance individual interests in planning and shaping our families and family life with collective interests as a society and as a species? Ultimately, how do these technologies impact what we have hitherto perceived as 'family' in law, and how can family and fertility law adapt to these (inevitable?) technological advances?

This diverse panel draws together early career and established researchers, from across the fields of family law, bioethics, and biolaw to engage in an open, cross-disciplinary discussion on what ART means for familyhood, now and in the foreseeable future.

Prof Naivi Chikoc Barreda University of Ottawa

Digitalization of family acts in cross-border cases: the examples of online marriages and notarial divorces

Digital Family Law 1: General

Recent developments in comparative family law are shaped by two fundamental trends. Firstly, the further privatization of family matters, which is evidenced by the increasing role of party autonomy and a consequent gradual transfer of competences to non-judicial authorities. Secondly, we are witnessing a shift towards digitisation of family justice, which is being progressively integrated into the judicial and non-judicial practice of several States since the Covid-19 crisis. It is well known that the expansion of cross-border flows of persons poses a problem associated with the continuity of family situations created in one State that subsequently seek to extend their consequences to others. Yet, digital transformation of family acts involves a high incidence of cross-border elements from the creation of the legal relationship, since there are no borders in the virtual space where parties attend before the officiant who formalizes the operation. Private international law rules are then confronted with new challenges arising out of the combination of these trends that threaten the circulation of family status across borders. We propose a comparative reflection on how to approach the remote formation of family relationships in the extrajudicial sphere from a PIL perspective, mainly through the examples of the conclusion of online marriages and notarial divorces.

Dr Tinne Claes KU Leuven

The interdisciplinary meanings of genetic origins in donor conception

What is a Parent 5: The Right to Know One's Origins B

Due to the development of assisted reproductive technologies and the willingness of people to donate their gametes, many people who would otherwise have remained childless are given the opportunity to create a family. The use of a donor creates tensions between different and gendered conceptions of parenthood – genetic, biological, legal, social, et cetera.

Conceptions of parenthood are subject to change. Originally donor conception was veiled in secrecy. The anonymity of the donor was guaranteed to protect the legal parents against unwanted interference in their family life and to protect the donor against legal claims. Parents were advised to not disclose the use of donated gametes to the child, as this information was deemed both trivial and harmful. Nowadays there is an increased acknowledgement of the right to know one's genetic origins on both a national and international level. How did this happen? And how have these differing views of genetics and of parenthood influenced the experiences of parents, donor-conceived individuals and donors?

In our panel we will present three different perspectives on the subject.
A. Indekeu will illustrate the different social meanings given to genetic connections and the associated challenges in the context of donor conception by parents, donor-conceived people and donors based on research.
T. Claes will elucidate the changing historical meanings of genetics and parenthood. She will show how the principle of donor anonymity gradually became questioned from the 1980s onwards, under the influence of child development studies relating to adoption and of new cultural ideas about identity.
E. Decorte will compare the current legal situation concerning the right to know one's genetic origins in the context of assisted reproduction in Belgium with that in a number of other European countries.

Alison Cleland Senior Lecturer Alison Cleland, Auckland University of Technology School of Law

Aotearoa New Zealand's culturally incompetent guardianship law

Law, Culture, and Religion 1: Parents and Children

Private family law legislation in Aotearoa New Zealand rests on the Western concepts of parental responsibilities and guardianship. These concepts give primacy to the traditional, individualistic Western nuclear family model. Māori ways of thinking about families do not rest on such narrow Western concepts. Under tikanga Māori – Māori customary law – collective rights and responsibilities, not those of individual parents or guardians, must be respected. Children (tamariki) do not 'belong' to their parents only: they are "ā tatou tamariki" (the children of all). When decisions are made about Māori children, whānau (wider family), hapū (sub-tribe) and iwi (tribe) must be consulted. Māori children are to be seen and understood in the context of their identity and culture. While child protection law in Aotearoa New Zealand reflects these values, private family law does not.

In 2019, an independent report found that the family justice system failed to respect The Treaty of Waitangi or the cultural needs of Māori families. Aotearoa New Zealand's private family law – and the Family Court – appears increasingly culturally incompetent.

Prof Yitshak Cohen Ono Academic College

The Children's Rights to Independent Status - Protecting the Children's Interests in Divorce Proceedings Between Their Parents

Children's Rights 2

The paper examines the right of a minor to independent status in matters of family law, the interests it competes with, and possible new approaches for the future. Legal systems worldwide have expressed concern that parents, while undergoing divorce proceedings and focused on their own issues, might compromise the interests of their children and cause them distress. In response to this concern and distress, the courts have allowed re-litigation of prior decisions in divorce proceedings or in written agreements between spouses. What was initially an expression of concern has developed into a legal presumption that parents compromise the interest of minors in divorce proceedings. This shift provides important protection for the interests of the minor. The presumption has been strengthened further by modern values that focus on the rights of the minor. The most practical expression of this development is the accession of the State of Israel to the International Convention of 1989.

However, this presumption is supposed to cope with the assumption that parents are natural guardians of their children. In addition, the development of the minor's right to independent status has impacted divorce proceedings in several ways, among them: contractual uncertainty, lack of finality of judgment, and prolonged litigation. The Supreme Court recently accepted the position of this paper and reinstated the substantive standard.

The paper offers the following three models for protecting the interests of the minor while preserving contractual certainty and the stability of agreements: (i) requiring the court to comprehensively examine the interests of the child. (ii) legislating clear considerations and guidelines for defining the best interests of the child and thereby reducing future re-litigation; and (iii) appointing independent representation for the minor. These models may serve to create a more appropriate formula for balancing the competing interests in family law.

Madam Justice Barbara Cooke Alleyne Supreme Court Barbados

The quandry of psychologist in balancing the principle of confidentiality to their clients in juvenile and family matters with their duty to the courturt cook

Youth Law 3

Absract of paper or panel: The core tenet of the psychologist's relationship with their client is confidentiality. This paper discusses the role of psychologists in matters concerning adolescents in juvenile and family courts. In particular, the proverbial tight rope and balancing act psychologists perform when they are ordered by the court to give reports on adolescents. This balancing act refers to their promise to clients that their discourse is confidential. To set the tone for this presentation, an overview of the categories of juveniles within the court system; the age ascribed to children in the legal system of Barbados to provide for them being seen as juveniles and the court structure is ascribed. Concomitant to this overview there will be discussion on the type of cases which requires psychologists to present on their adolescent clients.

Psychologists are deemed by the court to be experts. This designation behooves them to give a thorough report which would guide the court to make an order that is in the best interest of the adolescent. The quandary for psychologists is how to negotiate the principle of confidentiality owed to the said adolescent and at the same time give the court a fulsome report.

Thus, this paper must examine the laws that psychologists operate under including code of ethics that are pertinent to the exercising of the balancing act. The sanctions which the court can use to admonish those who fail to comply with the court order will also be discussed.
In conclusion the balancing act has a tripartite ripple effect on psychologists, the adolescent and the need of the court to be fully informed of the child's issue to give an order that is in the best interest of the child. Psychologists at times therefore are faced with a conundrum.

Dr Livio Corselli University of Palermo

Italy – From "till death do us apart" to the temporary marriage

Changing Perspectives in National Family Law 6

Divorce was introduced in Italy during the 70's, when italians began to abandon the idea of the untouchability of marriage; however, putting an end to wedding bonds remained something difficult to achieve. This because the dissolution of the civil effects of marriage had to be preceded by a separation procedure; only after five years had passed, the spouses can start the divorce proceedings. Even the further amendments, reducing from 5 to 3 years the period that had to elapse from the separation to the divorce, did not made it easier for the couple to separate.
The 2015 "short divorce reform" aimed to reduce these timeframes to align with other European legal systems, allowing divorce when only one year has passed after the judicial separation, or six months from consensual separation. It also gave room to new out of the courts procedural tools that spouses may use if there are no economical or personal questions.
The "short divorce" reform is certainly a long-awaited rule of civilization even if it modifies, but do not eliminate, the limits of access to divorce. After a few years from the reform, it is time to examine the statistical data and the most recent amendments (2023).

Prof Brenda Cossman University of Toronto

The past and future of family law: Canada

General Evolutions 5: Past and Future of Family Law - a comparative and normative analysis

Family law is failing: study after study has shown that the family justice system is failing Canadian families more generally. Dramatic increases in separations and divorces, the increasingly inaccessible cost of legal representation, the inadequacy of legal aid, and the protracted nature of many family law disputes have combined to produce a crisis of unmet legal needs. Notwithstanding significant substantive and procedural reforms over the last several decades, the family justice system is in a state of crisis and chaos. My presentation addresses the failure from the perspective of the institutional design of family law. If we were to design an institutional approach to a problem that affects 40 percent of the population, we would not root it in private civil law. When modern family law emerged—that is, divorce and its ancillary consequences in the mid-nineteenth century— divorce was highly restricted and rare. With each wave of divorce reform and the transformations in contemporary

family life, the divorce rate has risen, holding steady now at approximately 38 percent of all marriages. Yet, the idea that divorce is private continues to structure the substance and process of family law. While family law is subject to extensive regulation, the dispute remains one between the private parties to be resolved within the civil justice system. We should not be surprised that the civil justice system is no longer capable of adequately dealing the problem; it was simply not designed for problems that affect over one-third of the Canadian population. What if we thought about a different way of resolving the disputes currently known as family law? What if we disarticulated the conflicts from the private, civil justice system? How might we revision the legal regulation of family breakdown, beyond the private and civil law framework? What if we reimagined it as a form of social law?

Rita Daila Costa University of Palermo

The right to protection of family life at the challenge of working poor

Families: the Rich and the Poor

To protect the family and the right to protection of family life of foreigners, the European and Italian legal frameworks provide the right to family reunification, giving the possibility to migrants to bring their children and spouse to Italy.
Nevertheless, except for refugees this right is strictly bound to requirements listed by law, such as having suitable housing and income to take care of their family.
Looking at migrants' working conditions in Italy, it is clear how these requirements end up being huge obstacles to the actual protection of family unity for most migrants, since migrants usually works in our country in exploitative conditions and for truly little pay. In addition, migrants may become even more vulnerable to abuses and accept every working condition to obtain the income required to bring their family members to Italy.
In most cases, migrant workers never really have the minimum income required to exercise this right, or they get it when their children are already adults and cannot reach them anymore.
There is no doubt migrants' "working poor" challenges the idea that "the right to protection of family life" is an actual right for migrant workers.

Prof Michelle Cottier University of Geneva
Bindu Sahdeva University of Geneva

What types of family arrangements is Swiss divorce law designed for?

Money & Property: Upon Separation 1

In Switzerland, the family justice system provides a normative framework and the "bargaining chips" for the negotiation of divorce agreements. 90 % of all divorces are based on a full settlement between ex-spouses, often drawn with the help of lawyer. The family justice system aims to implement the constitutional guarantee of gender equality. In recent years, a number of reforms and Swiss Federal Supreme Court's decisions have pushed toward a financial clean break between partners and a faster return to paid employment for the custodian parent, mainly women. Following the transition to parenthood, the predominant model is based on the father being the main breadwinner and the mother being the caretaker while working part-time due to a lack of substantial family policies. In this context, a divorce may lead to critical inequalities between ex-partners. Furthermore, the consequences of a divorce do not carry the same weight depending on the socioeconomic situation and the marital division of tasks between spouses. The decrease of compensatory solutions for the weaker party may be detrimental for lower income families and especially for mothers and children.

In our paper, we present the results of a comparison of the changes brought by recent decisions of the Swiss Federal Supreme Court, compared with the results of a quantitative survey (N=600) and qualitative study (N=35) with divorce lawyers in Switzerland. How do lawyers interpret the developments, and how does it impact their practice?

Distinguishing the economic situation of the families allows us to shed light on how courts and lawyers use their margin of interpretation of the written law in different types of families.
This paper is written in the context of a four-year interdisciplinary research looking into gender equality in the Swiss family justice system entitled 'The negotiation of divorce agreements and gender (in) equality in Switzerland'.

Trui Daem Ghent University, Private International Law Institute

When family law meets refugee law: the case of cross-border parental child abduction in a refugee context

PIL 2: International Child Abduction

In an increasingly globalizing and mobile world, international parental child abduction is an area in which refugee law and family law principles will continue to clash (as shown in the case CJEU, A v. B, C-262/21, 2 August 2021). Picture a Guinean mother and daughter, applying for international protection based on their fear for female genital mutilation. The left-behind father can file an application for prompt return of the child to the country of habitual residence. Different international conventions will interact: the Geneva Refugee Convention, the Hague Child Abduction Convention and the Convention on the Rights of the Child.
When determining whether the child should be returned to the left-behind parent, challenging questions emerge: Is there an obligation on family law courts to delay the Hague proceedings and await the asylum procedure or vice versa? Is a return of the child compatible with the non-refoulement principle of the Refugee Convention? Which authority should assess the best interest of the child? So far, the complex interplay of these different legal instruments has received scant attention.
This paper will offer better insight into the interplay between international child abduction and refugee claims, by highlighting relevant (inter) national case-law and presenting the preliminary findings of a large-scale Belgian survey in which central authorities and asylum authorities are questioned about this interface.

Associate Prof Marcelo de Alcantara Ochanomizu University

Legal Issues Facing Non-Traditional Families in Japan

Changing Perspectives in National Family Law 4: Asia

In Japan, the family law system designed to protect the traditional two-parent families – with a mother and a father raising their biological children – has remained almost unchanged since the end of World War II.
However, the increase in families that are not considered to be in the tradition family framework – such as single-parent families, step families, families formed by same-sex parents or transgender parents, families formed through assisted reproductive technology – has led courts and legislatures to respond to the new reality.
For example, in recent years, a number of municipalities, such as Tokyo's Shibuya and Yokohama, have started to issue certificates recognizing same-sex partnerships, albeit they are not legally binding. Also, the Japanese Supreme Court has reversed lower courts decisions and recognized a transgender man as the legal father of a child born to his wife with donated sperm. Nonetheless, these legislative and judicial responses are still insufficient and leave members of non-traditional families vulnerable to legal gray areas.
This paper will address these problems and examine from an international perspective some possible solutions that could be adopted to effectively protect children's rights and the status of family members in non-traditional families in Japan.

Dr Sofie De Bus Vrije Universiteit Brussel

De impact van de defederalisering van de Belgische jeugdbescherming op de rechtspositie van de minderjarige

Youth Law 1: Legal position of minors

De rechtspositie van minderjarigen wordt geregeld in verschillende mensenrechtelijke instrumenten op nationaal, Europees en internationaal niveau. Zo bevat het Internationaal Verdrag inzake de rechten van het kind ("VRK") een aantal (procedurele) waarborgen voor minderjarigen, waaronder het recht op gelijke behandeling (art. 2).

De Gemeenschappen (Vlaamse Gemeenschap, Franse Gemeenschap, Duitstalige Gemeenschap en de Gemeenschappelijke Gemeenschapscommissie in het tweetalig gebied Brussel-Hoofdstad) zijn, als gevolg van de verschillende staatshervormingen, bevoegd geworden voor de jeugdbescherming (vrijwillige jeugdhulpverlening, gedwongen jeugdhulpverlening en reactie op jeugddelinquent gedrag) en hebben ter zake eigen regelgeving uitgevaardigd. Door de verschillen tussen die regelingen, die voortvloeien uit de verschillende visies van de gemeenschapswetgevers, is er niet langer één wetgevend instrument inzake jeugdbescherming te raadplegen. Bovendien beschikt de Gemeenschappelijke Gemeenschapscommissie niet over eigen diensten en instellingen waardoor ze voor de uitvoering van genomen maatregelen inzake jeugdbescherming beroep moet doen op de diensten en instellingen inzake jeugdbescherming van de Vlaamse en de Franse gemeenschap.

De defederalisering van de jeugdbescherming in België brengt een aantal knelpunten met zich mee die de toepassing van de nieuwe regelgevingen in de praktijk bemoeilijkt. Door het naast elkaar bestaan van verschillende gemeenschapsregelingen, verschilt de rechtspositie van minderjarigen naargelang de regelgeving waaronder ze vallen. Deze rechtsongelijkheid tekent zich in het bijzonder af ten aanzien van Nederlandstalige en Franstalige Brusselse minderjarigen (meer bepaald wat het verschil in plaatsing en duurtijd van de maatregelen betreft). Daarnaast heeft de verhuis van de minderjarige naar een ander taalgebied belangrijke gevolgen voor de toepasselijke wetgeving, de bevoegde

jeugdrechter en (verdere) uitvoering van maatregelen inzake jeugdbescherming.

In deze presentatie worden de resultaten besproken van juridisch-empirisch onderzoek dat de knelpunten voorvloeiend uit dit defederaliseringsproces in kaart bracht. We staan daarbij ook stil bij de gevolgen hiervan op de rechtspositie van minderjarigen.

Femke de Kievit Utrecht University/ Utrecht Centre for European Research into Family Law

Intergenerational family care: a private law affair?

Caring and the Law

The presentation will discuss the rather unexplored role that private law might play for intergenerational family care: the informal care that adult children provide to their elderly parents. Family care plays a crucial role in many European welfare states, since families are taking the lion's share of the care for dependent elderly people. It is expected that family care will play an even more fundamental role in the nearby future, since the ageing of society and an increasing demand for care are forcing governments to cut back on public care services and to place more care responsibility with the family. This raises the new question as to the role of private law in regulating and stimulating this type of care. Should enforceable care obligations be included in private law? What are advantages and disadvantages of care contracts between parents and children? And is there a role for inheritance law to financially compensate family care? This presentation will reflect on these fundamental questions, in which examples will be given from the Dutch legal system. The presentation is relevant to anyone interested in care, family relations and rethinking the law as a solution to the challenges posed by an ageing society.

Charlotte De Mulder University of Antwerp

The justification of child protective measures during pregnancy

Unborn Human Life 1: General

Recently, attention in the Low Countries has grown for the protection of unborn children against harm inflicted by the prospective parents, e.g., by substance (ab)use during pregnancy or the refusal of medical treatment. Several (political) proposals were made to expand child protective measures to unborn children. As these measures would constitute an interference with the right to respect for private life (art. 8 ECHR) of the pregnant person and, where appropriate, the other prospective parent, they must be justifiable under article 8, par. 2 ECHR. Since unborn children are not considered to be legal persons, it is uncertain whether the protection of unborn children would be covered by the legitimate aim of 'the protection of the rights and freedoms of others'. Therefore, child protective measures during pregnancy are often framed as protecting (the rights of) the future child, i.e., the child that will be born and might be harmed after birth. The protection of the future child, some authors claim, could be justified on the basis of the infans conceptus adage. Child protective measures can however also be justified based on the protection of health or morals, by considering the protection of unborn children as a public interest. In this presentation I will focus on three approaches to the justification of child protective measures during pregnancy: the protection of unborn children as future children, the protection of future children or the protection of unborn children as public interest.

Prof Charlotte Declerck Hasselt University

The child's right to personal contact with other relatives from a comparative perspective

Child Custody, Contact and Information 3

In what way do national legal systems deal with the child's right to personal contact with other relatives? Is a right to personal contact of the child provided for and, if so, with which relatives and under what conditions? How is this right enforced? What bottlenecks are experienced in practice? During this lecture, an overview will be provided using the functional comparative law method, covering, among others, Belgian, German, French and Dutch law.

Dr Elodie Decorte KU Leuven

The interdisciplinary meanings of genetic origins in donor conception

What is a Parent 5: the Right to Know One's Origins B

Due to the development of assisted reproductive technologies and the willingness of people to donate their gametes, many people who would otherwise have remained childless are given the opportunity to create a family. The use of a donor creates tensions between different and

gendered conceptions of parenthood – genetic, biological, legal, social, et cetera. Conceptions of parenthood are subject to change. Originally donor conception was veiled in secrecy. The anonymity of the donor was guaranteed to protect the legal parents against unwanted interference in their family life and to protect the donor against legal claims. Parents were advised to not disclose the use of donated gametes to the child, as this information was deemed both trivial and harmful. Nowadays there is an increased acknowledgement of the right to know one's genetic origins on both a national and international level. How did this happen? And how have these differing views of genetics and of parenthood influenced the experiences of parents, donor-conceived individuals and donors?

In our panel we will present three different perspectives on the subject.
A. Indekeu will illustrate the different social meanings given to genetic connections and the associated challenges in the context of donor conception by parents, donor-conceived people and donors based on research.

T. Claes will elucidate the changing historical meanings of genetics and parenthood. She will show how the principle of donor anonymity gradually became questioned from the 1980s onwards, under the influence of child development studies relating to adoption and of new cultural ideas about identity.

E. Decorte will compare the current legal situation concerning the right to know one's genetic origins in the context of assisted reproduction in Belgium with that in a number of other European countries.

Baroness Ruth Deech Oxford University

How IVF and the Family Have Transformed Each Other Over 50 Years

General Evolutions 4: Past and Future of Family Law B

In 50 years reproductive medicine has gone from simple infertility to matters of convenience and preference, eg the insemination of older women past the age of menopause, posthumous insemination, choice of sex of the baby, egg freezing to protect female fertility, PGD for the purposes of eliminating inherited diseases, cloning and stem cell work that may give us renewed tissues and a longer life. IVF developments have separated genetic parenthood and childbearing, the embryo and pregnancy. IVF has shaped the way we see the family and it has also responded to the evolution of the modern family. IVF treatments such as donor insemination have contributed to the acceptability of single parenthood; and changes in the formation of famlies, for example, same sex partnership, have given an impetus to more research to achieve parenthood for same sex couples. IVF has had implications for the autonomy of men and women and their equality in parenthood. Older women can achieve motherhood and younger women can take advantage of the choice offered by frozen eggs. The welfare of children has been promoted by the use of new techniques to eliminate disease but care has to be taken not to commodify family members.

Jasmien Deklerck KU Leuven

Permanent alternative care options from a human rights law and comparative perspective: is blood thicker than water?

Youth Law 2

According to the human rights framework, the family, as the natural and fundamental core of society, is entitled to protection. Therefore, the parents must, as the primary caretakers, be protected therein. However, sometimes parents prove unable or unwilling to appropriately fulfill their parental responsibilities. In these cases, a positive State obligation to provide alternative care for the child arises. When it becomes clear that the child needs a permanent placement because returning in the parental care proves to be impossible, States can choose between a wide range of policies and practices regarding permanent alternative care options. These could, amongst others, take the form of long-term foster care, custody arrangements or adoption. While some of the European youth protection systems maintain the temporary nature of the out-of-house placements and prefer long-term foster care (e.g. the Netherlands, Belgium and France), some other European countries (e.g. England and Wales, Northern-Ireland and Norway) view adoption without required parental consent as the most suitable permanent alternative care option. Hence, a division exists between countries that prioritise the "blood bond" between the child and its biological parents, and countries that emphasise the importance of the socio-affective bonds between a child and non-relatives who assume the parenting role.
This presentation consists of two parts. First, it delineates the human rights framework regarding the right to family life and the right to protection of the child in the context of permanent alternative care options. After a short outline of the balance between the interests of the relevant parties, it will be seen that the European Court of Human Rights aligns more with the first group of countries. The second part of the presentation examines the different approaches towards permanent alternative care taken by the Netherlands, Belgium (with a focus on Flanders) and England and Wales.

Prof Columba del Carpio Rodríguez Universidad Nacional de San Agustín de Arequipa

The Family After Mandatory Social Distancing due to the pandemic: Challenges for Family Law

Plenary 1. Law's Families and Family Law

The harsh reality faced by all humanity in 2020 and lived with mandatory social isolation for health reasons, precisely in the family nucleus, resulted in the ostensible increase in intrafamily violence.
Human beings had to face the terrible scourge of Covid 19, retreating to the stronghold of their families to safeguard their integrity; However, paradoxically, it was precisely in this environment where in many cases the members of the family group, mainly the most vulnerable, were victims of physical, psychological and sexual violence, exacerbated by confinement.
After this first experience of social isolation, since the health situation is still uncertain, it is worth asking: How have these new and serious experiences impacted the family institution? What is the reality of the family after this prolonged and forced confinement, such as the one lived in Peru?
In the aforementioned social scenario, the present work aims to achieve an approach to the current family reality and the consequent new challenges of Family Law, which most likely place us in front of the need to rethink this Law. For this purpose, the reflective analytical method will be used, of an exploratory nature and of a transactional nature.

Prof Mário Luiz Delgado University of São Paulo

Contrasts between common law marriage and "qualified dating" according to Brazilian courts of justice

What is a Partner 2: De Facto Unions

A "common law marriage" is the family unit set on continuous and lasting public living, with the purpose of creating a family. (Article 1723 of the Brazilian Civil Code)

It is not any relationship, even being public, continuous and lasting, that acquires the state of common law marriage. The publicity required by law resembles to public treatment. The couple treat each other, socially, as wife and husband, showing themselves as if they were married. Continuity and sustainability also don´t define the common law marriage, once these are features of various types of loving relationships, such as courtship or engagement.

What particularly creates the common law marriage is the addition of the element "purpose of creating a family", that means they effectively forms a family. The members of the common law marriage between themselves are part of a new family.

In other sight, the "qualified dating" is an affective relationship not recognized as a family . The purpose of creating a family is not present within the relationship formed by the couple, reducing itself to leisure motives, without a greater commitment. Usually they maintain separate domiciles at the same time in which, to easily enjoy leisure times, and live near to each other, make usage of seasonal properties, in the country or the beach, where they stay at weekends and holidays.
"Qualified" is used just to distinguish it from a common dating relationship, usually occurring with youngsters, a species of relationship in which the living is less intense, and, for that, more easily distinguishable from the common law marriage.

A "qualified dating" does not resemble any legal consequences. It does not form a family; it is not a family unit, and for that, don´t submit itself to the regulation of Family Law and Succession Law.

Dr Razaana Denson and Dr Glynis van der Walt Nelson Mandela University

Locus standi in iudicio - the right of a parent to claim maintenance on behalf of an adult dependent child

Protection and Autonomy of Adults 3: Selected Topics

Parenthood automatically gives rise to the legal obligation of maintenance towards a child. This is evidenced by section 18 of the Children's Act 38 of 2005 as well as by the common law duty of support. This duty of support arises at the birth of the child and in the case of the common law, this duty of support subsists until the child is financially independent. This means that the biological children may have a claim for maintenance against their parents even when they are well over the age of majority. The problem facing the initiation of such a claim is found in the practical execution of the claim.
Where there are financially dependent major children born to parents whose relationship has broken down irretrievably and a divorce has been initiated, the question arises as to whether the one parent of the children concerned has the legally required locus standi in judicio to claim

maintenance from the other parent on behalf of their adult dependent child. In some instances, the high court has held that a parent does in fact have the requisite locus standi to do so, whilst other judgements have concluded to the contrary.
In circumstances where a child, who is no longer a minor but who is financially dependent of his/her parents for maintenance, does not wish, for whatever reason, to initiate maintenance proceedings against his/her parent for maintenance, the question arises as to whether the mother of such child has the necessary locus standi in iudicio to initiate proceedings against the father of such child? The reason that courts have reached opposing decisions in this regard is in the fact that the child concerned has, by reason of being a major, his/her own locus standi in iudicio to initiate such proceedings. Does this mean that where such financially dependent child has the necessary capacity, the parent no longer has the legal capacity to initiate proceedings in his/her behalf?
The legal uncertainty surrounding this matter warrants a discussion of the recent judgment in Z v Z, where the Supreme Court of Appeal ruled that a parent can claim maintenance for adult dependent children from the divorced partner.

Cato Deprez KU Leuven

Right to access of minors to adequate mental health care

Minors and Medical Decision-Making

Even though European states have a good health care reputation, research showed insufficient awareness for mental health care. Especially minors are vulnerable for mental health issues and need prompt and adequate treatment. However, they are confronted with extensive waiting lists. Several international and regional legal instruments impose positive obligations on states to safeguard access to (mental) health care.
I will focus on what this positive obligation implies for minors with mental health issues. Firstly, I will analyse the structure and financing of Belgian mental health care to uncover problems minors with mental health issues and healthcare professionals encounter. Secondly, I will study ECtHR case law to detect general principles concerning access to mental health care. The Court has already ruled in favour of certain vulnerable patient groups, like prisoners, who were denied access to mental health care. I will compare these groups with the group of minors with mental health problems. Thirdly, I will examine if other international instruments (e.g. UN Convention on the Rights of the Child) impose obligations that go beyond these ECtHR principles. Lastly, I will analyse if Flemish legislation and policy correctly implemented these principles and perhaps go further than the ECtHR.

Prof Nina Dethloff University of Bonn

Love and beyond love - What legal recognition and protection do adult relations need?

General Evolutions 3: Selected Topics

Forms of living and family are becoming ever more diverse. Close relationships in which people take responsibility for one another are thus increasingly found beyond marriage and the traditional family. Not only are couples, be it different or same-sex, cohabitating, with or without children. In a variety of constellations, such as with step families, families formed by ART, queer or polyamorous families, multiple partners and parents are taking care of each other as well as of children of the family. Also more and more caring relations between two or more adults exist, be it single parents, seniors who have opted for a living community or younger adults forming families of choice. While in some jurisdictions, in particular with the introduction of registered partnerships for same-sex couples, new forms of partnership not limited to same-sex couples were created, more comprehensive regimes for the protection of adult relationships are rare. The German government has announced to introduce a new institute of community of responsibility which should neither be limited to love relations not in number to two partners. In view of this plan the question is: What are the relations that the law protects - and what should it protect?

Prof Cristina Dias School of Law - University of Minho

Some recent changes in the Medically Assisted Reproduction Law in Portugal: post-mortem insemination and Succession Law effects

What is a Parent 2: Assisted Reproduction - General

In Portugal, the Medically Assisted Reproduction Law (MARL - Law no. 32/2006, July 26th) has undergone successive changes in recent times, from the widening of the range of beneficiaries of medically assisted reproduction (MAR) techniques, the admissibility of surrogacy in certain cases, to the possibility of using post-mortem MAR techniques.
Since it is impossible to analyse all the issues that require a legal response from the legislator to several questions, many of them controversial and with ethical implications, we propose to analyse some succession problems that arise due to the use of MAR techniques. The central issue to be addressed will be limited to the solution recently found by the legislator, in Articles 22 ff of MARL, regarding post-mortem insemination.

Law no. 72/202, November 12th, amending the MARL, allowed the use of MAR techniques through insemination with semen after the donor's death, in cases of expressly consented parental projects. Hence, now it should be considered in terms of succession those who are born, those who are conceived and also the ones to be conceived, under the terms of the law, in the context of a post-mortem insemination procedure. It is therefore possible for persons conceived by post-mortem insemination also to be called to the succession. Evidently, the calling of these conceived or to be conceived persons will be subject to the provisions of the MARL, especially in Articles 22, 22-A and 23, which we will analyse. The solutions now found by the legislator in the field of MARL are a way to solve the possible problems arising from the use of post-mortem MAR techniques. The legislative change is recent and only time will allow us to assess the effectiveness of such solutions.

Prof Alison Diduck UCL Faculty of Laws, London

Law's Families, twenty years later

Plenary 1. Law's Families and Family Law

Bregje Dijksterhuis Faculty of Law, Universiteit van Amsterdam

Academic research on the financial position of partners after a divorce

Money & Property: Upon Separation 2

This abstract is about the difference between the financial situation of partners before and after divorce and the way they are (still) treated as family looking at the distribution of income. More specific this will be about the decline in finances of (one of the) partners, mostly women, after a divorce. I will go into academic research on this topic within family sociology, socio-legal and gender studies and legal science. With the Netherlands as starting point, I delve into what is written by academics in the last 10/15 years about this subject - partners and their financial situation after divorce - in other countries, such as Australia, Switzerland, France, Great-Britain, Belgium.

The question is whether this research field has received enough attention within the academic world or if certain aspects have been insufficiently highlighted. Thus to what extend do approaches in the existing research output contribute to a good picture and a solution for this target audience. An important topic is whether the decline in the financial position of this specific group is (still) considered as a social problem and an academic topic of interest. I will go into how a more complete picture could be drawn by scientists of this complex matter, possibly in a broader international context. To what extend there is a specific discipline in which these matters are addressed or is it more fragmented thus spread over different disciplines; Furthermore I will describe which concepts and theories are used and helpful and if the relation is established with financial relational law (thus matrimonial property law and maintenance). Also separation of unmarried partners and their financial position will be addressed. Of course information from earlier related ISFL conferences (for example on family finances in 2008) will be taken into account.

Prof Amalia Diurni University of Rome Tor Vergata

Identity values in conflict between adults of today and adults of tomorrow

Children's Rights 1

The UNCRC recognizes the right of children to have a name, to know who their parents are, to have their identity preserved and to have their own views expressed and heard. Moreover, in order to supervise proper application of these rights, the vague concept of the child's best interest was developed. Notwithstanding the widely acceptance in domestic laws of the UNCRC, the child's best interest argument is often instrumentalized to legitimize conflicting political and cultural positions. I assume this is the result of an adultocentric approach to family law. The legal process of child naming and medically-assisted procreation are shining examples of this distortion: the welfare of the children born or to be born does only apparently seem to have a predominant role. The law in western countries falls short of protecting the full spectrum of human dignity; it protects the dignity of existing beings, the adults. In theory the action of public authorities is to satisfy human needs; in practice what is being satisfied are individual wishes whose only limits are set by their feasibility. My aim is to contribute to the search for remedies to the adultocentrism in contemporary family law from an international and comparative perspective.

Prof Wesahl Domingo University of Johannesburg

Mandatory Family Law Mediation in South Africa: The Bumpy Road to an Integrated Approach to the Resolution of Disputes in Divorce Matters

Conflict Handling

The South African Law Reform Commission is presently involved in the development of an integrated approach to the resolution of all family

matters using alternate dispute resolutions. In the past, there has always been an assumption that the courts were best suited to decide on divorce matters, custodial rights and access to children. However, this assumption has come to be questioned in recent years. The limitations associated with adversarial litigation have become acknowledged, while mediation as an effective dispute resolution mechanism is becoming a preferred procedure. The South African Law Reform Commission is recommending mandatory mediation in all family dispute matters. This paper critically examines whether mandatory mediation limits a person's right to directly access a court, limits a person's right to voluntary participation in mediation and limits a person's right to negotiate on equal power balances in matters of divorce, custody and access. Women and children are often the most vulnerable parties in family disputes. The paper critically explores these questions through the prism of an ethics of care jurisprudence and gender intersectionality, considering the lived experiences and realities of women and children in divorce matters.

Prof Jennifer Drobac Indiana University

Family Law or Legalized Human Life Support Conscription

Unborn Human Life 2: Abortion and Reproductive Rights

This presentation considers how Dobbs v. Jackson Women's Health Org. ignores the bodily autonomy of women in the context of families. With analogies to medical "life support" and military conscription, this presentation suggestions that forced pregnancy should be acknowledged as work, as service to nations, and as conscripted life support. The presentation briefly considers the history of abortion and pregnancy. It also analyzes forced pregnancy in the context of the U.S. Constitution's Thirteenth Amendment and the European Convention of Human Rights Article 4, which both prohibit involuntary/compulsory servitude. The talk concludes that family law has segregated the labor and bodily autonomy of women to disadvantage women. A full conceptual incorporation of pregnancy as labor (literally and figuratively) acknowledges the historical sacrifice of women in families and encourages state recognition of the services provided not just during pregnancy, but during all aspects of familial caregiving by men and women.

Prof Konrad Duden Universität Leipzig

Families in Europe: changing Concepts and Overcoming Divergences

Families in Europe

What constitutes a family in Europe? The answer to this question is constantly changing and increasingly varied. Strong disagreements exist within Europe. States do not move at the same pace or even in the same direction. These differences can have grave consequences for multi-national families and families that move across borders. Private international and procedural law are called upon to mitigate these issues. They are themselves, however, fragmented and often not entirely equipped to protect families cross-border. And while harmonization of substantive family law might seem like a desirable solution in certain areas, such efforts are even less politically feasible than the more timid steps to unify private international and procedural law within Europe. At the ISFL World Conference we want to present a joint project of close to 20 younger academics from all over Europe, which tries to bring a new perspective to these changes in family life and family law across Europe as well as their international consequences. Konrad Duden (University of Leipzig) and Denise Wiedemann (Max-Planck-Institute Hamburg) will provide a general framework of the issues addressed above. Additionally, three panellists will go into more depth in relation to particular areas.

Maxime Dupan Ghent University

Recent Belgian legislation on personal relations between siblings

What is a Family: Siblings

Belgium adopted the Act of 20 May 2021 (hereafter: the Sibling Act), giving brothers and sisters the right to not be separated from each other, as well as the principal right to personal contact, unless this is not in the best interest of the child(ren).

The right to not be separated from each other protects siblings after divorce or parental separation, in case of a placement order in the context of youth protection and even in the case of guardianship. The principal right to personal contact applies (in principal) to all siblings. The focus of the Sibling Act goes beyond the concept of siblings in the nuclear family, which includes (legal) full and half siblings (and fully adopted siblings). The act applies to (some) children in complex families as well. Children raised in the same family, who have developed a special bond of affection towards each other, are assimilated with siblings. The sibling status generating specific (protective) rights sets the example for a closer look on this family relationship, which has not (yet) been awarded the legal attention it deserves.

Prof James Dwyer William & Mary School of Law

Immigration as an Aspect of a Positive Right to Family Life

Famigration 1: General

International human rights law recognizes a right of migration that is principally negative—that is, one of non-interference when individuals have practical ability to relocate to another country. It is a right to leave more so than a right to be welcomed and assisted in immigrating, the latter being viewed (debatably) as a positive right with less moral purchase than negative rights. Ability to enter another country can be instrumental, though, to fulfillment of many positive rights that are more well-established—for example, those set forth in the ICESCR (work, social security, adequate standard of living, health, education, etc.). A significant theoretical literature debates the viability of such an instrumental argument for a right of immigration tied to those sorts of rights, whose fulfillment depends largely on national wealth. I will explore whether an instrumental argument for a right to immigrate might be tied instead to a positive right to family life in the sense of entitlement to assistance in forming new family relationships one is lacking (as opposed to avoiding separation or achieving reunification) (see, e.g., ICESCR Art. 10, Par. 1—"widest possible... assistance... to the family... particularly for its establishment..."), which is less clearly tied to wealth. And if so, whether particular types of family relationships, positions within relationships, or predicaments in the absence of the desired relationship serve as stronger predicates for such a right than others.

Prof John Eekelaar FBA, Oxford Centre for Family Law and Policy, University of Oxford

The Place of the Family in Family Law

Plenary 2. Golden Jubilee

Prof Linda D. Elrod Washburn University School of Law, Topeka, Kansas

Making Policy for Today's Families: Children as the Focal Point

General Evolutions 1: Past and Future of Family Law A

In the United States, the underlying policies and laws regulating families have not kept pace with changes in family forms and functions. Laws and policy rooted in the presumption of the married man and woman with their biological or adopted children that existed in the 1950s need rethinking. My 1999 article "Epilogue: Of Families, Federalization, and a Quest for Policy in the Family Law Quarterly explored conflicts between the realities of families and the policy underlying the laws. The tensions I noted between the needs of children and families and the rights of the individual have expanded exponentially in the past 22 years. Dramatic social and cultural changes have occurred. Same-sex couples can now marry, but fewer people overall are choosing to marry; more people are cohabiting; and more children are being reared in single parent households. This presentation will delineate some of the factors negatively impacting children and argue that national and state policies need to focus on the needs of children and include their voices.

Prof Ann Laquer Estin University of Iowa

Parents, Children, and Conflict of Laws

General Evolutions 2: Parents and Children

Changes in family behavior and family law have created new challenges for private international law. Families of all kinds are formed and dissolved across state and international borders. Marriage and legitimacy have come to play a smaller role in defining parent-child relationships, as legal recognition has grown for unmarried and de facto parents. New reproductive technologies allow more individuals and couples to have children, with or without a genetic tie. Children's rights and interests have become a more important consideration. Different legal systems regulate parents and parentage differently, and these differences produce new questions of jurisdiction, choice of law, and citizenship. This paper considers how these emerging conflict of laws questions have been addressed in the United States and in private international law more generally.

Dr Elena Falletti Università Carlo Cattaneo-LIUC, Italy

Preventing gender and family violence through Artificial Intelligence: a multidisciplinary perspective

Digital Family Law 1: General

VioGén (Sistema de Seguimiento Integral en los casos de Violencia de Género) is a Spanish risk assessment software regulated by "Ley Orgánica 1/2004 de Medidas de Protección Integral contra la Violencia de Género", and it applies to manage any reported gender-based violence situations, especially regarding intimate partners violence or violence against minors. It is designed to estimate the risk of occurrence of further violence after a previous complaint (police recidivism), taking into account risk and protective indicators that it can observe, despite its final users are not behavioural assessment experts.

This proposal aims to analyse the relevant profiles using a risk assessment software like VioGén involved in human rights protection under both the Charter of Fundamental Rights of the European Union and the European Convention of Human Rights, focusing the balance on the protection of dignity, rights to life, to physical and mental integrity, protection of private and family life, non-discrimination and fair trial, for vulnerable subjects and on the other hand the protection of due process, presumption of innocence and non-discrimination for prospective defendants.

Karine Maria Famer Rocha Boselli Civil Register Officer in Brazi; University of São Paulo

Assisted Reproduction and reproductive tourism

PIL 3: Cross-Border Parenthood

The human society has undergone, over the past two centuries, numerous social and scientific changes that directly impacted the Family Law, notably regarding the recognition of new bonds of filiation. In Brazil, the Federal Constitution of 1988, in its article 227, paragraph 6, established legal equality among children, regardless of their origin (biological; adoption; assisted reproduction techniques, etc.). In its following paragraph, § 7, it established the right to family planning, considered a fundamental guarantee whose reflexes refer either to the decision of not having descendants, but to the possibility of having them through assisted reproduction techniques. Despite the existence of this right, considering the internal regulation of each State, many heterosexual or homosexual couples use this reproductive means outside their own country, in a movement called "reproductive tourism". Thus, the objective of the present work is to analyze the following questions on the subject: a) validity and the recognition of filiation originating from such techniques, notably in the face of the legislative vacuum existing in many States, including Brazil; b) the right to register these children as children of those who used such techniques undertaken in different States, analyzing such issues in the face of DIP rules and local laws; iii) the right to acquire ius sanguinis and ius soli nationality, mitigating statelessness; iv) the filters of Public Order and others indicated for purposes of applying foreign law. Finally, it is also understand importante to discuss some solutions of Comparative Law and the validity of filiation bonds established by Brazilian regulations, such as the bond of socio-affectivity (National Council of Justice's Provision n.63/2017) and procedures performed with the Civil Registrar of Natural Persons and its validity before other countries.

Dr Charissa Fawole University of Johannesburg

A Children's Rights Approach to Family Reunification in the Context of Internal Displacement in Africa

Famigration 2: Children

Internal displacement poses risks to physical safety, basic needs and human rights; however, children experience child-specific or child-intensified risks such as harmful practices, forced recruitment, sexual exploitation, and family separation. Family separation during flight leaves children without the care and protection of their families. The legal regime that governs internal displacement recognises children separated from their families as one of the groups of internally displaced persons (IDPs), which require special protection and include provisions that support reunification. On its face, family reunification, appears to be a positive endeavour, as growing up in a family environment is beneficial to the life and development of children. Unfortunately, risks encountered by internally displaced children may come from family members. Risks originating within the family are referred to as negative coping mechanisms. This reality creates a tension between the benefits of family reunification and right of children to be protected from such risks. The presentation will discuss the utility of using a children's rights approach to family reunification in the context of internal displacement as a means to resolve this tension. The scope of the presentation will be limited to Africa due to the breadth of applicable legal standards in this region.

Prof Isabella Ferrari University of Modena and Reggio Emilia

Stop talking about parental alienation! A pseudoscientific theory that should be banned from family courts for the safety of children

High-Conflict Family Disputes 2: Parental Alienation

The UNHR Council recently decreed: 'Abuse of the term "Parental Alienation" and of similar concepts and terms invoked to deny child custody to the mother and grant it to a father accused of domestic violence in a manner that totally disregards the possible risks for the child must be discouraged. Accusations of parental alienation by abusive fathers against mothers must be considered as a continuation of power and control by state agencies and actors, including those deciding on child custody'.
This paper intends to shed light on the strategies habitually employed by abusive parents, who are wont to distort the narrative by resorting to a typical methodology: denying, attacking, and reversing victim and perpetrator in order to confuse those who must judge them and avoid being blamed or even condemned for their past abusive behaviors. The fallacious appeal to the pseudoscientific theory of parental alienation by the abusive parent to counter-accuse the safe parent must cease once and for all.

The family court system must be based on the faithful and fair reconstruction of reality in terms of truth and transparency, so as to protect children from erroneous prejudice against the secure parent.

References to this nonexistent syndrome with no scientific basis can have a negative and devastating effect on children's lives and should therefore be banned. Family courts are beginning to move in this direction, but considerable effort is still needed.

Prof Sandra Ferreira University of South Africa

Adoption in South Africa: is there a disconnect between law and society?

Youth Law 2

The Constitution of the Republic of South Africa, 1996, grants every child the right "to family care or parental care, or to appropriate alternative care when removed from the family environment". Furthermore, the Children's Act re-affirms that a child, for the full and harmonious development of his or her personality, should grow up in a family environment in an atmosphere of happiness, love and understanding. The best interests of a child thus demand that a child needs to grow up as part of a family.

There are millions of vulnerable children in need of permanent alternative care in South Africa. Adoption affords these children the benefits of family life which might not otherwise be available to them. It provides stability, allows them to form strong emotional ties, and to grow into well-adjusted adults. Despite this, statistics confirm that adoptions in South Africa are declining. I believe that this can be attributed to a disconnect between adoption legislation and the family environment that an adopted child needs – the law does not necessarily reflect the best interests of the adopted child. In this presentation, I shall recommend that the adoptive family as we know it might no longer be relevant, that what is needed is a complete mind shift, and that it is time to reconsider adoption legislation. I shall then make suggestions in this regard.

Prof Piotr Fiedorczyk and Mr Bartosz Kamil Truszkowski University of Bialystok

Parental power versus parental responsibility: Polish and Central and Eastern European case in historical perspective

Changing Perspectives in National Family Law 2: Central and Eastern Europe

Until the early 19th century, the selection of educational measures by parents in relation to the children under their care was not usually legally restricted. A change in this issue can be observed with the emergence of family law regulations in European civil law codifications. In the case of the Polish territories that had been under Russian, Prussian and Austrian rule since 1795, the laws enacted on this issue were not of a native, Polish character, but were imposed by the three ruling states. Each of these laws, which were in force in the 19th century, explicitly referred to the parental power. Due to the political distribution of power at the time, a similar legal situation existed in other regions of Central and Eastern Europe, which today constitute the territory of Lithuania, Latvia, Estonia, Belarus, Ukraine and Czechia. The exception to this was the Kingdom of Hungary (including Slovakia), which enjoyed wide legal autonomy under the Austrian Empire and later the Austro-Hungarian Monarchy.
The situation changed after the First World War, when newly established or reborn independent states adapted existing laws to their needs or enacted their own, and after the Second World War, when the whole of Central and Eastern Europe found itself in the Communist Eastern Bloc. In that time we can observe an increasing interference in the autonomy of parents, when, for example, in Polish provisions disciplining disappeared from the catalogue of explicitly mentioned educational measures. Attention should also be paid to international law, especially the Convention

on the Rights of the Child, and its implementation into the legal order of former socialist states. The authors will attempt to review and briefly summarize the regulations on parental authority in the basic legal acts in force in Poland and other Central and Eastern European states throughout history.

Dr Alexander Flos Vrije Universiteit Amsterdam

The role of good faith in the relationship of unmarried cohabitants

What is a Partner 2: De Facto Unions

In Dutch law there are no specific legal provisions regulating property relations of unmarried cohabitants. The legislator is reluctant to enact legislation and thereby limit the autonomy of unmarried cohabitants. Given the lack of legislation, the judiciary is faced with a growing problem to provide adequate adjudication when unmarried cohabitants separate.

One of the attempts to provide a sound legal basis for regulating property relations of unmarried cohabitants after divorce is a recent ruling of the Dutch supreme court in 2019. In this decision the court decided that the legal provisions of spouses cannot be applied to unmarried cohabitants by analogy. Yet, the court also decided that the relationship of unmarried cohabitants is governed by good faith. In the absence of legal provisions good faith can hence provide a basis for legal development.

In the presentation I will focus on the role of good faith for regulating property relations of unmarried cohabitants. Firstly, I will discuss how this principle affects the right to the compensation upon separation for any monetary shifts that occurred during the relationship. Secondly, I will focus on how this principle affects the possibilities for compensation upon separation of unpaid labour during the relationship.

Prof Pietro Franzina Catholic University Sacre Cuore, Milan

Beyond the family: Cross-border protection of Adults in light of the recent European Commission Proposals

Protection and Autonomy of Adults 2: Cross-Border Aspects

On 31 May 2023 the European Commission published two proposals on the protection of Adults. The first one is to authorise Member States to become or remain parties, in the interest of the European Union, to the Hague Convention of 13 January 2000 on the International Protection of Adults. The second is a legislative proposal to supplement the Convention's rules, for instance on jurisdiction and the cross-border recognition of measures of protection. This panel will discuss the European Commission's proposals in their broader context of the Hague Convention and of the UN Convention on the Rights of Persons with Disabilities (CRPD).

It will address the following questions:

- What is the framework that the UN Convention on the Rights of Persons has established?
- What is the approach that the European Commission takes in these proposals? What is the legal basis of the proposals?
- What does the European Commission propose in terms of allowing Adults to choose the court that would have jurisdiction over measures of protection for them?
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- How would the European Commission's proposal interact with the Hague Convention of 2000?
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Associated Prof Katrine K Fredwall Institute of Private, Faculty of Law, University of Oslo

Taken by surprise: Sharing lives, but leaving empty handed?

Money & Property: Upon Separation 1

In this presentation the tension between how spouses organize their economy in their daily lives, how they consume, invest and negotiating responsibilities, will be described based on my 2016 empirical survey on 3000 Norwegian adults. This empirical work shed light on the spouses´ economical behavior in marriage, their knowledge of law and their potential surprise when the legal rules finally come to knowledge.

A key finding based on this empirical material is that also modern spouses tend to have an extreme degree of shared economy during marriage. They behave as one consumer-unit and assume that they will become owners of what they accumulate during marriage.

These findings will be assessed both in the light of the spouses (empirical examined) expectations to marriage and their arguments for marrying, but also in the light of challenging times in Europe which might be a reason to obligate spouses to divide to a greater extent than before.

Associated Prof Katrine K Fredwall Institute of Private, Faculty of Law, University of Oslo

How to secure legal capacity and the adult's "will and preferences" in state-ordered measures. Article 12 CRPD discussed in the light of Norway's updated 2023 legislation.

Protection and Autonomy of Adults 4: the work of FL-EUR

Prof Robin Fretwell Wilson University of Illinois College of Law

Respect for Marriage Act? (A Rare Bi-Partisan Moment)

Plenary 3. Functions and Methods

Robin Fretwell Wilson is the Director of the Institute of Government and Public Affairs (IGPA) for the University of Illinois System, of which the University of Illinois Urbana-Champaign is a part, as well as the Mildred Van Voorhis Jones Chair in Law at the University of Illinois College of Law. The author of twenty books, Prof Wilson has ranked among the Top Ten Family Law Scholars in the United States for scholarly impact in each ranking done by the Leiter Report since 2010. She co-directs the College of Law's Epstein Health Law & Policy Program and founded its Family Law & Policy Program. Prof Wilson is the author, architect of or aide to lawmakers for dozens of laws enacted across the United States, including laws protecting children, the autonomy of patients, and promoting human rights for all. A member of the American Law Institute, Prof Wilson has been honored seven times for her work with lawmakers on innovative laws that address thorny questions, such as how to mesh LGBT rights with protections for religious belief and practice. Her work on the "Respect for Marriage" Act was cited by U.S. Senators in the Congressional Record and she was invited to the White House Bill signing ceremony. She may be reached at wils@illinois.edu.

Prof Robin Fretwell Wilson University of Illinois
Prof June Carbone University of Minnesota
Prof Federica Giardini University of Padua
Senator Hazel Thompson-Ahye H.B.M. Trinidad and Tobago
Prof Ruth Halperin-Kaddari Bar-Ilan University
Baroness Ruth Deech Oxford University

Translating Scholarship into Law & Policy

Plenary 3. Functions and Methods

The impact of our scholarship has never been more important—in the EU and elsewhere, it is driving funding to institution.
Scholars invest enormous time on issues of great importance to society but sometimes struggle with how to have their work given practical effect. Models exist for translating one's work into policy and felt change in the world.
This panel will offer concrete examples of what scholars need to do to connect themselves to lawmakers and to national and international public policy bodies. The panel will involve short presentations by two sitting legislators who have also been academics, as well as by scholars working at the country level and internationally on issues ranging from same-sex marriage, respect for patients in clinical settings, and parental alienation. All have significant experience translating academic research into the policy realm. The panelists will share their strategies for turning academic endeavors into constructive guidance (laws and regulations) for society at large. this will be followed by Q&A.

Prof Robin Fretwell Wilson University of Illinois

Abortion and the Demise of Roe v. Wade: Impact on Family Life and Healthcare Decisions

Unborn Human Life 2: Abortion and Reproductive Rights

This talk will examine the regulation of abortion access after the U.S. Supreme Court's recent decision in Dobbs, overruling Roe v. Wade. The holding in Dobbs gave individual states the right to set their own policies regarding abortion. More than half of US states allow abortions under

most circumstances. Slightly fewer, 21 states, only allow abortions in a variety of circumstances: before a fetal heartbeat is present; or when the life or health of the mother is threatened; or in the case of rape or incest. A handful of states have exceptions for fetal abnormalities. Some conservative states have sought to extend the reach of their public policy beyond their own borders, through aiding and abetting provisions. A few encourage citizens to report abortions procured or carried out in violation of state laws. These laws, in force already or pending, create many unanswered questions, which will be the subject of this talk.

Richard Frimston Russel Cooke

Beyond the family: Cross-border protection of Adults in light of the recent European Commission Proposals

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Prof Hugues Fulchiron Jean Moulin Lyon 3 University, Family Law Department

How to think a Plural Family Law?

General Evolutions 1: Past and Future of Family Law A

Whereas Occidental societies are used to a plurality of conceptions of family life, the reference model is still binary: whether it is comes to conjugality (a couple) or to parenthood (two parents), or even to parentality (the way in which parents care for their children, parental authority). It is very rare to find countries that have created marriages open to more than two persons. Homoparentality has fitted into the traditional mould: two parents and a child.

This form of normality is everything but evident. However, it is deeply anchored in our social representations as well as in the juridical constructions they are translated into. In France, this attachment to a binary model manifests itself, for instance, by de difficulty to allow for a legal recognition to those who conceive a multi - parenting project (a couple of women that ask a friend to donate to conceive a child, a couple of men who make an agreement with a woman or a couple of women to carry a pregnancy). Also, for those who would want to take part in parenting project (the donor of gametes, the surrogate mother). It is also difficult to make place to those that would wish to take part in the education of the child, without being listed as its parents.

Now that some juridical systems are opening to a multiple parenthood and parental authority, this proposal aims at studying the emergence of this « plural » family, which, beyond a plurality of family forms would be opening to plurality of family ties: a family law that would abandon the old family tree to move towards a family net of tomorrow.

Associate Prof Lilla Garayova PhD, Vice-Dean of the Faculty of Law, Pan-European University, Slovakia

Parental Responsibility and its Place in the Legal Systems of the Counties of Central and Eastern Europe

Changing Perspectives in National Family Law 2: Central and Eastern Europe

Parental responsibility is one of the key questions of family law – what to call it and how to approach it? Looking at various countries of the world, we can see that there is no clear consensus. Ultimately, regardless of the label attached - may it be parental care, parental authority, parental responsibility, parental rights and obligations – the driving principle has to be the best interest of the child. Is it possible or even feasible to come to a terminological and systematic unity across different national legislations? Does it even matter how do we refer to this concept, as long as the contents are up to par?

Hila Geffen-Spitz Bar-Ilan University

The Hidden Network of Non-Marriage: Across the Social Space of Civil Society

What is a Partner 2: De Facto Unions

Due to the monopoly held by the religious courts, some couples in Israel are denied the right to get married, while others choose to avoid marriage on ideological grounds. This reality has led the Israeli regulator and courts to extensively recognize the rights of common-law couples.

However, this recognition still requires encountering endless bureaucratic procedures, accompanied by great uncertainty and an invasion of privacy. Moreover, the wide recognition of common-law couples is mainly focused on the financial aspects of the recognition as opposed to its declarative aspects.

Therefore, NGOs and municipal authorities began issuing unofficial certificates which were used by couples as evidence of their relationship and as a declaration of a committed relationship.

This study exposes hidden practices, which enable the gradual "trickling" of power regarding the regulation of the common-law spouse institution down into the hands of local and private actors. This article provides a theoretical framework for the two main processes of decentralization and privatization that are emerging in the arena of the exercise of rights. The article uses the Spatial Model, placing the two processes as a part of a complex network of the regulator, couples, NGOs, and municipalities, operating simultaneously in the arena.

Dr Alberto Gentil de Almeida Pedroso Tribunal de Justiça do Estado de São Paulo - TJSP
Karine Maria Famer Rocha Boselli Associação Nacional dos Registradores de Pessoas Naturais

Polyamory and the legal nature under Family Law

What is a Partner 4: Polyamory

Traditionally marriage was the only legitimate form of family arrangement in Western countries.

Undoubtedly many normative advances have been consolidated in the last decades around the world.
In Brazil, the 1988 Federal Constitution expanded the possibilities of affective arrangements classified as family (stable union, single-parent nucleus, besides marriage), consecrating an open paradigmatic structure, founded on the principle of affectivity - which provided significant infra-constitutional, doctrinal, and jurisprudential advances: anapparent, mosaic, or reconstituted family.
However, among the various categories of family, one kind of affective relationship still challenges the legal universe as to its exact classification - polyamory.

The theory of polyamory, developed from modern psychology, began to gain prominence regarding the triangular relationship with the coexistence of two or more parallel affective relationships between individuals who recognize themselves as a loving nucleus (Varsi Rospigliosi, 2011, p. 81).

The triangular relationship classified as polyamory does not have exact accommodation in the legal system of many countries, as well as in Brazil. However, there are numerous relevant and palpitating reflections on the right to combine surnames, parentage, inheritance rights, food, property rights and the model of property sharing.

In a recent decision, the 3rd Panel of the Superior Court of Justice reiterated its position on the impossibility of recognizing a stable union simultaneous to marriage, due to the consecration of monogamy by the Brazilian legal system
For the Superior Court, the polyfetive relationship is equivalent to a de facto partnership, for property purposes, admitting the sharing of assets, if proven the common effort (Precedent 380 of the STF).

The uncertainties about rights and obligations arising from polyamory are numerous, with no doubt a lack of legal studies and judgments, but it is a rigorous measure to reflect on the new model of affection.

Prof Federica Giardini University of Padua

The Evolution of the Concept of the Family in the Legal Sense in the Contemporary Legal Systems: Family Law, Family Models and Children's Rights

General Evolutions 1: Past and Future of Family Law A

The evolution of modern society and the change in individual and collective habits and needs require a reflection on the policy rules underlying the discipline that national legislators reserve for the family, as the essential nucleus of society.
The concept of 'family' in a legal sense - that is what a legal system considers to be or not to be a family – has always been one of the factors distinguishing and characterising legal systems. The way in which the family has considered the essential nucleus that affords protection to the individual as a social being is in effect closely and historically bound to the different individual characters of single Peoples. It is because of this awareness of the historical bond existing between the identity of a people and the family nucleus where it finds expression, that the European Union has not included, for example among its institutional aims, the objective of harmonising family law. Despite these premises, we are today witnessing (perhaps more than in the past) forms of evolution in legal systems involving the institution of the family, considering this unit as an elemental legal entity.
When talking about the new family models, it is common to highlight only the dynamics pertaining to the so-called 'common-law family' or registered partnerships, or civil unions, rather than matrimony, thus giving attention to the different forms of legal protection that are granted and may be granted to couples living together or to spouses. This means failing to take into account in our examination an element that in my opinion enters fully within the dynamics of family model formation: that of issue, not only in the form of children from a biological relationship, but also in the form of adopted issue.
There is a reason governing this traditional widespread approach. It rests on the fact that legal systems have for some time taken the approach that it is the union of two adult persons formulated according to models from time to time recognised by law that gives origin to a new family entity. It is not necessary, then, that there should be procreation and therefore issue, to have a family. While this is true and may be agreed with, a different and equally significant phenomenon must not be overlooked: that it is possible to have a family also by issue alone.
In this "new" perspective we could find at the same time also an important element of conjunction between Family Law and children's rights.

Prof Michelle Giroux University of Ottawa

The children's right to know one's origins: law reform proposals in Quebec (Canada)

What is a Parent 4: the Right to Know One's Origins A

By considering children's access to their origins, the paper will explore the tension between the conception of family represented in the law and how families actually act in their daily decisions. Recent family law reform proposals in the province of Quebec (Canada) allow more access to information about children's biological ties and implement a right to know one's origins in the Quebec Charter of Rights. Are these new rules taking into consideration the complexity of the modern family (of adopted children and of children conceived with the contribution of a third party (a gamete donor or a surrogate)? From a children's perspective, the topic of parents & children will be discussed and the relationship of children with other adults outside of the direct parent/child relationship (eg gametes donors, surrogate) will be assessed. The legal recognition of a right to know one's origins, without reference to the context of a more general right to identity, as it is articulated in the European Convention (art. 8) and in the UN Convention on the Rights of the Child, (art. 7 et 8), poses the risk of emphasizing unduly on biological connections to create parent/child relationship.

Marie Goemaere Institute for Family Law and Juvenile Law, KU Leuven Child & Youth Institute

The vaccination of minors. Child's play?

Minors and Medical Decision-Making

In December 2021, the European Centre for Disease Prevention and Control announced that the vaccination of children would reduce the rate of infection of COVID-19 and would help contain possible future waves. All EU countries now recommend COVID-19 vaccination of adolescents aged 12-17 years old. Even though all Member States permit and recommend the vaccination of adolescents, their vaccination guidelines for minors may differ because the Member States have different approaches as to the participation of minors in medical interventions affecting them.
Both healthcare professionals in vaccination centres and family judges are confronted with numerous questions regarding the vaccination of minors. Can minors themselves give their consent to be vaccinated? Does a minor need parental consent? Is a minor entitled to confidentiality in the context of COVID-19 vaccination? What if parents disagree about the vaccination of their child and the consent of both parents is needed? The

growing autonomy of adolescents provokes specific questions in the triangular relationship between child, parents and healthcare professionals. The answers to these questions may differ depending on the country.
This presentation examines and compares the legal position of minors and their parents in the context of the COVID-19 pandemic in the Belgian and Dutch legal framework. To this end, we first assess whether the vaccination guidelines are in line with the national regulations regarding medical decision-making in relation to minors. In addition, we take a closer look at the situation where parents disagree about their child's vaccination and take their dispute to court. What elements do judges take into account when assessing such disputes in the best interests of the child?

Prof Sally Goldfarb Rutgers Law School

Closing the Gap Between Family Life and Family Law in the United States Through Legal Recognition of Nontraditional Relationships
General Evolutions 3: Selected Topics

Recent decades have seen dramatic changes in Americans' organization of their family lives. At the same time, laws affecting the family have undergone a significant evolution. Yet despite signs of progress, troubling inequities persist within and between families.

In comparison to many other countries, the U.S. places unusually heavy emphasis on the family, particularly marriage, as a legal and economic unit. The centrality of marriage as a source of material security has exacerbated income and wealth inequality. Marriage is increasingly a marker of socioeconomic class, with marriage rates correlating closely with income and education levels.

Although new forms of legal recognition for adult relationships have emerged, they are often modeled on marriage. As a result, many adult relationships – including multiparty, nonconjugal, and non-cohabiting relationships – are largely invisible to the law. Reforming family law to permit legal recognition of a more diverse range of adult relationships will advance autonomy and extend the advantages of family recognition to many people who now lack them.

Prof Cristina González Beilfuss University of Barcelona

(R) evolution of international filiation
PIL 4: Panel Debate on Cross-Border Filiation

Over the past years the European Commission and the Permanent Bureau of the Hague Conference on Private International Law (HCCH) have been working on cross-border aspects of filiation. Filiation is subject not only to an evolution, but a revolution, due to the growing use of artificial reproduction techniques and the resulting pressure on existing legal frameworks. Policy makers world-wide are aware of a global market of reproduction (e.g. surrogacy) and also of the difficulties families face to have filiation ties recognised trans-nationally. These difficulties are prevalent in but not limited to non-traditional forms of filiation. Drafting international or even EU legislation has proved to be particularly difficulty, not only due to ethical, but also on a legal-technical level. First, filiation is often recorded in public documents and these documents have different consequences across borders. Some States' laws require a reassessment of the law that was applied while others recognise the document unless there are public policy or other serious concerns. Second, public documents are submitted to population or civil registries, who are not always ready to apply complex legal reasonings.
Method: Panel debate with a moderator; participants provide answers and encourages discussion with the audience on:

- What has been done by the HCCH or can be done internationally to regulate cross-border filiation?
- How can we regulate or set standards in the international fertility market (eg. Verona Principles; UN Special Rapporteur and UNICEF)?
- What is the EU doing to regulate cross-border filiation?
- What is the relevance of the principle of free movement within the EU?
- What is the role of contracts for filiation?
- How can we guarantee the child's right to know their origins?
- How can States cooperate to gain evidence on filiation and find information about foreign law?

Prof Cristina González Beilfuss University of Barcelona

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Prof DeLeith Duke Gossett Texas Tech University School of Law

The Deportation of America's Adoptees

Famigration 1: General

Foreign-born children adopted by American citizens are subject to U.S. immigration law. Previous immigration law required that children born abroad and adopted by American parents undergo a separate naturalization process before the children received U.S. citizenship. However, many parents did not complete that process and left their adopted children to reside in the United States as noncitizen immigrants, subject to U.S. Immigration and Customs Enforcement (ICE) action for even minor, nonviolent criminal offenses. Federal immigration law expanded the list of deportable offenses for noncitizens while, at the same time, restrictions were placed on judicial review. This left many adoptees facing deportation to their countries of origin, even though America is the only country they call home. Congress attempted to fix the problem by passing the Child Citizenship Act of 2000, which automatically granted U.S. citizenship to those adopted from abroad by American citizens. However, because of political compromise, the Act extended U.S. citizenship only to those under the age of 18. The Adoptee Citizenship Act was introduced in 2015 to finally grant citizenship to all foreign-born children adopted by U.S. citizen parents, regardless of age, but it stalled amid immigration concerns and polarized politics.

Prof Susanne Lilian Gössl University of Bonn

A Gender-Neutral Parentage Law - Current Discussions in Germany

Gender & the Law 2

In Germany a non-binary gender options exist. Nevertheless, the rules on parentage still refer to the binary distinction of "mother" and "father" and the genders "female" and "male". Drawing from case law regarding paternity in constellations of trans* parenthood, the presentation shows possible practical solutions under the existent legal frame work and takes a look at the current discussion regarding the two reforms of paternity law and gender determination law.

Dr Qingmin Guo Lecturer of Southwest Petroleum University, Post-doctoral Fellow of the University of Oxford

Seventy Years of Marriage and Family Law in China: Achievements, Challenges and Prospects

Plenary 2. Golden Jubilee

The Marriage Law of the People's Republic of China was passed in 1950. It was the first basic law after the founding of the People's Republic of China in 1949 and opened a new chapter in China's marriage and family law. Over the next 70 years, China's marriage and family law has undergone three major revisions in 1980, 2001 and 2020 and has made significant achievements. However, in the new era, China is facing the challenges that the marriage rate continues to drop and the average family size becomes smaller, the birth rate declines and the population aging deepens, the artificial reproductive technology develops and the corresponding parent-child relationship confirmation rules lag behind,

etc. In the future, facing the major issues that whether cohabitation is institutionalized, how to coordinate the national fertility policy and individual fertility willingness, and how to ensure the balance between the support of the children and the care of the elderly, etc., the marriage and family law should not only focus on the current practical needs of China, but also look to the future, find a balance between traditionalization and modernization, localization and internationalization, and seek a development mechanism that combines the family support policy with the rule of law.

Matko Guštin Faculty of Law, Josip Juraj Strossmayer University of Osijek

The position of the child between biological and foster family in the Republic of Croatia gust

Youth Law 2

Sometimes life circumstances justify the separation of the child from the biological family and entrust him to one of the alternative forms of care, most often to a foster family. Article 129 of the Croatian Family Act contains the principle according to which the separation of a child is determined only if it is not possible to achieve the protection of the rights and well-being of the child with a milder measure. At the end of 2021, almost 2 thousand children were placed in foster families in Croatia. In this sense, the role of social welfare centers is important, as they should facilitate the return of the child to the biological family or enable adoption if this is in the best interest of the child. The adoptive family and the biological family very often represent the child's two parallel families so it is important to balance the position of the two families in the factual and legal realization of the right to parental care. Therefore, this paper aims to present the position of a child whose life takes place between the biological and foster family within the framework of the Croatian legal system.

Prof Daphna Hacker Tel Aviv University
Prof Ruth Zafran Reichman University

Parental Responsibilities Nuanced Conceptualization – Shared Language for Post-Separation Familial Realities

Child Custody, Contact and Information 2

The legal language related to the relations between separated parents and their children is in a state of terminological chaos. Taking Israeli family law as an example, we demonstrate how different judges denote different legal terms to signify the same parental arrangement. In addition, jurists and therapeutic professionals use the same term to mark very different parental arrangements. Moreover, based on a review of cutting-edge empirical data on children's needs and on parental practices, we argue that current legal terminology is too crude to capture parental aspired and actual roles. Indeed, worldwide, recent legal reforms further widen the gap between children's and parents' realities on the one hand, and legal language, recognition and protection on the other hand. Indeed, Alison Didluck argument in the book inspiring the Conference title, that "The family on which family law and policy are based bears only slightly resemblance to the way we do family inside and outside the home on a day-to-day basis" (2003: 212), is more relevant than ever to current child custody / parental responsibility law. Hence, in our paper, we develop and refine the concept of Parental Responsibilities, so it better captures parental responses to children's needs, both pragmatically and normatively. The empirically based legal terminological typology we offer, can, and should, operate as a shared global legal language, regardless of each jurisdiction's resolution as to the way parental responsibilities are to be divided between separating parents. Moreover, it should be adopted by therapeutic professionals working with family courts, as well as by researchers studying the correlation between children's wellbeing and different post- separation parental arrangements.

Prof Ruth Halperin-Kaddari Bar-Ilan University
Prof Ruth Zafran Reichman University
Dr Sharon Shakargy Hebrew University

Parental Alienation: The Israeli Case

High-Conflict Family Disputes 2: Parental Alienation

The usage of parental alienation discourse keeps growing, anecdotal evidence from Israel indicates that such claims are raised in every second dispute over custody of children. While the issue is discussed in academic forums and journals, it is mostly of those that belong to disciplines such as social work and psychology. For family law practitioners, parental alienation is a growing subject in conferences and law journals. However, the academic legal world in general, and family law scholarship in particular, has so far paid little attention to what is quickly becoming the frontier of the gender war in divorce. Parental alienation theory has never gained scientific recognition and all attempts to include it within the

DSM and the WHO's ICD have failed. And yet, welfare authorities as well as courts in many jurisdictions have adopted it as an explanation for any situation in which a child resists a parent (mostly fathers), thus overlooking more plausible explanations. Most concerning outcome of this process is the dismissal of child and domestic abuse, since such allegations – which are mostly brought by mothers against fathers – are often taken as proof of alienation by the mothers.
My aim in this presentation is to critically assess the process of unquestioning adoption of the PA discourse in Israel by major parts of the professional communities of social work and the judiciary.

Lecturer Li Han-yan Shanghai Lixin University of Accounting and Finance

The Road to Sexual Harassment Prevention and Control in China: History, Experience, and Future

Gender & the Law 1

Beginning in the late 1980s, the sexual harassment (SH) legislative motion went through local legislation trials, proposals from NPC deputies, mass organizations, judicial experience, and international attention. Since the Fourth World Congress on Women in 1995, China's progress in the prevention and control of SH is mainly reflected in three aspects: doctrine, legislation, and justice. In 2020, the Civil Code clarified the concept and constituent elements of SH, established the obligation to prevent and control SH in specific places, and introduced an open provision structure. On October 30, 2022, the newly revised Law on the Protection of Women's Rights and Interests was deliberated and approved by the Standing Committee of the National People's Congress. The legislation has further improved the system and mechanisms for preventing and tackling SH and sexual assault. Summarizing the experience of China's sexual harassment legislation, while prospecting the legislative future of China's Sexual Harassment Prevention and Control Law, it is expected to transform into a guiding legislation model, rectify the internal shortcomings of the existing legal system, and incorporate the accumulated experience into the mainstream discourse of society and the state.

Prof Ayako Harada Nagoya University

How can lawyers contribute to the children's rights to be heard? – Emerging practices of the Children's Representatives in Japanese family court proceedings

Children's Rights 2

One of the important rights of children recognized in the UN Convention on the Rights of the Child is their right to be heard. Since the adoption of the Convention in 1989, there have been significant efforts worldwide for reforming the family law system to better protect children's right to be heard. Japan follows this trend. Listening to children's views and facilitating their participation was one of the focuses of the recent reform of the family procedural law in 2011. It now requires family courts to make efforts to know the views of the children and consider them in accordance with their age and maturity. It also provides that family courts may permit a child to participate in the proceedings for certain disputes, such as custody and visitation, as an interested third party. In addition, a lawyer (Children's Representative) may be appointed for children participating in the proceedings. The author conducted case-based in-depth interviews with 13 Children's Representatives for 16 cases to know their emerging practices as children's advocate in family law proceedings. Although this research is exploratory in nature due to its limited sample size, the author attempts to analyze how lawyers can contribute to the children's rights to be heard in the actual case settings. The author discusses not only the relationship and interaction between children and lawyers but also the procedural, systemic, and social environment can affect the effectiveness of the child's participation.

Dr Maebh Harding University College Dublin

Legal Parenthood as a Regulatory Tool to control parental behaviour

General Evolutions 2: Parents and Children

Legal parenthood is recorded through national systems of civil registration and becomes a permanent part of both the child and the adult's individual legal and civic identity. The status of legal parenthood has always been linked to state approval of parental behavior. Until the 20th century the rules of legal parenthood differed according to parents' marital status. In the 21st century, the advent of assisted reproductive technologies has opened up the possibility of parenthood to a broader range of people allowing the creation of a wider variety of family forms. The regulatory response by many Western states is the creation of different rules for determining legal parenthood depending on state approval of the path taken to become a parent.

Legislation regulating ART has medicalised parenthood and children's identity, creating new binaries based on how children are conceived.

Increasing recognition and hard-earned equality rights for the LGBTQ communities means that adult identity rights now clash with the heteronormative structures of legal parenthood.

Drawing on comparative law examples, this paper will reconceptualize the role of law in shaping human personal identity and family function through the legal regulation of parenthood.

Prof Bettina Heiderhoff University of Münster

Families on the Move: the Coordination between International Family Law and Migration Law (FAMIMOVE)

Famigration 3: FAMIMOVE

At the interface of family and migration law, one can observe deficits in the protection of children and family relationships. This is often due to the fact that various actors, such as migration authorities, have too little knowledge of the respective provisions. Sometimes, there are also deficits at the legislative level.
On 1 January 2023, a consortium of seven European universities embarked on a research project at the crossroads of private international law and migration law, funded by the European Commission (FAMIMOVE).
FAMIMOVE's objective is to contribute to the effective and coherent application of the EU acquis in the field of international family law, in particular by ensuring more awareness of international child protection instruments applicable to migrant children among critical stakeholders (e.g. migration authorities, child protection authorities, NGOs, lawyers, judges).
The project will collect comparative empirical data by organizing a series of awareness raising seminars in each of the seven countries represented in FAMIMOVE and will complete three transnational round tables relating to key issues of international child protection in a migration context.
The overall goal is to ensure solid network-building and lasting cooperation among different civil protection and migration authorities responsible for migrant children as well as a better dissemination of information about the relevant instruments of international child protection.
In this panel, we will present FAMIMOVE and some interim findings, share insights from practice on the problems key stakeholders experience when handling cases with migrant children and gather additional insights from interested participants.

Prof Mark Henaghan University of Auckland

Rethinking Law's Families in Aotearoa New Zealand

Law, Culture, and Religion 2: General

Aotearoa New Zealand is going through a major re-think of who law's families are. Aotearoa New Zealand was colonised by British in the 1840s. This meant assimilation of the family structures and the tikanga (Māori ways of doing things) of the Indigenous peoples. This had a detrimental effect on Māori, the Indigenous peoples of Aotearoa who currently make up 17% of the population. This was notwithstanding that a treaty had been signed between the colonisers and Māori saying that Māori would be able to continue sovereignty over their ways of doing things. After many years of challenge and courageous demonstration against the unfairness of the law, a recent report has said that Māori have gained sufficient momentum for the legal system to begin to incorporate tikanga. Family law was the first area of law to begin this process, but it still has some way to go. When it comes to the daily lives of families, Māori whānau (extended families) are still struggling in areas such as health, housing and economic security. This paper will show that once families have been marginalised by the law, the impacts on them are massive, long-lasting and painful. The paper will argue that family law for too long has been dominated by the values and preferences of the majority in society. This paper will argue for a much more open-textured way of accepting and supporting families, and that this be incorporated into the DNA of family law. The paper will be based on long-term research of the history of family law in Aotearoa New Zealand, and the current developments and debates on where it should be heading. Hopefully this provides a new model for family law not just in Aotearoa New Zealand but around the world.

Dr Cathy Herbrand De Montfort University

Conceptualising parental rights beyond the bilateral filiation: the experiences and claims of co-parents involved in elective multi-parental families

What is a Parent 1: Selected Topics

If the relationship between law and practice often ends up being complex and controversial, this is especially so in the case of the legal

acknowledgement of multi-parenting or, in other words, family situations in which more than two adults are involved in parenting a child. This article expands on that topic, based on interviews with gays and lesbians living in Belgium who have resorted to co-parenting in order to have a child. These co-parenting endeavours constitute a relevant entry point into the topic since they usually bring together more than two adults get involved to different degrees with the child and negotiate their parental role before the child's conception. However, in Belgium, there is little option to legally recognize additional parental figures when the child already has two legal parents. In studying this kind of co-parenting family arrangement, I probe the challenges that continue to exist beyond equality of treatment and focus on the specific legal needs that this type of family situation may generate. The interviews clearly show the diversity of needs in this area, encouraging the establishment of a set of flexible and varied legal measures.

Emilie Hermans University of Hasselt and University of Namur

Gender-neutral parentage law from a social science perspective

Gender & the Law 2

The advancing societal focus on gender equality and the coming to the forefront of homosexual as well as transfamilies in Western society challenge the biological two-parent model consisting of a mother and a father. While, on the one hand, these issues raise a number of legal questions in the field of parentage law, these evolutions also generate new thinking in the fields of psychology, sociology and anthropology. After all, in their diversity, these new family forms decouple core social concepts such as procreation, parentage, parenthood and child-rearing. Accordingly, since the 1980s, research in social sciences has been progressively conducted on new reproductive technologies, the change of family models and the impact of new family forms on parents' and children's lives. In this lecture, we therefore try to analyse these issues from a social science perspective, by specifically examining how the gender, sexual orientation or gender identity of the parent has an impact on the parent-child relationship, the well-being and development of children as well as the well-being of the parents. These findings might or might not provide justification for a gender-neutral parentage law.

Prof Emma Hitchings University of Bristol

Fair shares? Sorting out money and property on divorce

Money & Property: Upon Separation 2

For many couples, part of 'doing' family can be the ending of a relationship, with a resultant process of disengaging economically from each other and/or organising ongoing financial ties both between themselves and for the benefit of children of the relationship.
In England and Wales, the 100,000 couples who divorce annually do so within a legal system which confers wide powers and a broad discretion on the courts to allocate money and property between divorcing spouses regardless of prior ownership. Until now, the evidence base on settlements made within this context has been poor. For the two-thirds of divorcing couples who do not use the legal system to reach a financial settlement, the nature of any arrangements made is undocumented. For those using the legal system, most of the reported case law involves couples with significant wealth who are far from typical of the divorcing population.
This paper starts to fill this evidence gap, using the first nationally representative survey of recent divorcees in England and Wales. Using survey responses from 2,400 divorcees divorced in the previous five years, it profiles the arrangements made about property, pensions, other assets and debts, as well as ongoing spousal and child maintenance arrangements. It explores how far such arrangements vary according to whether or not parties used legal support through the process and/or whether the arrangement was made legally binding in the courts. It also explores associations between the ways in which couples organised their finances during their marriage and the types of arrangements made when they divorce.
The paper sheds light on how well a broad discretionary jurisdiction caters for divorcing couples experiencing a very wide range of economic circumstances and invites comparison with fixed matrimonial property regimes, to stimulate debate on how best to accommodate the financial needs of divorcing families.

Amal Hlioui University of Palermo

Reconciling Islamic Law with Famigration: Case of South Asian Immigrants in Sicily

Famigration 1: General

Italy has always been conceptualized as host for a North African immigrant community. In the past two years, during my research mobility, I discovered the reality of the new comers in Palermo, Sicily. A non-negligeable number of South Asians live therein. According to Frontex, most

Bangladeshis who entered the EU in 2022, ultimately settled in Italy- their favorite destination. These new demographic changes have created new integration dynamics in the melting-pot city. This begs the question of their social integration due to three-fold disparities (language, race and religion) between them and their host society. However, beyond language and race, the faith of this group is not easily reconciled with the Italian family law and immigration law, i.e., famigration. Unlike North Africans, who come from countries with Westernized family laws, Pakistanis and Bangladeshis have traditionalist legal systems based on Shari'a. Thus, family matters like marriage, divorce, custody and inheritance are regulated by Shariat (Bangladesh, the Muslim Personal Law- Act XXVI of 1937- and Pakistan, Federal Shariat Court). Due to the inherent differences in the understanding of family and immigration between Italian law and this Muslim community, confusion arises, making integration difficult. This paper discusses the obstacles posed by Islamic law when applying Italian famigration laws in matters of family reunification (polygamy and customary marriage), child custody, filiation, and marriage contacts/ dissolution. To this end, the research will focus on a survey among members of this community about their contestations of famigration law. Then, an investigation of the cases where famigration law was incompatible with Islamic doctrine. This will enable a scrutiny of the premises of reconciling Islamic law with Italian famigration law for a better integration of the Muslim South Asian community in their new home.

Liese Hofkens KU Leuven

De gescheiden plaatsing van MOF- en VOS-jongeren in de Vlaamse Gemeenschap: een kinderrechtenconforme evolutie?

Youth Law 1: Legal position of minors

In de Vlaamse Gemeenschap kunnen jongeren die (vermoedelijk) een jeugddelict pleegden (MOF-jongeren) en jongeren in een verontrustende situatie (VOS-jongeren) beiden in een gemeenschapsinstelling terechtkomen wanneer ze onderworpen worden aan de residentiële maatregel van gesloten plaatsing. Het nieuwe Jeugddelinquentiedecreet zal vanaf 28 februari 2023 een einde maken aan deze mogelijkheid van samenplaatsing. De gemeenschapsinstellingen zullen niet langer toegankelijk zijn voor jongeren in een VOS. Die jongeren zullen uitsluitend worden opgevangen in private voorzieningen, waarvan de capaciteit wordt uitgebreid in de vorm van een aanbod veilig verblijf. De enige uitzondering hierop is de plaatsing van een VOS-jongere in een gemeenschapsinstelling in het kader van de herstelgerichte time-out van veertien dagen, om zo een moeizaam lopend hulpverleningsproces te deblokkeren. Maar ook in dat geval is er volgens de memorie van toelichting bij het Jeugddelinquentiedecreet geen sprake meer van samenplaatsing. VOS-jongeren die om die reden in een gemeenschapsinstelling geplaatst worden, moeten immers afgescheiden worden van MOF-jongeren binnen eenzelfde gesloten setting.

In het licht van de internationale en Europese kinderrechteninstrumenten die de rechtspositie van minderjarigen regelen, lijkt deze evolutie naar een gescheiden plaatsing van MOF- en VOS-jongeren een stap in de goede richting. Hoewel die instrumenten de samenplaatsing niet verbieden, geven zij wel expliciet de voorkeur aan de gescheiden plaatsing. De gescheiden plaatsing moet echter wel voldoen aan enkele kinderrechtelijke waarborgen, die gevat kunnen worden onder de noemers belang van het kind, passende zorg en behandeling, bevordering re-integratie en vermijden van delinquent gedrag.

In deze presentatie wordt de evolutie naar de gescheiden plaatsing in de Vlaamse Gemeenschap besproken in het licht van deze vier kinderrechtelijke richtsnoeren voor de autoriteiten bij het kinderrechtenconform maken van de gescheiden plaatsing.

Prof Costanza Honorati University of Milano-Biccocca

Families on the Move: the Coordination between International Family Law and Migration Law (FAMIMOVE)

Famigration 3: FAMIMOVE

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Shelley Hounsell-Gray Lawyer, Halifax N.S.

Representing Parents in Family Violence Cases in Canada

High-Conflict Family Disputes 1: General

There is an increasing number of high conflict separation cases in Canada's family courts, involving prolonged court proceedings, multiple professionals and agencies, and heightened risk of emotional or physical harm to parents and children. Though relatively small in number compared to the larger number of cases resolved through mediation or negotiation, these high conflict cases take up a disproportionate amount of court time and pose unique challenges for judges, family lawyers and other professionals, as well as for policy makers and researchers. This panel is based on three presentations about issues in high conflict cases: family violence cases, parental alienation and litigation abuse Although each of the panelist will be focusing on their experience and research in Canada, the issues addressed are related and have significant implications for other countries, as the increase in the number of high conflict cases seems to be an international phenomenon.

Prof Claire Houston Faculty of Law, Western University

Spousal Support and Gender Equality

Money & Property: Upon Separation 1

In Canada, spousal support and gender equality are linked. Historically, only women were entitled to spousal support, then called alimony. In the late 1960s, gender-neutral entitlement to spousal support was introduced to promote formal gender equality and challenge assumptions about women's innate dependency. However, most claimants continued to be women, and the Supreme Court of Canada has recognized that compensatory spousal support promotes substantive gender equality by valuing women's domestic labour. The small but steadily increasing number of spousal support claims by men complicates the relationship between spousal support and gender equality. A comprehensive review of spousal support for men (SSFM) awards suggests that gendered assumptions may prevent judges from holding women responsible for men's dependency. At the same time, SSFM may impede women's equality by ignoring gendered dynamics, including the disproportionate share of domestic labour borne by women and intimate partner violence. Tracking the evolution of gender-neutral spousal support in Canada raises questions not only about the role of spousal support in promoting gender equality but also the justification for spousal support more generally.

Prof Claire Houston Faculty of Law, Western University

Social Parenthood in Canada

What is a Parent 8: Social Parents B - Comparative Perspective

Overview of Canada's progressive legal approach to social parents, with some discussion of how the legislation may not be progressive in practice.

Laureen Hu Utrecht University

Foundations for Families

General Evolutions 2: Parents and Children

What makes a parent? Is it about genetics, the intention to become a parent, care, all of these things, or something else? This is a legal as well as an ethical issue. Being one's legal child or parent matters because the law attaches important parental rights and duties to parenthood status. It is pivotal to engage with this issue to rethink parentage law and our conception of families. In my paper, I will answer this question on the basis of a doctrinal-legal study, and an innovative legal theory and ethical study. Several attempts have been made to reassess parentage law. But so far, insights in legal theory and ethics seem to have been underused. Various concepts have been formulated in legal theory and ethics that might help solve existing problems in parentage law which is, in the Western world, still based on the ideal of the nuclear family. From the sixties onwards, drastic societal and technological changes arose, which resulted in a greater diversity of parenthood forms in Western societies. This causes problems in situations that deviate from the traditional family model. Think of situations involving unmarried fathers, lesbian mothers and multi-parent families. In this paper, I will use parenthood approaches in legal theory and ethics to fundamentally reflect on who should be a child's parents, with what rights and duties, and what the justification of these choices should be.

Dr Nishat Hyder-Rahman Vrije Universiteit Brussel; Tilburg University

Assisted Reproductive Technologies, Families, and the Law: exploring the intricacies, limits, and future of the role of law in determining 'family'

What is a Parent 9: Panel Debate on ART

Many people turn to assisted reproductive technologies (ART) to help found/grow their family. This panel explores law's families in the context of ART, critically examining the current complexities and limits of the law, as well as prospective legal reforms, in the context of the ethical discourses that underpin ART. Through comparing national legal regimes and engaging with relevant international law, at the same time considering the bioethical narratives reflected in law, this panel aims to facilitate a discussion on the role of law (current and future) in determining 'what is family?'.

The topic is broad, and intentionally so, in order to allow the discussion to flow spontaneously between the panellists and the audience. Of course, the ongoing discourse pertaining to the legal determination of parenthood given the splitting of the genetic/gestational/social or intentional elements of parenthood via contemporary ART practices (i.e. gamete extraction and preservation, gamete/embryo donation, IVF, surrogacy) will necessarily form part of the panel discussion. However, panellists will also be invited to think further ahead and consider the legal and ethical implications of emerging and future ART (e.g. mitochondrial replacement therapy (MRT), CRISPR-CAS9 gene editing, in vitro gametogenesis (IVG), and artificial wombs) vis-à-vis the notion of 'family' in law. What do these technological advances mean for reproductive rights and intentional family planning? And what do they mean for the resulting child and their establishment as a person in the context of their family, the law, and broader society? How do we balance individual interests in planning and shaping our families and family life with collective interests as a society and as a species? Ultimately, how do these technologies impact what we have hitherto perceived as 'family' in law, and how can family and fertility law adapt to these (inevitable?) technological advances?

This diverse panel draws together early career and established researchers, from across the fields of family law, bioethics, and biolaw to engage in an open, cross-disciplinary discussion on what ART means for familyhood, now and in the foreseeable future.

Dr Astrid Indekeu KU Leuven, Centre for Sociological Research

Siblings or genetic strangers? The challenges of same donor-offspring.

What is a Family: Siblings

A recent and growing phenomenon in the field of donor conception is contact between offspring of the same donor, called same donor-offspring. Due to increasing openness regarding donor conception, online searches, social media, donor registers and commercial DNA testing, donor-conceived people can more easily find same-donor offspring. The presentation will explore what meanings donor-conceived people give to these new relationship (as nuclear or extended family, kinship, and/or friendship), how parents and children experience these relationships, how kinship is actually made or unmade with same donor-offspring and how the social concepts of 'siblingship' and 'genetic connections' co-shape these relationships. Opportunities as well as challenges of these new relationships will be discussed. For example what are the consequences of the existence of multiple same donor-offspring for all involved? What are the consequences of possibly meeting same donor-offspring at a very young age when parents find them through the internet (websites, online DNA tests)? Should there be some form of legal recognition of the relationship between same-donor offspring. The presentation will integrate data from own and international (psychological, sociological and legal) research regarding same donor-offspring, including addressing different existing legal approaches.

Dr Astrid Indekeu KU Leuven, Centre for Sociological Research

The interdisciplinary meanings of genetic origins in donor conception

What is a Parent 5: The Right to Know One's Origins B

Due to the development of assisted reproductive technologies and the willingness of people to donate their gametes, many people who would otherwise have remained childless are given the opportunity to create a family. The use of a donor creates tensions between different and gendered conceptions of parenthood – genetic, biological, legal, social, et cetera.

Conceptions of parenthood are subject to change. Originally donor conception was veiled in secrecy. The anonymity of the donor was guaranteed to protect the legal parents against unwanted interference in their family life and to protect the donor against legal claims. Parents were advised to not disclose the use of donated gametes to the child, as this information was deemed both trivial and harmful. Nowadays there is an increased acknowledgement of the right to know one's genetic origins on both a national and international level. How did this happen? And how have these differing views of genetics and of parenthood influenced the experiences of parents, donor-conceived individuals and donors?

Kinda Jacob and Damali Nicholls Attorney at Law

Migrant children and the absolute right to education: A case study on Trinidad and Tobago

Changing Perspectives in National Family Law 3: America

"The future of our nation is in our children's school bags", these were the words of the late Dr. Eric Williams first Prime Minister of Trinidad and Tobago. This mantra set the stage for the progressive nature of the education system in Trinidad and Tobago where education is free and mandatory up to the age of sixteen. However, this paper will explore whether education is in fact truly compulsory and accessible for all children in Trinidad and Tobago, emphasis placed on the migrant child.

The first part of this paper will discuss how migrant children can access education in Trinidad and Tobago, and this is juxtaposed with the Education Act of Trinidad and Tobago which stipulates conditions that erect barriers to access. The second half of the paper will deliberate on whether or not the State is obligated to remove barriers to migrant children's right to access education due to Trinidad and Tobago's ratification of the UN Convention on the Rights of the Child. Lastly this paper will endeavour to make recommendations and reference will be made to the Trinidad and Tobago Parliament Joint Select Committee report on the treatment of migrants which included a focus on rights to education as well as an examination of the National Child Policy 2020-2030.

Cheolung Je Hanyang University

The Main Features of the Korean Juvenile Act and its Future under the Influence of the CRC

Youth Law 3

With some cruel crimes committed by minors being more and more reported, many members of the Korean Assembly have proposed reform bills of the Juvenile Act, which lowers the criminal responsibility age(currently 14 year old), and which the Ministry of Justice recently made public their intention to accept in terms of lowering the criminal responsibility age to 13 year old. On the contrary, academics and many practitioners in the field of child protection and welfare are rather more concerned with the malfunction of juvenile court-ordered protective measures to delinquent juveniles in accordance with the Juvenile Act, criticizing the approaches mentioned above. Whereas the Korean Juvenile Act comprises sanctions against both delinquent juveniles, who fall short of committing crimes, and juvenile criminals, my presentation will focus on delinquent juveniles and seek to explain the background and reason why delinquent juveniles in Korea have been subject to the same sanctions as juvenile criminals: It can be ascribed to the unique development of the Korean state parent idea that children shall be educated and trained by punishment. Thereafter, my presentation will explain the influence of the Convention on the Rights of the Child, which led to the abolitTion of the parents' power of corporal punishments and detention provided for in the Korean Civil Law Act in 2021, and the new paradigm based on which academics and practitioners seek to replace the protective measures set in the Juvenile Act with the educational measures, which are supposed to supplement parenting skill and capability to bring up their delinquent children, meaning that educational measures, even if some of them allows liberty deprivation measures in the cases of them being exposed to, or doing, significant harm to themselves or others, should be under the family court jurisdiction rather than juvenile courts as special criminal courts.

Prof Dayoung Jeong Chungnam National University

Associate Prof Nikos Koumoutzis, University of Nicosia Presumption of Paternity and Artificial Insemination in Korea: Legal Implications

What is a Parent 3: Assisted Reproduction - Attribution of Parenthood

The Civil Act of the Republic of Korea strictly defines the provision on the presumption of paternity and the provision on the action of denial of paternity as a method to reverse it, and in a case where the denial of paternity becomes impossible, the legal status of the child is finally determined. Recently, the Supreme Court of Korea addressed two important issues regarding the presumption of paternity in the context of artificial insemination.

First, the court ruled that a child born through artificial insemination is presumed to be the child of the wife's husband by applying the presumption of paternity provision even in the case where the wife gives birth to the child through artificial insemination by a sperm donor, a third person other than the wife's husband, during the marriage. The husband, who has consented to the artificial insemination, may not later withdraw his consent and bring an action to deny that he is the natural father of the child. Second, the presumption of paternity continues to apply even if the child conceived and born by the wife during the marriage is found not to be biologically related to the husband.

It is important to note that the legal status of the parent-child relationship takes precedence over biological ties. The application of these provisions aims to protect the interests of the child, preserve privacy and guarantee family life.

Dr Christina Jeppesen de Boer and Dr Merel Jonker Utrecht University

The right of a grandchild and grandparents to have mutual contact

Child Custody, Contact and Information 3

Is contact between grandparents and grandchildren in the best interest of the child? Most probably, a lawyer will answer that it depends on the circumstances and will balance the interests involved. However, what should the legal starting point be? Is it up to the parents and/or the child to decide or do grandparents have an independent right to contact with their grandchild? We will present the findings of a comparative research project, commissioned by the Dutch parliament, on the right of contact between grandparents en grandchildren. The central question of the project was in which ways present and future (legal) instruments may contribute to promote contact between grandchildren and grandparents that will benefit the child. The four countries examined in this research project: Belgium, England & Wales, Norway and the Netherlands, are bound by the CRC and ECHR. Nevertheless, the right of grandparents to contact with their grandchildren is filled in differently, departing from different perceptions on the importance of the bond between grandparents and grandchildren and the role that law can play in the regulation of contact. At one end of the scale parents have autonomy to decide what is in the interest of their child and at the other end of the scale contact is 'a right' that grandparents have. We will present our research and reflect upon the legislative response to the research in the Netherlands.

Frederique Joosten University of Cambridge

Queering Children's Rights: A Critical Queer Analysis of the UNCRC

Queering Family Law

While there is increasing attention for LGBTQIA+ concerns within human rights generally, the legal instruments and academic discussions regarding children's rights remain largely silent on issues involving sexuality and gender. Due to the pervasive protectionist narratives that continue to govern modern childhood, even the more individualistic and autonomous rights are constrained. On the one hand, children's rights implicitly limit the expression of (queer) children by perpetuating gendered and heteronormative assumptions. On the other hand, they explicitly lack the tools and guidance to navigate complex queer disputes. In this context, this paper explores the world's leading document on children's rights – the UN Convention on the Rights of the Child (UNCRC) – from a critical queer theoretical perspective, uncovering how children's rights are interwoven with social constructs surrounding gender and sexuality. In doing so, it first outlines the increasing importance of the UNCRC and its foundational principles. Second, it identifies the core facets of queer theory to establish a theoretical framework that engages with common conceptions of childhood and its implications in a rights context. Through this queer lens, thirdly, the paper examines how the Convention constructs the child as a gendered and sexed rights-holder. Here, it emphasises the reliance on reductive, binary gender narratives that often reaffirm harmful cultural tropes. Finally, it turns to the particularly complex tensions between self-determination and protectionism, focusing on the social ideals that define 'normal' development and shape our understanding of the evolving capacities of children. It concludes that the UNCRC has great potential to catalyse the implementation of LGBTQIA-focused protections, but more work is needed to clarify and strengthen the legal position of the queer child within its ambit.

Prof Courtney G. Joslin UC Davis School of Law

How Parenthood Functions

What is a Parent 7: Social Parents A

Today, approximately two-thirds of states have a functional parent doctrine. Under these doctrines, a court can extend parental rights based on the conduct of forming a parental relationship with a child. Different jurisdictions use different names—including de facto parentage, in loco parentis, psychological parenthood, or presumed parentage based on "holding out" the child as one's own—and the doctrines arise out of different sources of authority—common law, equitable, and statutory. In recent years, these functional parent doctrines have garnered significant attention, becoming a centerpiece of national and state law reform efforts. For all that is written about functional parent doctrines, little is known about how they work in practice. As a result, commentary tends to make assumptions about how the doctrines operate without a solid empirical basis.

This Article, co-authored with Douglas NeJaime (Yale Law School) documents how functional parent doctrines operate, examining when, how, and to whom courts apply them. It does so by providing an empirical account of functional parent case law. We collected and coded every electronically available functional parent decision issued between 1980 and 2021 from every jurisdiction that has a functional parent doctrine. Our empirical analysis of these 669 cases provides a more thorough, detailed, and accurate account than extant treatments.

Prof Courtney G. Joslin UC Davis School of Law

Social Parenthood in the United States

What is a Parent 8: Social Parents B - Comparative Perspective

My book chapter, co-authored with Douglas NeJaime (Yale Law School) explores social parenthood in the United States.

Katja Karjalainen University of Eastern Finland

Minimum and Global justice in cross-border family law - to recognize or not to recognize

PIL 1: General

Legal systems are facing wide array of foreign decisions and family law related arrangements that trigger the need to evaluate whether and how to recognize them. Should receiving country pay attention to those premises in which a foreign decision under recognition is based on in morally delicate areas of law – e.g. adult protection or formation of parenthood of children born under international surrogacy arrangements – in order to safeguard human rights of individuals involved?
This question is anything but easy to answer. The application of human rights (ECHR Article 8) has created a dimension for the contemplation of individual rights in a field of private international law (PIL) – stipulating the framework of cross-border family law – where the receiving state's public policy interests and collective rights have traditionally prevailed. Underlying rights and values are specific in every single legal system. They exert (or perhaps should exert) a background influence in recognizing foreign decisions under the framework of cross-border family law. Nevertheless, (direct) recognition of foreign decisions in the core of PIL goals provides legal certainty and efficiency important both individuals themselves but also from collective perspective.
The issue of recognition of foreign decisions in the framework of cross-border family law is an extremely topical and important in an increasingly mobile society as it is tied to global and minimum justice. It raises questions on equal treatment of individuals and outsourcing ethical dilemmas as well as questions such as to what extent the problem of limping statuses is acceptable, whether the framework of cross-border family law in fact protects the most vulnerable and on what conditions minimally just society should lend its power of recognition and enforcement?

Katja Karjalainen University of Eastern Finland

Beyond the family: Cross-border protection of Adults in light of the recent European Commission Proposals

Protection and Autonomy of Adults 2: Cross-Border Aspects

On 31 May 2023 the European Commission published two proposals on the protection of Adults. The first one is to authorise Member States to become or remain parties, in the interest of the European Union, to the Hague Convention of 13 January 2000 on the International Protection of Adults. The second is a legislative proposal to supplement the Convention's rules, for instance on jurisdiction and the cross-border recognition of measures of protection. This panel will discuss the European Commission's proposals in their broader context of the Hague Convention and of the UN Convention on the Rights of Persons with Disabilities (CRPD).

It will address the following questions:

- What is the framework that the UN Convention on the Rights of Persons has established?
- What is the approach that the European Commission takes in these proposals? What is the legal basis of the proposals?
- What does the European Commission propose in terms of allowing Adults to choose the court that would have jurisdiction over measures of protection for them?
- How does the European Commission proposal approach the applicable law, especially regarding ex lege powers of representation?
- What does the European Commission propose in terms of the cross-border recognition of measures of protection?
- What would the European Commission's proposal change in terms of registers of protective measures, their interconnectivity, and access to such registers by authorities?
- How would the European Commission's proposal interact with the Hague Convention of 2000?
- How does the European Commission's proposal fare if assessed critically against the UN Convention on the Rights of Persons with Disabilities?

Laura Kessler University of Utah

The past and future of family law: The U.S.

General Evolutions 5: Past and Future of Family Law - a comparative and normative analysis

This presentation considers American family law's past, present, and future, examining what recent attacks on abortion, transgender, and LGBTQ rights may portend for family law.
In recent decades, it seemed as though queer people and women's rights advocates were making progress in the culture war over the family. Yet, despite growing support for pluralistic family forms, religious conservatives and hate groups threaten to scale back progress in the United States. Last summer, the U.S. Supreme Court disrupted almost fifty years of precedent by holding that states may intrude into matters so fundamentally affecting a person as the decision whether to bear a child. Florida has now prohibited instruction on sexual orientation and gender identity in kindergarten through third grade. This year, states passed more than fifteen bills targeting transgender people, and Texas began investigating parents whose children received transition care. In November 2022, a gunman killed five people and injured dozens at an LGBTQ club in Colorado. A few weeks later, members of the Proud Boys—an American far-right, neo-fascist, white nationalist, and exclusively male organization—and other extremist groups, many of them armed, converged outside a drag event in Columbus, Ohio. In 2021, the Court sided with a Catholic adoption agency that refused to serve LGBTQ couples, and the Court will revisit LGBTQ public accommodation rights this term.
Reforming family law has always been an ongoing, contested project, but these alarming developments raise fundamental questions and challenges for the field. For example, how have the prevailing conceptions of family law's objectives, values, and boundaries limited its modernization in the United States? How might progressive leaders in the field develop new legal strategies absent reliable federal constitutional protections for family equality and sexual freedom? Using a theoretical and historical lens, in this presentation, I will attempt to address such pressing questions.

Dr Amel Ketani BPP University

How family mediators can better integrate children/siblings in family mediations?

Conflict Handling

Ever since family mediation was first introduced in England and Wales in the late 1970s, the place of children/siblings in the mediation process has generated much debate. A number of studies conducted as part of the Mapping Paths to Family Justice Study have shown that children and young people are rarely included in family mediation and found that child-inclusive mediation was used infrequently and had rarely taken place in their sample of mediation users. Until recently, it was often the case that decisions would be made regarding arrangements for children without ever involving the children themselves. This was the case whether the arrangements were arrived at through court, lawyer negotiation or mediation. This is problematic because if family mediations are often seen as an adult-focused process, even when children are at the heart of the dispute, then this could have a negative impact on children.
This presentation will argue that children should have the opportunity to have their voice heard but family mediators need to be flexible as to when and whether a meeting is appropriate. Parents are of course the primary client group for family mediators and if mediators meet with children, it should be with the parents' consent and on the basis that parents are prepared to listen to their children's views. In other words, child-inclusive mediation is essential in helping parents resolve some of their problems relating to children as long as the appropriate safeguards (i.e. parent's consent, mediator acquiring sufficient skills to speak to a child, maturity of the child, mental health of the child etc...) are applied by family mediators.
Based on empirical data gathered as part of my PhD research, this presentation will consider the following:
1) From what age should children participate in family mediation and
2) Is there a particular model family mediators can use to better integrate children in mediation?

Mgr Veronika Kissová Masaryk University

Best Interest of the Child in Different Categories of Legal Proceedings Defined by the Czech Constitutional Court

Changing Perspectives in National Family Law 2: Central and Eastern Europe

Article 3 of the Convention on the Rights of the Child requires the best interest of the child to be of primary consideration in all actions concerning children. However, in many cases, it will be only one of its aspects and can be outweighed by other public or private interests. Interests of a child can be affected by a wide range of legal proceedings, even when the child is not a party to the proceeding. The Czech Constitutional Court has in its case law dealt with different levels of relevance of the interest of the child by dividing legal proceedings into four categories based on its type, purpose, role of the child and other interests, all of which affect how interests of the child are taken into consideration and judicial review of the decision. The first type are proceedings directly determining rights and obligations of the child based on its status of a child, second category are decisions directly concerning rights and obligations of a child based on a different legal ground. The third category are proceedings, which affect the child indirectly and the fourth only indirectly affects the factual situation of the child, not

its legal status. The paper summarizes the decision, describes, and critically analyses the categorization and examines its use in case law to determine its practical use.

Kirsten Kolstad Kvalø University of Oslo

Parental Responsibility and Children's Right to Privacy – Balancing Rights and Interests in the Family Sphere

Digital Family Law 2: Parents and Children

Children's right to privacy is protected through a number of instruments, such as the UN Convention on the Rights of the Child (CRC), the European Convention of Human Rights (ECHR), and various constitutions. Recent technological developments have shed light on possible threats to the child's right to digital privacy, and that such threats may arise also in the child's family. Examples could be monitoring children's activities through smart watches or chat control, or parents consenting to or even sharing information about children online that may interfere with their right to privacy.

Already during the discussions on the CRC in the mid-80s, some delegates expressed concern that including a right to privacy in the Convention would impair the relationship between the parents and the child. Curiously, there is still not much commentary or case law addressing these issues.

The purpose of this paper is to analyze children's right to digital privacy vis-à-vis parents' rights and responsibilities, and to point out questions that need further clarification, such as:

- How should the child's right to self-determination in privacy issues be protected?
- What obligations do states have to provide remedies for children to enforce their right to privacy also vis-à-vis their parents?

Prof Aleksandra Korać Graovac Law Faculty in Zagreb, University in Zagreb

Challenges of medically assisted procreation - legal developments in Croatia

Changing Perspectives in National Family Law 1: Central and Eastern Europe

The Republic of Croatia has a modern arrangement of medically assisted procreation, a medical method by which almost 5% of children are born in the Republic of Croatia. This is a significant figure and has demographic importance.

The often-used method is in vitro fertilization, which brings new legal, medical, and ethical challenges.

Contemporary medical legislation is moderately liberal. The donor's program is possible, although it does not exist in practice because there are no donors as the child has the right to find the donor's identity. There is a ban on surrogacy arrangements as well. Therefore, many individuals and couples seek medical help abroad, which raises additional significant questions, specially concerning cross-border acknowledgment of affiliation.

Family law regulates the affiliation of a child. A woman who gave birth to the child is considered a mother if all participants give the requested consent.

As medically assisted procreation is of enormous interest to the public, the legislator is reluctant to change it. Additionally, serious doubts arise in the professional and general public due to the interpretation of particular provisions (disposal of genetic material, not/possibility of donating it, the question of the status of a single woman seeking medically assisted fertilization, etc.). More recently, transgender persons have also appeared as possible users for medical assistance, and these requests will launch a bitter debate concerning possible changes of legislation.

Martin Kornel Masaryk University, Brno

Children Participation in Czech Judicial Family Law Practice

Children's Rights 2

UN Committee on the Rights of the Child recommended Czechia in 2011 to introduce a comprehensive legal provision establishing the right of the child to participate that would apply to courts, administrative bodies, institutions, schools, childcare institutions and families in matters affecting children. The Committee also recommended adopting adequate measures and mechanisms to safeguard and ensure such participation can be carried out effectively.

Since 2011 many changes have been introduced into the national legislation, but to some degree, children's participation in judicial proceedings remains bleak.

The paper summarizes changes in the last ten years, focusing on the Czech Constitutional Court case law's role in a child's right to participate in a judicial proceeding. Three levels of participation are explored – the right to information, the right to communicate the views which must be given due weight by the court and the right to consent to specific actions. Those three levels are implemented to a different degrees in areas like filiation, adoption, child custody and contact, interference with physical integrity and change of name.
Several quantitative studies I have participated in as a researcher explored children's participation in those proceedings in recent years; their outcomes will also be presented.

Loran Kostense

A Scoping Review on the Empirical and Legal Consequences of Relocation Cases

Methodology 1: Enhanced Practices & New Frontiers in Family Law Research?

Relocation disputes are among the most challenging cases for judges in family law and have been the cause of heated debate in many jurisdictions worldwide, while the empirical consequences for the involved children are not clear. The various legal frameworks which are used in these cases are sometimes based on empirical studies. However, the outcomes and interpretation of the empirical studies do not seem to provide consensus on the consequences of relocation after separation.
By implementing an innovative and systematic research method in the legal sciences, a so-called scoping review, a comprehensive overview of the English and Dutch scientific articles on parental relocation after separation is established. The scoping review aims to answer the following research question: In what way is the impact on children of relocation related to divorce taken into consideration in court cases? by including all available and relevant studies related to the subject by following certain systematic research steps. This resulted in an extensive review of the relevant legal and empirical research on the consequences of relocation after separation and the legal implications thereof. The use and relevance of this method in legal sciences will be addressed, based on the conducted scoping review on relocation cases.

Mgr Denisa Kotroušová Faculty of Law, University of West Bohemia in Pilsen

Surrogacy Within Theory and Practice of the Czech Family Law – Time for a Change?

Changing Perspectives in National Family Law 2: Central and Eastern Europe

Families can be formed in many different ways - one of the newest ones being surrogacy. Despite its deep and multilayer controversy which leads some states to impose an explicit ban on it, surrogacy is gaining popularity, especially amongst those who cannot have their own children for severe medical issues. The Czech Republic is no exception. The following presentation focuses on the situation of the Czech Republic, examining both the legal regulation of surrogacy and its practice. Ideally, the latter one should be in accordance with the first one. But is that so when it comes to the Czech Republic? Czech Law adheres to an indifferent approach to surrogacy, meaning its existence is acknowledged, but no proper regulation is adopted. On the other hand, there is clear evidence suggesting surrogacy is known and used amongst the Czech population to establish families. My presentation will try to reveal the potential and existing issues arising from the tension between theory and practice primarily in the field of Family Law. Based on that – with regard to development in other European countries - the presentation will try to answer the question of whether the Czech regulation should change and suggest possible solutions.

Associate Prof Nikos Koumoutzis University of Nicosia

From the Presumption of Paternity to Original Co-Maternity. Towards Equality of Treatment of Heterosexual and Lesbian Couples in Parentage Law

What is a Parent 3: Assisted Reproduction - Attribution of Parenthood

So far, a number of jurisdictions permit same-sex couples to formalise their relationship by means of civil partnership or marriage. Moreover, same-sex couples seeking to acquire offspring, usually use medically assisted reproduction to make up for their 'social infertility'. What remains to be settled, then, is the establishment of parentage with the resulting child. In the case of lesbian couples, separate modes apply in regard to each woman, the one who gave birth, and her partner or spouse: the first becomes legal mother ipso jure, whereas the second must pass through adoption, otherwise she is not a parent under family law, not even when she offered the ova for the conception. This situation gives rise to complaints, considering that, in sharp contrast to the scheme provided for the parentage of the female spouse or partner of the birth-mother in same-sex couples, the parentage of the male spouse of the birth-mother in opposite-sex couples is largely facilitated thanks to the

'presumption of paternity'. Does the said difference of treatment amount to discrimination on grounds of sexual orientation and gender? The paper explores some 'natural' dissimilarities of heterosexual and homosexual units, arguing that they do not yield valid objections against original co-maternity.

Hannetie Koyama Sato Family Law Lawyer, DBML Advogados

Shared parenting in multiparentality

What is a Parent 1: Selected Topics

The purpose of this study is to make a brief examination in the concepts involving multiparental family and shared parenting.
To address this topic, an interdisciplinary study was conducted based on juridical and social sciences, to examine the reasons why these family structures must have the status of family and be entitled to legal protection.
We will conclude the analysis of shared parenting in multiparentality by sharing the stories of three paradigm cases.

We will approach the concepts of shared parenting both in Brazil e and in Canada, in the attempt of showing differences and similarities of the concept between both countries. It is very important to differentiate shared parenting, in terms of decision-making power and the distribution of child(ren)'s time with parents.

Hannetie Koyama Sato Family Law Lawyer, DBML Advogados

As if they were brothers: a study on socio-affective bonds in the contemporary Family

What is a Partner 4: Polyamory

To address this topic, an interdisciplinary study was conducted based on juridical and social sciences, to examine the reasons why these family structures must have the status of family and be entitled to legal protection.
The family passed for many transformation over time, shaping and being shaped by the individuals who make it up.
However, as a social institution, the family faces a dilemma: at the same time that it´s the guarantor of social reproduction and maintenance of customs (BOURDIEU, 1983), in order for it to survive over time and fulfill its role, it needs to adapt, be plastic, fragile to behavioral fluctuations and directly connected to the Spirit of Time (Zeitgeist).

The State protects a single family model – the hetero-normative monogamous family, several compositions emerged as social facts (FARIAS, 1993) and, because they do not conform to the traditional family, they are not contemplated as a family entity, and thus family law is not enough to protect them.
However, the social fabric is more elastic than the norms, in order to safeguard the dignity of the citizen, we have to analyze social facts from the perspective of Human Rights, in order to encompass and safeguard all individuals and relationships.

Prof JUDr Zdeňka Králíčková Masaryk University, Brno

Changes in Families and Family Law: On Law´s Families in the Czech Legal Order

Changing Perspectives in National Family Law 2: Central and Eastern Europe

Due to the political, social, and economic changes, the portrait of a family in the Czech Republic has undergone a big change. It was followed by many novelties in legal order although family law is considered to be a relatively conservative area of law that is interlinked with culture, religion, traditions, and myths. That is why the current Czech Family Law may be characterized by the words traditional and modern at the same time, mainly thanks to the international human rights conventions, the case law of both the European Court of Human Rights and the Constitutional Court of the Czech Republic and finally, due to the European academic initiatives and sometimes even influences from abroad. However, the changes have not been fully completed yet. There are pending drafts at the Parliament of the Czech Republic which, when passed, may bring considerably radical changes. The contribution will be focused not only on "families based on marriage or registered partnership" but on "families de facto" as well. Special attention will be devoted to the tension between legal, social and biological parenthood and to disentangling parenthood, parentage and parental responsibility.

Dr Edit Kriston University of Miskloc

The diversity of family relations in the light of the hungarian legal regulations

Changing Perspectives in National Family Law 1: Central and Eastern Europe

The aim of the presentation is to make a comparison based on a multidisciplinary basis, in which I try to illustrate the complexity of the concept through the findings of historical development, international and Hungarian legal regulation, and jurisprudence. The unique element of the Hungarian family law regulations is that, despite the fact that political influences seek to steer society towards family forms based on traditional forms, even if in a specific way, modern family relations also have a place in the system of legal regulation. In my opinion, three factors play a very important role in the field of family relationships. On the one hand, the parent-child relationship, which is the basic thesis of both traditional and contemporary approaches. The other important element is the relationship between the parties, in which the preference for marriage can still be observed, but at the same time, openness to alternative forms of relationship is also characteristic. The third factor is kinship, which is now also subject to a different kind of assessment since as a result of technical and other social developments, kinship not based solely on biological relationships is now also legally protected and recognized. The creation of a single, statutory definition of family is still an impossible task at the moment due to the diverse – but at the same time increasingly converging – positions. Instead, however, it may be a more fortunate solution to include the various legally regulated systems of relationships under the uniform terminology of the family legal relationship. The aim of my presentation and the related study is to present this by highlighting the unique element of Hungarian legislation.

Associate Prof Annette Kronborg University of Southern Denmark

Reflections on methodology combining law and interviews with lawyers

Methodology 1: Enhanced Practices & New Frontiers in Family Law Research?

This paper focusses on the methodological aspects of a research project investigating the procedural regime in Danish Family Law.
The aim of the project is to describe the legal aid regime in family law and to combine this with a more sociological/empirical take on how family law lawyers experience the legal aid regime and how it may influence their professional performance. The access to a lawyer for free is integrated in legislation on the family procedural regime and depends upon different factors such as the perceived 'need' for a lawyer (depending upon substance and forum) and the party's income. It is an essential feature in legal aid cases that lawyers work with a fixed time consumption and low-income clients. This topic has not been given much attention in family law literature even though it is important to many clients because of the (increasing) complexity of family law cases.

The project has a mixed methodology approach including classical interpretation of legal sources and a sociological approach focusing on some of the consequences of the law.

The research design includes interviews with 10 family law lawyers practicing legal aid cases. The focus in this paper is on the research design of the project. I will explore how to combine the presentation of law and empirical research by addressing questions like: how the outcome of the interviews can be analyzed and subsequently displayed and presented together with law. It should be noted that the empirical component (10 interviews) does not intend to be representative but to supplement law with an understanding of practical implications.

Prof Thalia Kruger University of Antwerp

(R)evolution of international filiation

PIL 4: Panel Debate on Cross-Border Filiation

Over the past years the European Commission and the Permanent Bureau of the Hague Conference on Private International Law (HCCH) have been working on cross-border aspects of filiation. Filiation is subject not only to an evolution, but a revolution, due to the growing use of artificial reproduction techniques and the resulting pressure on existing legal frameworks. Policy makers world-wide are aware of a global market of reproduction (e.g. surrogacy) and also of the difficulties families face to have filiation ties recognised trans-nationally. These difficulties are prevalent in but not limited to non-traditional forms of filiation. Drafting international or even EU legislation has proved to be particularly difficulty, not only due to ethical, but also on a legal-technical level. First, filiation is often recorded in public documents and these documents have different consequences across borders. Some States' laws require a reassessment of the law that was applied while others recognise the document unless there are public policy or other serious concerns. Second, public documents are submitted to population or civil registries, who are not always ready to apply complex legal reasonings.

Method: Panel debate with a moderator; participants provide answers and encourages discussion with the audience on:

- What has been done by the HCCH or can be done internationally to regulate cross-border filiation?
- How can we regulate or set standards in the international fertility market (eg. Verona Principles; UN Special Rapporteur and UNICEF)?
- What is the EU doing to regulate cross-border filiation?
- What is the relevance of the principle of free movement within the EU?

- What is the role of contracts for filiation?
- How can we guarantee the child's right to know their origins?
- How can States cooperate to gain evidence on filiation and find information about foreign law?

Prof Thalia Kruger University of Antwerp

Beyond the family: Cross-border protection of Adults in light of the recent European Commission Proposals

Protection and Autonomy of Adults 2: Cross-Border Aspects

On 31 May 2023 the European Commission published two proposals on the protection of Adults. The first one is to authorise Member States to become or remain parties, in the interest of the European Union, to the Hague Convention of 13 January 2000 on the International Protection of Adults. The second is a legislative proposal to supplement the Convention's rules, for instance on jurisdiction and the cross-border recognition of measures of protection. This panel will discuss the European Commission's proposals in their broader context of the Hague Convention and of the UN Convention on the Rights of Persons with Disabilities (CRPD).

It will address the following questions:

- What is the framework that the UN Convention on the Rights of Persons has established?
- What is the approach that the European Commission takes in these proposals? What is the legal basis of the proposals?
- What does the European Commission propose in terms of allowing Adults to choose the court that would have jurisdiction over measures of protection for them?
- How does the European Commission proposal approach the applicable law, especially regarding ex lege powers of representation?
- What does the European Commission propose in terms of the cross-border recognition of measures of protection?
- What would the European Commission's proposal change in terms of registers of protective measures, their interconnectivity, and access to such registers by authorities?
- How would the European Commission's proposal interact with the Hague Convention of 2000?
- How does the European Commission's proposal fare if assessed critically against the UN Convention on the Rights of Persons with Disabilities?

Prof Hanneretha Kruger University of South Africa

Safeguarding the rights of orphans in kinship care in South Africa

Youth Law 2

In South Africa, a foster care grant (FCG), valued at USD 62 per month, is available to foster parents who have a child placed in their care by an order of the children's court. The grant was initially intended as financial support for children who were removed from their families due to abuse or neglect and placed in foster care. However, the FCG is increasingly used to provide financial support for caregivers of orphaned children in kinship care. Many children live with grandparents or other family members, calling the appropriateness and effectiveness of the FCG for safeguarding the interests of these children into question. Foster care grants expire after two years, unless extended by an order of a children's court. Lapsed court orders result in tens of thousands of foster children losing their foster care grants. In 2011, the High Court extended existing foster care grants for three years to give the Department of Social Development time to solve the crisis. This date has since been extended a further four times, most recently until the end of November 2022. The paper will consider possible solutions to what is termed 'the foster care crisis' in South Africa.

Albert Kruger Retired judge and Prof extraordinaire at the University of the Free State

One-stop Child Justice Centres in South Africa

Youth Law 3

One-Stop Child Justice Centres exist to advance the interests of children. Such centres operate with the guidance of a magistrate assisted by officials in other state departments. The Child Justice Act of 2008 makes provision for the establishment and jurisdiction of One-Stop Child Justice Centres. Three state departments, namely Social development, Justice and Police, are involved in these centres. At a Child Justice Centre there is a magistrate and police officers.

Only children under the age of 18 years of age are brought to the Child Justice Centre. There are always at least three police officers on duty. Immediately after arrest the child is given food and is taken to the district surgeon if necessary. There is always a social worker on standby. On arrival the child is assessed by the social welfare officer. The circumstances of the child are determined as to whether he or she can be returned to the parents or guardian before appearing in the Child Justice Court. The Social welfare officer makes a recommendation to the presiding officer

whether the case can be diverted or whether the case has to proceed. Diversion is a very important element of child justice. The idea is to keep the child out of the criminal justice system if at all possible.

In many cases the prosecutor decides, after receiving the social welfare worker's report, to give the child a chance by means of the suggested diversion programme. If the results are positive, the charges are withdrawn and the child is released. Even children who have committed a second offence can be diverted, depending on the circumstances. Less serious cases are heard in the Child Justice Court. If the charges are more serious, the matter is directed to the Regional or High Court.

Dr Roxan Laubscher University of Johannesburg

A father's right to equality and the best interest of the child: A constitutional perspective on the rights of unmarried fathers regarding birth registration in South Africa

Gender & the Law 1

The right to equality plays a fundamental role in South Africa's constitutional democracy – acting both as an entrenched right (section 9) and a value underlying the Constitution (section 1). In addition, the South African Constitution provides that the best interest of the child is paramount in all matters affecting the child (section 28). This paper explores what happens when a parent's right to equality is weighed up against the best interest of the child. In Centre for Child Law v Director General: Department of Home Affairs ((CCT 101/20) [2021] ZACC 31 (22 September 2021)) the Constitutional Court had to confirm an order of constitutional invalidity by the high court with regard to section 10 of the South African Births and Deaths Registration Act 51 of 1992. This section allegedly infringed the right to equality as it discriminated against unmarried fathers by excluding unmarried fathers from registering the birth of their children under the father's surname, in the absence of the child's mother or without the mother's consent. The court pointed out that surnames are important as it "connects us to our heritage and roots us in history and family tradition".

The court held that there was no justification for differentiating between married and unmarried fathers in this regard, and therefore constituted unfair discrimination on the basis of marital status, sex and gender in terms of section 9(3) of the constitution. The court further pointed out that the impugned section also "perpetuates stereotypical gender roles and the assumption that child-care is inherently a mother's duty". In a dissenting judgment, Chief Justice Mogoeng however held that the provision does not unfairly discriminate against unmarried fathers as the provision serves a legitimate government purpose. The paper therefore attempts to analyse the diverging approaches to the problem at hand.

Prof Pamela Laufer-Ukeles Academic College of Law and Science, Hod Hasharon

Creating Parental Webs: Multiple and Functional Parenthood in Israeli Law

Law, Culture, and Religion 1: Parents and Children

The reality of parenthood is much more diverse and complex than ever before. Factors such as gamete contributions, surrogate motherhood, same-sex marriage, acceptance of diverse family forms, international and interracial family formation, and children increasingly born outside of marriage, have made the experience parenthood much less biological and binary. Israel, as a modern state that highly values the right to have children and is a world-leader in the use of fertility treatments, as well as a country in which homosexuals live freely and openly, increasingly is dealing with legal requests to recognize three parents, functional parents who are not biological, and other diverse family forms. However, Israel has been slower than other countries to legally recognize the complex reality of modern parenthood and diversity in child-raising. Israeli law tends to be both accommodating and deferential to religious legal precedents, especially Jewish law, which imbues natural, biological parenthood with religious, spiritual meaning that results in parenthood being biological, binary and inflexible. However, there are reasons particular to Israeli law that make recognizing multiplicity and diversity in parenthood important. Namely, due to strong permanence imbued in biological parenthood, parenthood status is incredibly difficult to terminate and thus many children are cared for by non-legal parents; adoption is rare in Israel. Second, due to the lasting relevance of illegitimacy, biological parents are at times not identified formally if children are the offspring of a married woman with a man who is not her husband. For these reasons, recognizing adults who are not formal legal parents as having legal status is especially important for Israeli children.

In this article, I demonstrate how a system of multiple, functional parenthood appropriate for the Israeli legal system can be crafted. Dividing parenthood into its components – as opposed to building it as one spiritual category – can functionally allow other adults to be awarded status as caregivers and functional parents or guardians, whom the law can support.

Dr Dafna Lavi The Academic College of Law and Science

Alternative-Transformative Justice: Towards a Rethinking of Divorce Disputes Involving Violence

High-Conflict Family Disputes 1: General

The paper deals with the interface between the transformative mediation process from the school of Bush & Folger and the phenomenon of divorce disputes involving violence. It examines the criticism of the judicial process in handling such disputes, through the lens of the judicial justice this process creates. The paper asserts that there are substantive failures in judicial justice, such as the lack of ability to empower the women survivors of domestic violence, which explain the immanent limitation of the judicial process from constituting the ideal solution for the survivors and also give rise to the critical narratives voiced against the judicial system in its handling of such disputes.

As an alternative, and through the presentation and mapping of the characteristics of alternative transformative justice that transformative mediation provides, the paper proposes transformative mediation as a preferable solution for such disputes, both on the personal, individual level and in the sphere of the general society and its values.

The central theme of the paper is that basic characteristics and perceptions of transformative mediation, including the focus on 'empowerment' and 'recognition', can be expected to make a significant contribution not only for the survivors of domestic violence themselves, but also for changing and advancing a different legal, societal and cultural discourse with respect to this painful phenomenon.

Transformative mediation has an important message. If only we would listen.

Prof Dongjin Lee Seoul National University

No-fault Divorce and Clean breakup Principle: A South Korean Perspective

What is a Partner 1: Separation

The Civil Code of South Korea adopts no-fault divorce system, at least according to the original intention of the legislator, while the case law has limited it when the one who is responsible for the breakup of the marriage relationship wants to file for judicial divorce as it is against good faith in marriage. Although the Supreme Court of Korea has eased this restriction in several cases, it still refuses to fully realize no-fault divorce system of the Code, by pointing, inter alia, that the Code, unlike in many other jurisdictions, does not have divorce alimony. This initiated a debate on whether and how to introduce divorce alimony in South Korea. In this presentation, the presenter would provide the overall scheme of Korean divorce law including the existence of consensual divorce and very flexible structure of division of marital property, introduces the developments of and pros and cons upon divorce alimony in some other jurisdictions, and examines the justifiability of divorce alimony under the no-fault divorce law. He would show that the divorce alimony could be partly covered by the division of marital property if it is properly understood, while the rest of it is unjustifiable under the no-fault divorce system and the divorce alimony survived under the no-fault divorce system as a political compromise for the transition toward the no-fault divorce system. He would argue that there is no necessity to introduce divorce alimony which never existed in South Korea for fully realizing no-fault divorce system. This presentation would show a facet of transition process or strategy toward no-fault divorce system or the (mis-)use of comparative law. At the same time, it also aims to find wisdom and experience from foreign scholars and professionals.

Felix Leven Institute for German, European and International Family Law, University of Bonn

"Support before representation": Adult autonomy and the institute of custodianship in Germany after the reform of 2023

Protection and Autonomy of Adults 4: the work of FL-EUR

In the German legal system, the empowerment and protection of vulnerable adults is provided by a variety of different means. When adults cannot legally take care of their own affairs due to illness or disability, one of the most prominent legal instruments is the institute of state-ordered custodianship. If necessary, a legal custodian (rechtlicher Betreuer) is to be appointed by the court, who by law has the power to represent the vulnerable adult. However, persons for whom a custodian is appointed do not have to be limited in their legal capacity, nor do they become so through the order of custodianship. Since in many cases the custodian thus operates in addition to the vulnerable adult, the central question is who then – in light of the UNCRPD – should be the primary legal actor and who is de facto perceived as such. With the recent Major Reform of the Guardianship and Custodianship
Law, the German legislator has focused on the self-determination of vulnerable adults under the principle of "support before representation". While the new custodianship law is thus intended to strengthen the autonomy of persons under custodianship, doubts remain as to whether their actions will be accepted by third parties.

Dr Roni Liberson Tel Aviv University

Algorithmic Justice for Family Disputes

Digital Family Law 1: General

We are living in an age of an ongoing technological revolution. Algorithmic tools have become ever-present in our daily lives. We can use algorithms to help us find the best route to a doctor's appointment, choose the music we will listen to while driving, and assist our doctor in diagnosing us.

As in other aspects of our lives, in the past few years, we have seen widespread global adoption of algorithmic tools explicitly designed to help manage family disputes. Such algorithmic tools are developed by private companies to be sold privately but are also developed and implemented by official court systems. They are used, for example, to facilitate agreements during separation and divorce and to manage post-separation co-parenting.

The use of algorithmic tools within the law gave rise to a vibrant public and academic discussion regarding the role technology should be allowed to play in our legal system. Critics pointed out that while technology can add value to the legal process, it can create new problems and challenges we need to address.

This paper will examine the unique characteristics and challenges posed by the new algorithmic tools adopted within family law proceedings. Firstly, the paper will map a wide array of such algorithmic tools being used in diverse legal systems worldwide. Secondly, the paper will examine lessons learned by using algorithmic tools in other legal spheres, particularly criminal law. Thirdly, it will explore the unique challenges of using machine learning within family disputes. The paper will conclude with a proposed model to encourage algorithmic justice for family dispute management.

Anat Lifshitz Bar-Ilan University

Elder Familial Alienation in Inheritance Disputes and the Protection of the Intergenerational Connections of Elders

Money & Property: Upon Death

Sociological research has identified a phenomenon of damage to the intergenerational relationships of elders by their own descendants. This is exposed in lawsuits regarding inheritance disputes or when appointment for a guardian is requested. However, this phenomenon has yet to be named and is wanting for legal theory.

In this article I seek to fill the gap. I argue that similar to Parental Alienation in childhood, elders are entitled to legal protection of their intergenerational connections and subsequently I offer potential doctrines in favor of realizing this protection.

In cases of Parental Alienation, the courts have found the continued contact between a child and each of its parents as a legal right of the child, recognizing the vitality of a parental relationship along with the vulnerability of a child.

Sociological literature shows that in a role reversal when an elder is dependent on one of his offspring, and the descendants "parent their parents" the same descendant may take advantage of said dependence and alienate other family members.

The similarities, both in the ways in which the phenomenon emerges and in the accompanying symptoms, led me to name it "Elder Familial Alienation". On the normative level, the recognition of the similarity between the phenomena leads me to two suggestions:

First, I offer an innovative interpretation of the doctrine of undue influence which focuses on manipulation and damage to the intergenerational connections of elders.
The second suggestion addresses the need to support relationships and the protection against damage to them in cases of alienation in old age during life and not only after death.

Prof Shahar Lifshitz

Denial of fatherhood by consent

What is a Parent 3: Assisted Reproduction - Attribution of Parenthood

Current legal discourse distinguishes three situations of agreements to deny fatherhood:

1. Agreement between the parents denying the paternity of the biological father of a child born, or about to be born, as a result of sexual intercourse.
2. Anonymous sperm donation to a single mother
3. Sperm donation from a known donor, both in an institutionalized process supervised by the public, and in a private engagement.

The article will address all three situations and seek to present a coherent position about them.

The article will begin by presenting the tension between the current legal position that deny the validity of contracts to deny parenthood in the first situation and at the same time enable to deny fatherhood in the second situation (2.), and offer three possible directions for distinguishing between them.

a. Distinction between the welfare of a future child and that of a concrete child
b. Distinction between informed consent in the first place and retroactive consent.,
c. Distinction based on the right to parenthood.

On the basis of these three distinctions, the article will argue that a blanket prohibition of case involving known donors, is inappropriate. Despite this conclusion, this article will preset yet another perspective, describing parenting as a social institution. Bases on this point of view, the article will argue that the known donation must nevertheless be prohibited in order to establish a clear boundary between the social institution of parenting, which cannot be repudiated by contract, and the social institution of the donation.

Juliana Maggi Lima Brazil

Homoafective Family in Brazil: a definitive legal reality – presentation of a study

Changing Perspectives in National Family Law 3: America

This presentation will show the results of the book Homoafective Family in the Jurisprudence of the Brazilian Supreme Court (STF) and other Superior Court (STJ) (Master Dissertation,USP).

The study examines the current legal definition of family in Brazil and focuses on the recognition of the homoafetive family in Brazil, which was granted through judicial decisions.

In 2011, the STF ruled that the binary gender requirement was no longer necessary for a family to exist legally.

Alongside the jurisprudential study, the book includes other theoretical foundations such as history and social sciences, which offer a new understanding of the 'traditional family' in Brazil, a concept often used against homoafective families. This study demonstrates that the homoafective family legally exists in Brazil and is entitled to the same legal treatment as a whole, including issues such as marriage, parenting, and other related matters, based on the ruling of STF.

Dr Dafni Lima University of Durham

Families in Europe: changing Concepts and Overcoming Divergences

Families in Europe

What constitutes a family in Europe? The answer to this question is constantly changing and increasingly varied. Strong disagreements exist within Europe. States do not move at the same pace or even in the same direction. These differences can have grave consequences for multi-national families and families that move across borders. Private international and procedural law are called upon to mitigate these issues. They are themselves, however, fragmented and often not entirely equipped to protect families cross-border. And while harmonization of substantive family law might seem like a desirable solution in certain areas, such efforts are even less politically feasible than the more timid steps to unify private international and procedural law within Europe. At the ISFL World Conference we want to present a joint project of close to 20 younger academics from all over Europe, which tries to bring a new perspective to these changes in family life and family law across Europe as well as their international consequences. Konrad Duden (University of Leipzig) and Denise Wiedemann (Max-Planck-Institute Hamburg) will provide a general framework of the issues addressed above. Additionally, three panellists will go into more depth in relation to particular areas.

Dr Dafni Lima University of Durham

Regulating Multiple Parenthood: A Comparative Perspective

What is a Parent 1: Selected Topics

How many parents can a child have? While most western jurisdictions still recognise only two legal parents, recent developments -such as advances in assisted reproduction and increased recognition of diverse family forms- have produced family constellations where more than two people could have a claim to legal parenthood. This paper will adopt a comparative family law perspective to explore how multiple parenthood could be regulated by surveying North American jurisdictions that already do so.

In this paper, I will start by assessing how the archetype couple has served as the bedrock of current family laws which rely on the two-parent paradigm. Then I will explore the shift from traditional conceptions of motherhood and fatherhood towards an increasingly gender-neutral conceptualisation of parenthood, as well as the topicality of multiple parenthood. In the second part, I employ a comparative perspective to

examine legal rules across Canadian and US jurisdictions (British Columbia and Ontario; and Delaware, California, Connecticut, Maine, Vermont, and Washington, respectively). Based on this comparative work, I will flesh out three different conceptual models for regulating multiple parenthood, according to their underlying principles and rationale: a functional approach, a best interests approach, and a party autonomy approach.

Prof Joëlle Long University of Torino

Equal but not. A feminist perspective on Family Law

Gender & the Law 1

Nowadays, Western Family Law is predominantly gender-blind, as it is widely acknowledged that formal equality requires the rules to refer indifferently to men and to women. Nonetheless, gender discriminatory laws still exist (e.g. patrilineal transmission of surname). Furthermore, women experience substantive de facto discrimination, for instance having to resign from work or choose part-time work for family reasons more often than men. Therefore, Parliaments and courts struggle to promote substantial equality. For instance, from the 1960s, in numerous States, common property has been the statutory default matrimonial regime. In addition, one of the parameters used by courts to calculate maintenance after divorce is the contribution provided, mainly by women, through domestic work to the running of the family and the formation of the equity of the other spouse or the joint finances. Finally, domestic violence affects women disproportionately and therefore amounts to discrimination against them. In short, the road to equality is still long and requires both legislative reform and appropriate training of legal practitioners to oppose sexist stereotypes and discriminative use of language.

Prof Nigel Lowe KC (Hon) Emeritus Prof, Cardiff University

Reviewing the CEFL's Attempts to Harmonise European Family Law

General Evolutions 4: Past and Future of Family Law B

Established in 2001, the Commission on European Family Law (CEFL) has published five sets of Principles of European Family Law: Divorce (2004), Maintenance Between Former Spouses (2004), Parental Responsibilities (2007), Property Relations Between Spouses (2013), and Property, Maintenance and Succession Rights of Couples in de facto Unions (2019). Conceived when harmonisation of family law was thought impossible, the CEFL's work not only demonstrated that it could be done, but also provides, through its accompanying national reports and comparative overviews, a rich mine of comparative information as well as five sets of coherent and, at times, challenging Principles. In 2020 a fresh series of updating national reports were commissioned which have now been considered as against the five sets of Principles.
In reviewing the CEFL's work the paper considers what impact, if any, the Principles have had and asks how well they have stood the test of time. It highlights some of the recurring themes of the Principles that have a global resonance, as well as a European one, such as party autonomy, equality and fairness between spouses and de facto partners, promoting the welfare of the family and safeguarding children's rights, which in turn have been inspired by such international instruments as the Universal Declaration of Human Rights, the UN Convention on the Elimination of All Forms of Discrimination against Women, and the UN Convention on the Rights of the Child.

Associate Prof Nataša Lucić J. J. Strossmayer University, Faculty of law Osijek

The child's right to know his or her origins - is there a gap between legislation and legal practice?

What is a Parent 4: the Right to Know One's Origins A

The child's right to know his or her origin is guaranteed by the UN Convention on the Rights of the Child, and the state parties are obliged to ensure the application of this right in accordance with their national legislation and obligations arising from relevant international instruments in this area. Croatian family legislation guarantees every child the right to know information about the mother and father and provides a number of instruments for exercising this right in legal practice, which have not changed significantly since Croatia existed as an independent state. However, contemporary family and reproductive trends present new challenges to national legislators in this area, so the question arises of the suitability of existing legislative solutions to solve such challenges, or their (in)efficiency in contemporary family law practice. This paper presents and analyzes the international and European sources of protection of the child's right to know his or her origin, provides an in-depth analysis of the norms of the current Croatian family legislation in the area of determining and disputing the origin of the child, and also points out the open questions that arise in their application. Comparative legal analysis includes a review of relevant solutions of selected European countries, in legislation and legal theory. The recent practice of the European Court of Human Rights in this area is also analyzed, as well as the practice of national Croatian courts.
In conclusion, a critical assessment of the existing legal situation and de lege ferenda proposals for improving family legislation in this area are given.

Ondřej Mach University of West Bohemia

Representation of a child in case of gender reassignment according to the conditions of the Czech legal system

Minors and Medical Decision-Making

Representation of the child during gender reassignment according to the conditions of the Czech law gender reassignment is a very lengthy and demanding process, which usually starts before the age of 18. In such cases, a conflict of opinions and interests may arise between the parent and the child. How does the Czech law solve these issues? The Czech Civil Code determines other ways of representing the child during the provision of health services due to the beginning of gender reassignment. Even in these questions, the best interest of the child is the most important principle. For example, the Czech Civil Code (or other czech law's act) doesn't contain medicine's procedures, which children can undergo. Children and doctors can exploit loopholes in the law only. And it is big problem.

In the end, this problem is global problem because lots of people don't know how approach about approach a gradual gender reassignment before the age of 18.

Dr Elwira Macierzyńska-Franaszczyk Kozminski University

Equal or non-Equal. Rethinking Human Rights Implications for Spouses Rights in Divorce Cases

What is a Partner 1: Separation

The European Convention of Human Rights refers to family matters in Article 8 by establishing the protection of the private and family life and in Article 12 which protects the right to marry. These provisions shall be interpreted in line with Article 14 prohibiting discrimination by enjoyment of the rights and freedoms set forth in the Convention. While the protection of family ties raises no doubts, the proper application of the established protection to the spouses in the event of divorce is not that clear.

The main issue, which I would like to consider, is the interpretation of the divorce prerequisites by the national courts and to what extent it is in line with Articles 8, 12 and 14 of the Convention. As a factual background of the analysis will serve exemplary divorce cases ruled by Polish courts. Based on them I will refer to the highly nuanced interpretation of a complete and irretrievable breakdown of the marriage, refusal of a consent to the divorce, fault of spouses, and principles of social coexistence. It would be examined whether the application of law reflects the positive obligation to protect the right to private and family life, as it is granted under the Article 8 of the Convention; and which criteria should be taken into account to secure the legally, socially, and ethically justified respect to the private life and family life in the event of divorce, as well as the criteria for establishing a proper balance between the protection of the marriage and the dignity of the spouse. Considering that the convention is a living instrument, what has been stressed by the Tribunal several times, I finally refer to a reasoning behind an idea of extracting the human right to divorce and its implications to the position of divorcing spouses.

Dr Elwira Macierzyńska-Franaszczyk Kozminski University

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Prof Irena Majstorović University of Zagreb

Family solidarity as a cornerstone of Croatian family law: between reality and illusion?

Changing Perspectives in National Family Law 1: Central and Eastern Europe

Family solidarity is a fundamental principle of modern Croatian family law. Its significance has been recognised 75 years ago, ever since family law evolved in an independent legal branch within the Croatian legal system, and it now represents a Leitmotif of regulation of all family law institutes.
However, it is now time to rethink the legal and social changes which have influenced the relations between family members, as well as to rethink the relationships between the principle of family solidarity and other fundamental family law principles. Indeed, it seems as if the interconnection of the principles demands legal and also social adjustments.
The examples of such an interrelation are numerous. Hence, it is time to reconsider i.a. the interconnection between the principle of family solidarity, the principle of equality of sexes and the principle of the welfare of the child related to the ban to the husband to file a divorce claim during his wife's pregnancy and the first year of their common child, which the wife is allowed to file; the interconnection between the principle of family solidarity and the principle of autonomy of will in regards to the departure from the equal co-ownership shares of the spouses in regards the marital property in case of concluding a marital agreement; or the interconnection between the principle of family solidarity and the principle of self-sustainability as a wider social demand in regard to the duty of grandchildren to maintain their grandparents.
Therefore, it is the aim of the contribution to rethink the principle of family solidarity in contemporary Croatian family law and to present proposals as to the strengthening of family cohesion through legal intervention.

Prof Anica Čulo Margaletić Faculty of Law University of Zagreb

The challenges of more effective protection of the rights of the elderly

Protection of the Elderly

The importance of ensuring comprehensive protection of the rights of the elderly is a challenge both for national legal systems and at the global and regional level. When considering more effective protection of the rights of older persons it needs to be emphasized that the care for vulnerable social groups is an indicator of social development and level of awareness of every society.
Namely, elderly people are the fastest growing population group in the world, and in developed countries it is precisely the oldest population over the age of 80 that is experiencing the fastest growth.

Taking into account the increasingly rapid aging of the population and the increasing share of older persons in society, the paper will analyze the challenges that this circumstance poses to national states and the international community, with regard to stronger and more effective protection of the rights of elderly.

Namely, many different factors related to older age contribute to the fact that it is necessary to additionally ensure the realization of the human rights of older persons. Having that in mind, the importance of dedicated and more intensive working on the adoption of an international legally binding document that would specifically apply to this sensitive and vulnerable population group will be considered since at the global level no special comprehensive legally binding document on the rights of older persons still has not been adopted. Examples of possible improvements in the protection of the rights of the elderly in domestic family law legislation will also be given.
When legal protection of the rights and dignity of older persons is concerned, one should bear in mind the value and importance that the elderly represent in their families, but also for society as a whole.

Prof Alice Margaria University of Zurich

Methodology 1: Enhanced Practices & New Frontiers in Family Law Research?

The Kite Model of Fatherhood

This presentation illustrates one of the many ways in which anthropology can inform the study of family law, with a specific focus on the topic of legal fatherhood. In line with Werner Menski's 'kite model of law', legal fatherhood is imagined and navigated as a structure with four corners which correspond to four different types of law: natural laws in the form of ethics and values; socio-cultural and socio-economic norms; state law; international law, including human rights provisions. As explained by Menski, for the kite of law to fly, the weight of the four corners have to counter-balance one another. Legal systems which, by contrast, do not give enough weight to people's laws and social norms promise, but fail to deliver, justice.

If applied to the context of evolving notions and practices of fatherhood, the kite model serves two purposes. First, it provides a framework

for appreciating legal approaches to fatherhood in their complexity: it brings to light the plurality of formal and informal 'kite players', norms and practices that overlap in time and space and contribute to shaping legal fatherhood; and it helps us to untangle how people's and social norms affect legal norms and viceversa in a process of mutual co-constitution. Second, the kite model enables us to trace the manoeuvres and acts of (re)balancing within the kite structure of law that lead to the (non-)harmonisation of legal fatherhood and contemporary fatherhoods. In so doing, it maps a space for future law-making that is inclusive of plural fatherhoods, sustainable, and resonates with the needs and the expectations of the people involved.

Prof Alice Margaria University of Zürich

Seahorse Dads before Courts: What is Left of Conventional Legal Fatherhood?

Queering Family Law

Over the recent years, the issue of birth registration of trans parents has entered courtrooms in various European jurisdictions. The decades-old conflation of gestation and legal motherhood, and the gendered nature characterising the regulation of legal parenthood more broadly, have played out against birthing parents who do not identify as mothers, including seahorse dads (ie trans men who give birth to their children). With few exceptions, seahorse dads are registered as mothers on their children's birth certificates, in spite of being legally men, due to the immutability of the rule mater semper certa est. This presentation reflects on the transformative potential of court cases brought by seahorse dads to rethink legal fatherhood outside the conventional paradigm. In giving birth and requesting to be registered as fathers, seahorse dads are active agents in challenging a genetic, mediated, hetero- and cisnormative understanding of fatherhood, and foreground care as a potentially central father-child legal connector. Taking a comparative approach, including the recent judgments by the European Court of Human Rights, this presentation identifies birth registration as a new moment and channel through which gendered, cis- and heteronormative ideas around care and parenting are legally imposed to the detriment of trans parents, and family diversity more broadly.

Prof Silvia Marino University of Insubria, Como

Private International Law Approaches on Parental Responsibility within Transnational Families

PIL 1: General

In International and European Family Private International Law a common feature is the use of the habitual residence of the child both as a ground of jurisdiction and as a connecting factor, in cross-border disputes related to the parental responsibility over the child. This is very clear, for example, in the 1980 Convention on the Civil Aspects of International Child Abduction, in the 1996 Convention on Child Protection and in the EU Regulations on transnational parental responsibility (currently: regulation n. 2019/1111, applicable from August 2022).

Notwithstanding the relevance of the notion of habitual residence, none of these instruments defines it. With reference to international conventions, its identification is left to the national courts of the Contracting States applying them, under the guideline of Explanatory Reports, where available (which is the case for the Conventions promoted by the Hague Conference of Private International Law, as the two mentioned above).

Under EU Law, the Court of Justice has already had the opportunity to clarify the notion of habitual residence of the child in some cases referred to it under the preliminary ruling proceedings. Two main elements compose the notion: an objective and a subjective factor. The former requires the presence of the child in a place, and can be derived from objective elements even related to the family life, such as, for example, the availability of a family accommodation in that place. The latter is more difficult to detect especially in cases of very young children.

Despite some difficulties, the analysis of the case law shows an interaction and a convergence between International and European Law, and a strong orientation towards the interpretation of the habitual residence of the child as a connecting factor in the light of the current main principle in the treatment of children, its best interest.

Prof Rossana Martingo Cruz School of Law - University of Minho

Some recent changes in the Medically Assisted Reproduction Law in Portugal: post-mortem insemination and Succession Law effects

What is a Parent 2: Assisted Reproduction - General

In Portugal, the Medically Assisted Reproduction Law (MARL - Law no. 32/2006, July 26th) has undergone successive changes in recent times, from the widening of the range of beneficiaries of medically assisted reproduction (MAR) techniques, the admissibility of surrogacy in certain cases, to the possibility of using post-mortem MAR techniques.

Since it is impossible to analyse all the issues that require a legal response from the legislator to several questions, many of them controversial and with ethical implications, we propose to analyse some succession problems that arise due to the use of MAR techniques. The central issue to be addressed will be limited to the solution recently found by the legislator, in Articles 22 ff of MARL, regarding post-mortem insemination. Law no. 72/202, November 12th, amending the MARL, allowed the use of MAR techniques through insemination with semen after the donor's death, in cases of expressly consented parental projects. Hence, now it should be considered in terms of succession those who are born, those who are conceived and also the ones to be conceived, under the terms of the law, in the context of a post-mortem insemination procedure. It is therefore possible for persons conceived by post-mortem insemination also to be called to the succession. Evidently, the calling of these conceived or to be conceived persons will be subject to the provisions of the MARL, especially in Articles 22, 22-A and 23, which we will analyse.

The solutions now found by the legislator in the field of MARL are a way to solve the possible problems arising from the use of post-mortem MAR techniques. The legislative change is recent and only time will allow us to assess the effectiveness of such solutions.

Elena Mascarenhas ISJPS (University of Paris 1 Panthéon Sorbonne) & CERCRID (University of Lumière Lyon 2)
Prof Benjamin Moron Puech CERCRID (University of Lumière Lyon 2)

What words for a gender-neutral parentage law ?

Gender & the Law 2

The recent decision of the Court of Appeal of Toulouse (February 9, 2022) reveals the need to neutralize legal language in parentage law. The analysis of the case through the lens of the philosophy of language and social philosophy can remind us the connections between law and language : how words influence legal and social reality and are a site of struggle towards the recognition of identity and rights. We will then pay attention to the different legal terms and solutions that have emerged in the course of this litigation in order to find the way to neutralize language. How far should and can we neutralize legal language? Should the use of gender-neutral words be reserved for transgender people? Should neutralization be thought of on a larger scale, including a complete overhaul of the language of the law of kinship, as claimed by doctrine and social demand? If neutralizing all the words of parentage law appears as a long process with obstacles, can we at least remove the binary mentions "father" and "mother" from the birth certificate?

Prof Géraldine Mathieu University of Namur

Assisted Reproductive Technologies, Families, and the Law: exploring the intricacies, limits, and future of the role of law in determining 'family'

What is a Parent 9: Panel Debate on ART

Many people turn to assisted reproductive technologies (ART) to help found/grow their family. This panel explores law's families in the context of ART, critically examining the current complexities and limits of the law, as well as prospective legal reforms, in the context of the ethical discourses that underpin ART. Through comparing national legal regimes and engaging with relevant international law, at the same time considering the bioethical narratives reflected in law, this panel aims to facilitate a discussion on the role of law (current and future) in determining 'what is family?'.

The topic is broad, and intentionally so, in order to allow the discussion to flow spontaneously between the panellists and the audience. Of course, the ongoing discourse pertaining to the legal determination of parenthood given the splitting of the genetic/gestational/social or intentional elements of parenthood via contemporary ART practices (i.e. gamete extraction and preservation, gamete/embryo donation, IVF, surrogacy) will necessarily form part of the panel discussion. However, panellists will also be invited to think further ahead and consider the legal and ethical implications of emerging and future ART (e.g. mitochondrial replacement therapy (MRT), CRISPR-CAS9 gene editing, in vitro gametogenesis (IVG), and artificial wombs) vis-à-vis the notion of 'family' in law. What do these technological advances mean for reproductive rights and intentional family planning? And what do they mean for the resulting child and their establishment as a person in the context of their family, the law, and broader society? How do we balance individual interests in planning and shaping our families and family life with collective interests as a society and as a species? Ultimately, how do these technologies impact what we have hitherto perceived as 'family' in law, and how can family and fertility law adapt to these (inevitable?) technological advances?

This diverse panel draws together early career and established researchers, from across the fields of family law, bioethics, and biolaw to engage in an open, cross-disciplinary discussion on what ART means for familyhood, now and in the foreseeable future.

Kazuki Matsuda Waseda University

Procreation and Parental Obligation

What is a Parent 7: Social Parents A

Hugh LaFollette argues that all parents should be licensed in order to protect children from the potential hazards of poor parenting. This means that anyone who wishes to raise a child should undergo an evaluation to determine whether they possess the necessary qualities to be a competent caregiver, regardless of whether they are biologically related to the child or not. However, opponents of this view argue that having a biological connection to a child or being the causal cause of a child's existence generates the right or responsibility to raise the child. In this report, I will critically analyze this debate.

Prof Kaiponanea Matsumura Loyola Law School, Los Angeles

Why Value Relationship Stability?

What is a Partner 4: Polyamory

American family law assumes that stable relationships should be encouraged and rewarded. Scholars have defended marriage because marriage is more stable than other relationship forms. Proposals to recognize nonmarital relationships often turn on stability. Scholars also center the stability of the parent-child relationship, pointing to the large body of research that demonstrates that a stable parent-child relationship is critical for healthy child development.

Polyamorous, or plural relationships, however, reveal that the focus on stability may be too narrow. These relationships often persist despite the coming and going of individual partners. Studies suggest that people in plural relationships are no less committed to, satisfied with, or trusting of their partners. In fact, they report even higher levels of relationship satisfaction and quality. Unlike stability, these other features, like emotional commitment, satisfaction, and trust, have not grounded law reform proposals.

This paper questions whether stability deserves its pride of place in the law governing family relationships. It makes two basic points: first, that laws governing marriage and nonmarital relationships can be better tailored to promote the version of stability that the law cares about; second, that the case for elevating stability over measures like commitment, satisfaction, and trust, is weaker than assumed.

Assistant Prof Mehmet Oğuz Vuraloğlu İzmir Bakırçay University

Recent Developments in Turkish Family Law

Changing Perspectives in National Family Law 5

Decree concerning withdrawal of Türkiye from the Council of Europe Convention on preventing and combating violence against women and domestic violence, which is known as Istanbul Convention, has been published in Official Gazette dated 20 March 2021. One of the goals of this work is to set forth relevant provisions of Turkish legislation that serve the same purpose and to identify whether the denunciation has affected rules concerning combat against violence.

Istanbul Convention had been considered in public in terms of the definition of gender and discussions have led to a proposal for constitutional amendment which clearly states that marital union could only be possible between a man and a woman. The proposal and current articles of the Turkish Civil Code regarding requirements for marriage will be addressed from the perspective of comparative law.

Another potential alteration pertains to the post-marital maintenance payment. Provisions of law, jurisprudence and the draft that envisages different time limits for maintenance payments depending on the duration of marriage, will be examined in comparison with rules of other countries.

The work will lastly focus on another highly controversial issue of compulsory mediation mechanism in Turkish legislation and its predicted scope of application in family law.

Joan Meier National Family Violence Law Center Prof of Clinical Law, George Washington University Law School

U.S. Family Court Outcomes in Cases involving Abuse and Parental Alienation Claims

High-Conflict Family Disputes 2: Parental Alienation

An empirical study of U.S. family court outcomes over a ten-year period examined how courts respond to abuse allegations and alienation allegations, with particular focus on mothers' abuse allegations and fathers' alienation crossclaims. The data show that, consistent with reports from the U.S. and other countries, courts disbelieve mothers' abuse allegations more often than not, with child abuse claims rejected at far

higher rates than intimate partner violence. When allegedly abusive fathers claim the mothers are alienating the children, courts' rejections of mothers' abuse claims increase significantly - no child sexual abuse claims are accepted. One in four mothers alleging abuse loses custody to the alleged abuser without alienation crossclaims; with such crossclaims half of all mothers alleging abuse lose custody to the alleged abuser. The involvement of court-appointed professionals such as Guardians Ad Litem and Evaluators significantly increase negative outcomes for mothers. The presentation will describe the study's methods and findings in more detail and offer approaches to reduce biased responses to abuse allegations.

Lucia Miglietti University of Calabria

Jurisprudential protection of atypical forms of cohabitation in India

Changing Perspectives in National Family Law 4: Asia

The study analyses a series of Indian Supreme Court rulings that, in defiance of the country's conservative principles, have extended statutory family benefits to atypical households, thus affecting the legal evolution of the notion of family.

Dr Lize Mills De Montfort University Law School

Born from bad memories: considering the best interests of children conceived through rape or incest

Conflict Handling

Section 1 of the South African Children's Act provides that a "biological father of a child conceived through the rape of or incest with the child's mother" is not regarded as the parent of such a child. This means that the biological mother, or in certain instances, the maternal grandparents will have parental responsibilities and rights over children born from rape or incest. This also will be the position if both parties to an incestuous relationship consented to the sexual intercourse: the biological mother or maternal grandparents will have rights and responsibilities over the child, but not the biological father or his parents.

This default position of denying the rapist or incestuous father any parental responsibilities and rights does not apply in a number of jurisdictions, including several states in the United States of America (USA), and in England and Wales. In the USA, the argument that is levied against the termination of parental rights over a child is found in the 14th amendment to the Constitution of the USA, protecting the rights to life, liberty, and property. In fact, if Articles 12 and 16 of the Universal Declaration of Human Rights are considered, it could be said that the South African Children's Act is depriving some biological fathers of their rights. Further, if regard is paid to Articles 7, 8 and 9 of the Convention on the Rights of the Child, as well as Article 18(1) of the CRC, it could be argued that the child is being denied her rights to parental care and identity.

This article seeks to explore the rationale for the South African legal position. I will examine the provisions of the Children's Act and consider whether the legislative framework provides certainty, fairness and justice in this regard. I aim to establish what the best interests of children born from incest or rape are, and whether such interests are being considered to be of paramount importance, in line with the country's international and Constitutional obligations. Ultimately, it needs to be established whether the approach adopted by the South African legislature is one that is providing an appropriate balance between the rights of the child, the (victim) mother, and the rapist or incestuous father.

Prof Antonello Miranda University of Palermo

Famigration in Italy and the rights of the individual: the case of nullity of combined marriages as consequence of duress or undue influence

Famigration 1: General

The neologism "Famigration" (Family-Immigration) indicates the phenomenon resulting from migrations in the globalised world in which national family law doctrines, principles, and statutes are critically confronted with the family models diffused in different cultures.

Thus, a problem has emerged of the protection of individual rights and freedoms that are often incompatible with certain family traditions and conceptions that are not 'autochthonous' or 'alien' but are now present in the country.

There is room for an 'alternative use of comparative private law' by reconstructing and interpreting the rules of family law in such a way as to make them more effective and consistent with the new situations.

For instance, it is possible to address the problematic issue of 'arranged marriages' even in the case where the spouse, giving in to circumstances and the 'pressure' of relatives and their community, has validly married despite her opposition. Through a new comparative interpretation of the Italian Civil Code's rules on "awe" and "violence" with the homologous Common Law concepts of "widespread violence" and "undue influence", it is possible to void the marriage for "absolute violence", concretely safeguarding the individual's freedom of choice.

Dr Charlotte Mol Utrecht University

Qualitative content analysis of case law: a golden standard for future family law research?

Methodology 1: Enhanced Practices & New Frontiers in Family Law Research?

Family law is incomplete without domestic, European and International case law. Case law from national courts, European courts, especially the European Court of Human Rights (ECtHR), and international monitoring bodies, such as the UN Committee on the Rights of the Child, all provide more body to the field of family law. In that regard researching case law is a key task for anyone specialized in family law.

Generally, there is an implicit understanding under legal scholars that case law is analyzed through careful reading and drawing conclusion on the basis of 'leading' or 'landmark' cases. The study of case law is not traditionally discussed as a methodology, nor is case law analysis easy to define. In this presentation, a new method for case law analysis, qualitative content analysis (QCA), is proposed. Qualitative content analysis is a method originating from the social sciences for the analysis of text by using coding to reduce the data into smaller segments. The method provides the researcher the possibility to pick apart the case law into smaller, detailed pieces. Viewing these pieces per topic, reassembling their connections and reconsidering them within the bigger picture of the case provides for new insights.

This presentation introduces a legal method of qualitative content analysis for case law analysis and reflects on whether, and if so how the use of this method can provide new insights in family law research. The advantages and disadvantages of a systematic search and selection method and the QCA method for family law researchers are addressed. An answer will be sought whether this method of case law analysis should become the golden standard for legal researchers.

Prof Daniel Monk Birkbeck, University of London

Law's Friends: The Justified Limits to Recognition

What is a Partner 3: Platonic Relations

Proponents of an expansive family law - one that starts from the complex connections in lived embodied lives - have remarked on the failure of law to recognise friendship. Indeed Friendship has been a site of troubling the very definition of families and complicating arguments about the intertwined functions of the family and the state.

This paper aims to analyse the distinct arguments made by proponents of reform in order to identify the underlying ideological, pragmatic and emotional roots of the claims. It endeavours to bring the literature on friendship into dialogue with empirical research and critiques of anti-normativity frameworks. In doing so the paper draws on what Jaqueline Rose has described as 'a paradox of political emancipation', where oppression must be met with self-affirmation, as in: 'I have dignity. You will not overlook me'. To vacillate is political death. No second thoughts. No room for doubt of the day-to-day aberrations of being human. . . the range of utterances narrow into a stranglehold' (LRB 38(9), 5th May 2016, 'Who do you think you are?).

André Moradas Nova School of Law

Braschi v. Stahl: Functionally Recognizing Non-conjugal Unions?

What is a Partner 3: Platonic Relations

In the landmark decision of Braschi v. Stahl Assoc. Co., the New York Court of Appeals devised a set of functional markers of family for the recognition of non-eviction rights, then codified in the New York Rent and Stabilisation Code. These markers emphasize the need for proof of actual commitment in the family relationship, allowing for the (functional) recognition of less conventional committed relationships, like non-conjugal couples.

This presentation aims to showcase these markers as an example for a functional recognition method in Court. Focusing on how non-conjugal unions may benefit from this method, specific challenges that may arise in proving commitment will be considered. In order to do so, current case law on the recognition of non-conjugal couples' non eviction rights will be reviewed, in light of the ongoing academic discourse on form versus function in the legal recognition of relationships.

Shona Moreau Faculty of Law, University of Mcgill

I love you ... as a friend. Nonconjugal life partnerships

What is a Partner 3: Platonic Relations

They aren't lovers or roommates, but they are building a life together. April and Renee are best friends in their late 20s living in New York City who recently went viral on TikTok for publicly announcing their unusual relationship: that of platonic life partners. April and Renee's situation is not new, but alternative family structures have recently gained more social recognition, demonstrating North America's ongoing engagement with understanding the concept of family.

The idea of platonic life partners has actually, surprisingly, already been legally recognized by a Canadian province, Alberta, and that since 2003. Through the Adult Interdependent Relationship Act of 2003, Alberta legally recognizes and protects platonic life partners . In a province regarded as one of the more politically conservative in the Canadian federal system, the legal recognition of platonic life partners or any other non-traditional family formation seems out of place. As such, one might reasonably ask why Alberta would institute such a regime. Where did the idea of legalizing platonic relationships come from? And why has no other Canadian or foreign jurisdiction adopted a comparable legal regime in the last two decades?

Using the situation of platonic partnerships, this paper investigates the evolution of an alternative family formation and its legal recognition in Canada through legislation, paying particular attention to Alberta's Adult Interdependent Relationship Act. This research provides an example and gives a more comprehensive understanding of how the various historical dynamics of law and society influence one another in valuing alternative family models.

Mathilde Mosiek Jean Moulin Lyon 3 University, Family Law

Metamorphoses and breaking points: up to what point should parentage be rethought in french law?

Changing Perspectives in National Family Law 6

Among the new forms of family life, there are new forms of parenthood: new ways of considering themselves as parents. They are generally the source of requests for access to family ties. How does French family law deal with these new claims and how do they contribute to a certain 'metamorphosis of the concept of parentage'? Two current examples allow us to assess the importance and limits of their influence.

On the one hand, between 1994 and 2021, various bioethical laws have allowed couples of different sexes or the same sex as well as single women to give birth to a child without procreation. On these occasions, the legislator renewed the notion of "parent" and gradually transformed French law on filiation. Hesitations and the options finally adopted make it possible to identify, on the one hand, how the legislature has contributed to the development of the notion of 'parent' and, on the other, the limits that have not, at this time, been reached.

On the other hand, the law of 18th November 2016 abolished the obligation to submit to medical treatment to change one's gender in civil status records. This reform has also given rise to new ways of living as a family, which have been accompanied by new demands in terms of access to parentage. Indeed, as things stand, a person is likely to procreate with his or her original reproductive organs and claim a status of father or mother that does not correspond to the sex recorded on his or her civil status. For the time being, the legislator has not addressed this question, although French jurisprudence is already confronted by it.

These issues allow us to observe the strength with which the notion of 'parent' is being challenged today, the extent of its metamorphosis, and the breaking points.

Daniela Silva Mroz Civil Register Officer (Brazil), PhD in Criminal Procedure (University of Florence)

The principle of equal parenthood and the new Brazilian constitutional paradigms

Changing Perspectives in National Family Law 3: America

Until the Brazilian Constitution of 1988, the establishment of filiation was based on the marriage bond, applying the theory of presumed paternity. This generated discriminatory effects and a distinction in rights, including inheritance rights, for children considered illegitimate, who received smaller shares because they were the fruit of extramarital relationships.
Since the Citizen Constitution, a new paradigm has been established, whose effects reverberate in the Brazilian society. The Constitution listed, among the fundamental guarantees and, therefore, a permanent clause, the principle of equality in filiation and the prohibition of its distinction, whether in birth certificates, where expressions such as legitimate, illegitimate or legitimized children were suppressed, and equalized the rights in favor of biological, civil or adoptive filiation.
Respect for the principle of the dignity of the human person and the pursuit of happiness, established by the new constitutional order, continues to echo, and recently the recognition of the affective bond, materialized by multiparentality, has been allowed, based on a historic decision of the Federal Supreme Court (RE n. 898.060/SC). This bond is now qualified as "socio-affective" filiation.
This paradigmatic decision allowed the recognition of socio-affective parentage to occur even in the administrative sphere, without the

participation of the Judiciary, further emphasizing the role of civil registries in the process of de-judicialization of issues in which there is no dissent.

In addition to the equality of children, the equality between men and women has allowed mothers to register their children alone, extending the theory of presumptions of paternity to stable unions, or allowing the indication of the alleged father so that he can confirm, if he so desires, in an administrative manner, the indicated paternity.
This panel is intended to discuss the new models of paternity recognized in the Brazilian legal system and their respective impacts, in light of the equality of filiation, the principle of responsible paternity, and de-judicialization.

Margot Musson Jean Moulin Lyon 3 University, Family Law Department

Rethinking parental responsibility in the light of children's fundamental rights in the digital age

Children's Rights 1

This contribution will emphasize the need for family law to adapt to new technologies in organizing the parent-child relations considering the latter's fundamental rights. Children's protection is entrusted to their parents, seen as the natural and best protectors of them against attacks from the outside which are particularly frequent in the digital age. They are recognised the power to represent their child, including through legal action by suing the authors of violations in order to stop them and obtain compensation.

Nevertheless, parental prerogatives can sometimes be a way for adults to violate the child's rights and legitimise these violations, which are particularly relevant in the digital age as new technologies encourage and facilitate them. One can particularly think of content shared on social medias representing children in a vulnerable or intrusive way regarding their privacy and dignity, such as unboxing videos.

The question of the protection of children's fundamental rights against their own parents is beginning to emerge amongst jurists thanks to a new conception of parenting and children's rights, which has grown since the UN Convention on the Rights of the Child. The problematic is to ensure the protection of his rights despite the heteronomy which characterise childhood. For some years now, parental prerogatives are indeed apprehended as powers whose sole finality is the child's best interests.

This contribution will draw the legal consequences of this conception: parental actions could be submitted to a control of their legitimacy with the ECHR technique of the fair balance and proportionality test: violations of children's fundamental rights – especially online – should only be tolerated if parental action is necessary and proportionate. The very purpose of parental responsibility – the protection of the child – could then be fully fulfilled, without these prerogatives being able to justify violations of the child's rights.

Sanna Mustasaari University of Eastern Finland

"We are here to put the past behind us": Bracketing violence in Finnish custody proceedings?

High-Conflict Family Disputes 1: General

Modern family law upholds an image of 'negotiatory family'. Such an image may be a useful legal fiction, an 'as-if -mode' (Michaels, Knop and Riles 2009), that places the disagreeing parties in a position where they are expected to be able to find durable solutions to their disagreements. This expectation combined with structures that support or demand negotiation are generally thought to produce good outcomes. However, the rates of domestic violence in Finland remain high, and the legal system continues to struggle with finding ways to deal with violence. In this context, the 'as if mode' might lead to violence becoming invisible. Previous studies indicate that violence is poorly recognized and seldom in the focus of the assessment concerning the best interests of the child. The preliminary data that this paper draws on suggest that violence continues to be insufficiently recognized in courts, and even when there is evidence of violence, it is often bypassed in courts. The paper engages with feminist legal theory to discuss the data as well as the normative expectations that the victims of violence should put the past behind them, their own feelings aside, and focus on the best interests of the child.

Noy Naaman University of Toronto

Queer Reproduction

Queering Family Law

"Queer" in relation to "reproduction" may seem like an oxymoron—a glaring one, if we consider the disdain for producing offspring and for other heteronormative modes of living that the anti-social strand of queer theory, in particular, expresses. Today, though, queering reproductive justice seems to be becoming a recognized academic endeavor, albeit this bourgeoning scholarship is mostly organized around discrete, minoritized identities. If we subscribe to the view that, historically, queer theory has been largely anti-identitarian, this poses an intellectual

tension: could queering reproductive justice be identitarian and anti-identitarian at the same time?

To reconcile this tension, I argue that we should remain open to the motivation of queer scholarship to embrace the fluidity of our society. "Queer" as a category in constant (re)formation exhorts us to continuously formulate new ways to understand the contingency of norms. And "queer" as a scholarly motivation that transcends disciplinary boundaries should not be limited to sexuality or gender. It is against this conceptual backdrop that I illustrate how several objects of research, currently undeveloped in queer legal theory, could be incorporated into the legal analysis of reproduction. My work discusses the potential contribution of this direction to queer legal theory but also to the critical analysis of law more generally.

Zigana Nazeemudeen University of Aberdeen, School of Law

Determination of the best interests of the child in the context of international surrogacy arrangements

PIL 3: Cross-Border Parenthood

Determining legal parenthood and the consequential matters that arise from such determination, in particular, nationality, are at the core of International Surrogacy Arrangements(ISA). As national approaches to regulating surrogacy and private international law rules determining the legal parenthood of the surrogate child varies considerably, upholding the best interests of the child has become a challenging task in the context of ISA. The Hague Conference of Private International Law (HCCH) has appointed an Expert Group to explore the feasibility of an international cooperative approach through an international instrument to address the issues arising from ISA. In this context, the importance of recognition of the best interests of the child in ISA has been endorsed by academics, courts at domestic and regional levels and international institutions. However, there is no discussion as to how national approaches to conceptualisation of the best interests of the child has impacted the determination of legal parenthood of the child in ISA. This research argues that there is a need for conceptualising the best interests of the child as a policy and as a principle in the context of ISA. Consequently, this research explores three jurisdictions: the UK, France and California (US), which have three different approaches to international surrogacy and contends that conceptualising of the best interests of the child depends on States approaches to the surrogacy as a practice. Particularly, determination of parties' connection to the child, the nature of surrogacy arrangements and states approaches to determination of parenthood of the child in ISA have a cumulated effect on upholding the best interests of the child. However, without understanding the distinction of application of the best interests of the child standard as a policy and as a principle, finding an international solution where States have to recognise legal parenthood of the child at fait accompli will be a lost opportunity of international cooperation protecting the rights of the child. As such, this research has taken a step beyond mere recognition of importance of the best interests of the child standard and proposes that considering the international human rights and the private international law concerns, the best interests of the child should be conceptualised both as a policy and as a principle. Within this context, it is suggested that an international mechanism of pre-approval of ISA should be introduced. The pre-approval should be obtained through country of nationality or domicile of intended parents of ISAs. The automatic recognition of legal parenthood of the child established abroad should be granted subject to the conditions of the pre-approval which is based on the minimum human rights standards as suggested in the proposed convention. It also proposes that the best interests of the child should be conceptualised as a principle. If any case which does not come under the proposed international framework, the legal parenthood of the child in ISA should be recognised based on the lex fori of the country of destination. However, the country of destination as a member States to the proposed convention should uphold the best interests of the individual child as conceptualised in the proposed Convention.

Máire Ní Shúilleabháin University College Dublin

(R)evolution of international filiation

PIL 4: Panel Debate on Cross-Border Filiation

Over the past years the European Commission and the Permanent Bureau of the Hague Conference on Private International Law (HCCH) have been working on cross-border aspects of filiation. Filiation is subject not only to an evolution, but a revolution, due to the growing use of artificial reproduction techniques and the resulting pressure on existing legal frameworks. Policy makers world-wide are aware of a global market of reproduction (e.g. surrogacy) and also of the difficulties families face to have filiation ties recognised trans-nationally. These difficulties are prevalent in but not limited to non-traditional forms of filiation. Drafting international or even EU legislation has proved to be particularly difficulty, not only due to ethical, but also on a legal-technical level. First, filiation is often recorded in public documents and these documents have different consequences across borders. Some States' laws require a reassessment of the law that was applied while others recognise the document unless there are public policy or other serious concerns. Second, public documents are submitted to population or civil registries, who are not always ready to apply complex legal reasonings.

Method: Panel debate with a moderator; participants provide answers and encourages discussion with the audience on:

- What has been done by the HCCH or can be done internationally to regulate cross-border filiation?
- How can we regulate or set standards in the international fertility market (eg. Verona Principles; UN Special Rapporteur and UNICEF)?
- What is the EU doing to regulate cross-border filiation?
- What is the relevance of the principle of free movement within the EU?
- What is the role of contracts for filiation?
- How can we guarantee the child's right to know their origins?
- How can States cooperate to gain evidence on filiation and find information about foreign law?

Roos Nieuwboer Vrije Universiteit Amsterdam

The Added Value of a Case File Study in Family Law Research

Methodology 1: Enhanced Practices & New Frontiers in Family Law Research?

Family law stands apart from other areas of law because of its sensitive nature. Intervening in the family sphere of a person is an extremely personal and delicate matter. A clear example in this regard is the appointment of a guardian for adults who are no longer able to take care of their interests due to a mental or physical condition. In the Netherlands, the appointment of such a guardian results in a (partial) deprivation of the legal capacity of the adults involved, or their right to make decisions that have legal effect. According to the European Court of Human Rights (ECtHR), depriving individuals of their legal capacity is a very serious measure which should be reserved for exceptional circumstances. Without legal capacity, individuals may lose the right to make their own decisions and become dependent on a guardian in some or all aspects of life. The ECtHR has consistently stated that a deprivation of legal capacity may constitute an interference with the right to a fair trial (Article 6 of the European Convention on Human Rights (ECHR)) and the right to private and family life (Article 8 ECHR). My research therefore focuses on the question: to what extent are the Dutch guardianship(-like) measures reserved for exceptional circumstances in practice?

It can, however, be challenging to conduct traditional legal research in family law. Court hearings in family law generally take place behind closed doors and a great deal of family law judgements are not published for privacy reasons. In addition, family law judgements that are published often contain standardized phrases to protect the privacy of the persons involved. Based on my own experiences conducting a case file study of Dutch court files, I will discuss the added value of such an empirical research method to the traditional methods in family law research.

Prof J. Thomas Oldham University of Houston

The Lack of Consensus Under US Law Regarding the Principles Governing the Award of Spousal Support after Divorce

Money & Property: Upon Separation 1

Spousal support is rarely awarded in the US when spouses divorce after a marriage of relatively short duration. If spouses divorce after a marriage that lasted more than 10 years and the spouses have very different post-divorce career prospects, however, there is substantial disagreement regarding when spousal support should be awarded, as well as the amount and duration of such support.

Adesuwa Omozusi Legal Consultant, ForestHill Law Practice, Lagos, Nigeria.

Torture camps: A comparative analysis of legislation on Rehabilitation Centers in Nigeria and other Common Law Jurisdictions in Africa.

Plenary 4. International Family Law

The existence of torture homes, which masquerade as rehabilitation centres across Nigeria, is on the increase. In the past four months, the police and other law enforcement agencies in Nigeria have collectively rescued over 1,500 people from illegal rehabilitation centers in Kaduna, Katsina, Kwara and Oyo state.

Many of these centres disguised as religious homes (Islamic schools) or camps on the basis of correctional programmes admit young offenders many of whom are boys for petty crimes, drug addiction and mental illnesses. Unbeknownst to the guardians and parents of these children, many of these children are tortured, molested, punished, starved and some left to die in the most inhumane conditions. One parent told Reuters news agency that "they did not know their children would face this kind of harsh condition".

Prior to the raiding and bursting of these torture homes and camps, many state governments in Nigeria have abandoned the state owned rehabilitation centres, which became understaffed and ill equipped to accommodate juvenile offenders or mentally challenged individuals in the society. Thus, they solely rely on the charity and good will of individuals or organizations' corporate social responsibility programme or scheme. This has led to the decay and abuse of the entire rehabilitation system.

There are several laws and policies that provide for the creation of rehabilitation centres. The purpose of this paper is to present a comparative analysis of legislations and policies on rehabilitation centers in Nigeria and other common law jurisdictions in Africa to provide a common basis for future discussions, research and international comparisons in the field.
The analysis addresses relevant legislation in Nigeria and other common law jurisdictions. Many of these legislations have not been reviewed or updated to reflect present realties. In other instances, implementation of legislations in this area has posed as a challenge, hence the increase in illegal rehabilitation centers.

In Nigeria there is no legislation dedicated to rehabilitation centers, rather there are pocket provisions on the subject in various laws. They are commonly referred to as correctional homes and centers, government institutions particularly for mental illness and juvenile offenders.
This study takes a qualitative approach using data from the International Rehabilitation Council for Torture Victims, legislations, policies, journals, institutions, publications and survey to analyze and draw inference.

This comparative analysis will be instructive to lawyers, policy makers, social workers, and correctional officers by reflecting which policies and legislations can achieve the best result in eradicating illegal rehabilitation centers in Nigeria and other common law jurisdictions.
The paper brings to focus the importance of a proper legal framework or legislations that need to be reviewed and implemented, failing which there will be a continuous increase in illegal rehabilitation centers in Nigeria and common law jurisdictions.
Keywords: Rehabilitation Centers, Juvenile Offenders, Legislation, Policy, Common law jurisdictions.

Prof Tim Opgenhaffen Vrije Universiteit Brussel and KU Leuven

Children with intellectual disabilities and their parents. Autonomy and/or protection?

Protection and Autonomy of Adults 1: Intellectual Disability

This panel deals with the legal position of (minor and major) children with intellectual disabilities in Belgium/Flanders in relation to their parents. It makes an evaluation of this position to the principle of autonomy as it is embedded in the United Nations Conventions on the Rights of Persons with Disabilities (hereafter: CRPD) and (for minors) on the Rights of the Child (hereafter: CRC).

First, a CRPD and CRC-based evaluative framework will be developed. The question arises to what extend children with disabilities enjoy a right of autonomy in the relationship to their parents, and to what extent protection should be possible. It will be examined in which way the CRPD and CRC instruments facilitate, or do not facilitate, the position of the child with a disability in relation to the right of autonomy (contribution 1). Second, the evaluative framework will be applied to three domains in which the question of autonomy might arise: family law (contribution 2), health law (contribution 3) and social law (contribution 4). The conclusion and subsequent discussion will explore whether these diverse areas of law can inspire each other.

This panel is innovative in that it does not merely focus on either the position as a child or the position as a person with a disability but examines them together. Moreover, in doing so, it sheds a legal light on the for persons with intellectual disabilities often challenging transition from minority to majority.

PRESENTATION 1. Evaluative framework - Noami Blomme
PRESENTATION 2. Family law - Veerle Vanderhulst
PRESENTATION 3. Health law - Tim Opgenhaffen
PRESENTATION 4. Social law - Elisabeth Alofs

Prof Tim Opgenhaffen Vrije Universiteit Brussel and KU Leuven

Afzondering en fixatie in de jeugdhulp. Goed geregeld?

Youth Law 1: Legal position of minors

Verschillende redenen kunnen aanleiding geven tot het gebruik van afzondering en fixatie in de jeugdhulp. Het kan een maatregel zijn om in acute situaties aan ernstig gevaar het hoofd te bieden, maar volgens landenrapporten van het Europees Comité inzake de voorkoming van folteringen en onmenselijke of vernederende behandelingen of bestraffingen (hierna CPT), wordt afzondering en fixatie in de praktijk ook gebruikt in het kader van de orde en veiligheid in de voorziening, en zelfs om te straffen.

Deze bijdrage gaat voor elk van deze redenen na of ze volgens het CPT toelaatbaar zijn en of de wijze waarop ze in Vlaanderen geregeld zijn, voldoet aan de eisen die het CPT voorop stelt. Daartoe wordt een uit CPT-landenrapporten ontwikkeld toetsingskader voorgesteld en toegepast op de rechtspositie van de minderjarige in Vlaanderen. De bijdrage eindigt met aanbevelingen aan de regelgever en de praktijk.

Prof Nausica Palazzo NOVA School of Law, Lisbon

Function-Based Arguments in a Major Court Decision on Polyamory

Queering Family Law

In 2022, a New York civil court declared that a polyamorous partner should not be automatically excluded from noneviction protections, ordinarily reserved for couples (O'Neill). While landmark judgments in adult-adult relationship recognition (such as Obergefell) never cast doubt on the dyadic requirement, O'Neill concludes that they nonetheless "open the door for consideration of other relational constructs [the dyadic construct]; and, perhaps, the time has arrived".

The decision seems to point to the inevitability of expanding notions of family through function-based arguments. If the focus is on the ability of a relationship to function in just the same way as a traditional family, then a larger set of families merit legal recognition. Furthermore, the decision considers immaterial to granting noneviction protections the issue of whether the relationship is a "good" one or even an "emotionally abusive" one.

The paper analyzes the influence of function-based arguments on the decision in O'Neill. It does so by, first, grounding function-based arguments at the level of polyamory advocacy and broader LGBTQ advocacy. Then, the paper discusses similar arguments made by polygamous unions in a Mormon splinter group, pointing to the difficulties after O'Neill in drawing a 'bright line' at which the expansion of the legal understanding of family must stop.

Prof Maria Donata Panforti University of Modena and Reggio Emilia

The right to play: a minors' right but not a minor right

Children's Rights 1

Play and toys have long been a privileged area of attention for many disciplines in the human sciences, but since the adoption of the New York Convention (Art.31) that recognized the right to play as essential as any other personal, social and political right of the child, they have emerged to the attention of lawyers too. Italy has a long-standing tradition of pedagogic studies in the topic of child's play, as several of the leading pedagogists of the past were in fact Italian (the most famous of all being probably Maria Montessori). This contribution investigates the way the right to play is in fact asserted in the Italian legal system both within the family and in the connection with social and political authorities like municipalities.

More widely this contribution reflect upon the real meaning of the right to play and the way lawyers can make good use of the pedagogic research on this topic, considering that as for the parent-child relation in the western world the most qualifying aspect is related to the time and attention that playing requires on the part of the often overburden parent. At the same time, the effective implementation of the right to play implies safe spaces in towns and therefore commits the public social institutions to create areas restricted from vehicular traffic and environmental dangers. Although at first sight it appears as a minor right, the right to play involves issues of great impact to family bonds and to the citizen-public law agencies relationship.

Prof Deborah Paruch University of Detroit Mercy School of Law

Solitary Confinement of Juveniles: Is is a Cruel and Unusual Punishment

Youth Law 3

The case of Kalief Browder illustrates the devastating effects solitary confinement has on the juveniles. Sixteen-year old Kalief and his friend were arrested for robbery in 2010. Because he was unable to post bond, Kalif remained in jail for over three years awaiting trial, with more than two years of this time spent in solitary confinement. He was released in 2013 when his case was ultimately dismissed. He attempted suicide several times while in prison and again after his release. He was ultimately successful in 2015, when he hung himself at his parents' home.
The presenter will address the practice of subjecting juveniles to solitary confinement and the shattering effects this has on their mental health. She will address the conditions and history of solitary confinement in the United States and present the scientific studies that demonstrate the psychological and physical effects suffered by individuals subjected to this practice. She will argue that current practices of subjecting juveniles to extended periods of isolation is cruel and unusual punishment because it is contrary to international law, contradicts current trends in U.S. law and is counter to evolving standards of decency.

Ms Nicoletta Patti University of Palermo

Motherhood, surrogacy and the resulting new families: a comparative analysis

What is a Parent 6: Surrogacy

The surrogacy of maternity brings out complex issues, which directly affect relationships and spheres of self-determination that lie at the origin of life, shaking ancient and solid bioethical and legal certainties, such as the principle mater semper certa est. Surrogate motherhood, in fact, determines a split in the procreative process in which the naturalistic element of motherhood - gestation and childbirth - is dissociated from the voluntary one relating to the constitution of the family project, causing the disgregation of the traditional model of biological parenting, composed of genetic derivation, heterosexuality, gestation and childbirth. It is therefore evident that the legal family paradigm to which we have been accustomed for a long time is clearly evolving to new parenting experiences. Questions, once unprecedented, emerge with a potentially destructive force of the entire systematic construction of family law and filiation: if only a few decades ago, in fact, there was no doubt that a mother was the woman who gives birth to her child - with the consequence that every rule in our code was aimed rather at identifying the father - today the perspective appears reversed: who is the legal mother of a child? Does a child have to have one mother, or can he have two or three, depending on the fragmentation of the reproductive process? These questions, which lead us to interrogate ourselves more broadly about the existing family model(s), find very different answers in the various legal systems and the global dimension that the phenomenon has assumed brings them back within our system, overcoming the limitations imposed by the absolute prohibition of access to the practice. The complexity outlined makes it necessary to feed the debate and obliges the search for a solution capable of reconciling the various rights at stake, filling the gap between rules and (social) reality.

Dr Jakub Pawliczak University of Warsaw

How should the family law recognize social parenting?

What is a Parent 7: Social Parents A

The family law does not use the term "social parenting". It is a social concept which encompasses relations between a child and an adult who is actually taking care of the child despite not being the legal parent of the child. Social parents mostly function in "patchwork families" or "extended families" in which they raise the child born to their partner in their previous relationship. Social parenting is also present in families created by same sex partners if the adoption or recognition of parenthood of two same sex persons is not legally permitted. Another type of social parenting occurs in relation to medically aided procreation when a known donor is involved in the child's life.

Many countries do not recognize legally any form of social parenting. An example of such legal systems is the Polish family law. It does not allow for obtaining parental rights or obligations over the partner's child in any way other than by the adoption (available only to opposite sex married spouses). The only exception is a special type of a child support obligation which applies in relations between a step-parent and a step-child. If a person who is an actual caretaker of the child and makes daily decisions concerning the child, does not have any formal obligations or rights in relation to the child, a huge gaping hole exists between the law and the reality, which can put the child's welfare at risk. Thus, social parenting should be recognized. A comparative approach can assist in considering if the solution which could be an example for other countries to follow is the German regulation known as 'a small custody' (das kleine Sorgerecht), an English concept of parental responsibility agreement or perhaps Irish or Scottish court orders.

Associate Prof Frank H. Pedersen Faculty of Law, University of Copenhagen

Tacit Concepts of Family in Danish Legislation on Assisted Reproduction

What is a Parent 3: Assisted Reproduction - Attribution of Parenthood

In this talk, I will present an analysis of the notions behind the Danish regulation of assisted reproduction. The analysis builds on the joint corpus of family and health legislation and practices. Also, I introduce an analytical framework, which encompasses a more comprehensive approach and encapsulates the variety of regulatory tools that expressly or implicitly create restrictions on the provision of assisted reproduction. By providing a generally applicable framework for analyses of the de facto regulation to expose possible underlying tacit concepts, this presentation makes a methodological contribution to enhance the understanding of the intermingling fields of family and reproductive law.

The analysis behind this presentation shows that eligibility depends on one's current family constellation and it is not children per se, which are the focal point. Surprisingly neither is the nuclear family. Rather, the consummation of the relationship between a man and a woman through

one shared child is at the core of the regulation. Archaic notions of family and gender expectations are thus revealed. Hence, family notions and values, which have been abandoned in family law, such as the all-importance of "a man should always be able to procreate with his current wife/female partner" can continue to influence other law fields.

In the presentation, I will conclude by discussing how the raison d'être behind the regulation could have been something other than a specific concept of family. In this way, the presentation invites others to analyse their national regulation of assisted reproduction and to consider whom, in the pursuit of family formation through ART treatment, have an underprivileged status. Hence, the presentation will directly address who is considered to be the law's families under the Danish legislation on assisted reproduction and give a methodological contribution for others to analyse and rethink their national regulation.

Prof Marília Pedroso Xavier Federal University of Paraná

Law's Families and Contractual Families: the Brazilian case

Changing Perspectives in National Family Law 3: America

Brazilian Family Law is currently under siege. There is a mismatch between the legal patterns of families and the models of family people want to engage in. It is, in this sense, a close reality to Alison Diduck's Law's Families critique (2003). In this paper, we argue the Brazilian case is a result of two factors, which will be analyzed in this paper. In first place, statutory law is out of context with society's claims. There are only two legal institutes to acknowledge a relationship: marriage and common law marriage. Meanwhile, people want to expand these options. The second cause is also the other side of the coin: conservative representatives hamper statutory change in Congress. As a result of this phenomenon, Brazilians are currently in search for more protagonism in this field. The main instruments are contracts. While this solution is not new, it used to be applied exclusively to define property regimes. Now, parties plan to use contracts to define personal obligations, handling of assets, income management, business provisions, child and spousal support, and others. Contracts may also improve the number of cases solved by agreements before the filing of lawsuits. However, there may be a limit to this option. After careful consideration of these aspects and the principles of Brazilian family law, the paper aims to define these limits. The objective, therefore, is to explain how far Contractual Families may be conceived under Brazilian law.

Prof Marília Pedroso Xavier and Prof William Soares Pugliese Federal University of Paraná

Procedural rule agreements and Family law

Conflict Handling

The 2015 Brazilian Code of Civil Procedure allows parties to stipulate changes in the judicial procedure. In this sense, they may adjust it to the specifics of the case and agree on its burdens, powers, faculties and procedural duties. The rule also states parties may sign procedural rule agreements before or during the process. In Family Law, this novelty is especially relevant to prenuptial agreements. Legal practice, however, is still unwilling to employ this institute. In this paper, we aim to present some aspects in Family law which may be improved by procedural rule agreements. First of all, we approach the theme with support of Alison Diduck's Law's Families (2003) arguing the Brazilian Code of Civil Procedure allows a departure from State Family Law in favor of the daily family and its reality. In second place, we explore a few areas where procedural rule agreements are useful. One of its contributions is to establish compulsory alternative dispute resolution clauses. Another useful agreement is to establish immediate sanctions for the violation of sealed records. A third beneficial agreement is about evidence. In claims of alimony, for example, parties may agree that they will willingly present their income tax return declaration, reducing months of procedural delay. After examining these and other examples, we develop the limits of Family law procedural rule agreements. The rationales for these limits are the following: they must not prevent fundamental rights' enforcement, State's interests and must not damage minors.

Mirella Peereboom-van Drunick University of Amsterdam

Contractualisation of family law

General Evolutions 3: Selected Topics

My presentation will address the question of whether or not we should regulate legally effective contractual agreements that seek to derogate from the laws of descent, e.g. surrogacy agreements in light of fundamental contact law principles versus human rights and the ethical issues that relate to both. Could contracts be a means of achieving a liberalisation of the laws of descent, or whether they might be objectionable to "contractualise" the laws of descent? Will these contracts ever be enforceable in light of human rights or should we for example approach these type of contracts from whole different perspective exemplified by the relational contract theory?

Prof Alessandra Pera University of Palermo

Abortion between Health Care, Reproductive Self-determination and something else. Law and intimacy.

Unborn Human Life 2: Abortion and Reproductive Rights

The idea of "intimacy" in Diduck's book has relevant connections with self-determination, context's factors and antagonist' rights.
The proposal aims at analyzing the 2020' Italian rules on the use of RU486 pill, as a path of pharmacological abortion, looking at some collateral elements, which encourage or discourage this practice:

- Welfare instruments and procedure on informed consent to the treatment;
- anti-abortion advertising campaigns;
- conscientious objector doctors' right.

Through the analysis on relevant legislation, case law and statistical data on access to abortion and to RU486 in Italy, it proposes a possible re-enactment on how the "external factors" affect woman's intimate choice and reproductive self-determination, mining or not the effectiveness of the rules and of the rights protected.
Alvin Roth lists abortion among the events perceived as morally "repugnant". Moral repugnance depends on institutional contexts and on an implicit "price" associated with one's morality. Is it possible to improve the public debate by providing information about the advantages in terms of efficiency of choices considered morally problematic? Can such approach ensure more effectiveness of the rights involved?

Prof Antonio Jorge Pereira Júnior Universidade de Fortaleza

The family as one of the modalities of the legal regulation of cohabitation – the importance of thinking, acting and feeling like a family

Changing Perspectives in National Family Law 3: America

The present work presents sociological, philosophical, anthropological and Brazilian legal-constitutional perspectives on the family, with the purpose of defining the entity considered suitable to be treated as a family by the law. It is understood that the extension of the legal concept of family, without objective criteria and without limits, leads, strictly speaking, to the loss of understanding of the attributes that differentiate it from other groups and associations that cohabit, and that should receive a separate legal treatment, albeit similar to that of the family.

Elizabeth S. Perry Uppsala University

Legal Recognition of Social Parents in Sweden

What is a Parent 7: Social Parents A

Social parenthood refers to parenthood from a child's or social parent's perspective, generally involving an important affective and care relationship between a child and someone in a parental role, as well as to the forms of civil relationship status established by law, consent, contract, informal agreement or de facto circumstances in the absence of a traditional biological or genetic parent-child relationship. Social parenthood may arise for example in situations involving stepparents; "bonus parents"; legal guardians appointed by the state; actively-involved grandparents or other kin; adoptive parents; or "intended parents" after use of certain reproductive technologies including surrogacy and mitochondrial or gamete donation.
Legal protections for social parenthood can face legal obstacles in domestic as well as cross-border situations. This paper (or book chapter) aims to analyze, from a multidisciplinary and comparative perspective, Sweden's regulation of and legal application in cases involving a child with an existing significant relationship to one or more social or de facto parent.
* What is the state of current research, governmental investigations and reform proposals regarding social parenthood, for example following the government investigation and proposal for legal reform known as SOU 2022:38?
* Which aspects of current (or proposed) law and practice may compromise (and, conversely, protect) children's and social parents' rights under Swedish and EU law?
* Which aspects cause or risk intersectional discrimination against social parents or their children, particularly on the basis of LGBTQ+ identity, gender and/or immigrant/EU free mover status?
* How do legal and ethical principles at national, regional and international levels inform a critical discussion of the current law and practice?
This work is co-funded by the European Union's Justice Program through a project entitled "Just Parent -- Legal Protection for Social Parenthood".

Prof Marta Pertegás Maastricht University

Families on the Move: the Coordination between International Family Law and Migration Law (FAMIMOVE)

Famigration 3: FAMIMOVE

At the interface of family and migration law, one can observe deficits in the protection of children and family relationships. This is often due to the fact that various actors, such as migration authorities, have too little knowledge of the respective provisions. Sometimes, there are also deficits at the legislative level.

On 1 January 2023, a consortium of seven European universities embarked on a research project at the crossroads of private international law and migration law, funded by the European Commission (FAMIMOVE).
FAMIMOVE's objective is to contribute to the effective and coherent application of the EU acquis in the field of international family law, in particular by ensuring more awareness of international child protection instruments applicable to migrant children among critical stakeholders (e.g. migration authorities, child protection authorities, NGOs, lawyers, judges).

The project will collect comparative empirical data by organizing a series of awareness raising seminars in each of the seven countries represented in FAMIMOVE and will complete three transnational round tables relating to key issues of international child protection in a migration context.
The overall goal is to ensure solid network-building and lasting cooperation among different civil protection and migration authorities responsible for migrant children as well as a better dissemination of information about the relevant instruments of international child protection.

In this panel, we will present FAMIMOVE and some interim findings, share insights from practice on the problems key stakeholders experience when handling cases with migrant children and gather additional insights from interested participants.

Marie-Hélène Peter-Spiess University of Zurich

Cross-Border Surrogacy Challenging Legal Parenthood: The Swiss Case

PIL 3: Cross-Border Parenthood

In many jurisdictions that prohibit surrogacy, intended parents having resorted to it abroad face a myriad of legal barriers upon their return. In particular, these individuals often struggle to get legally recognized as parents, as a gap between their de facto and legal families is created. In this context, a number of cases featuring same-sex or different-sex couples as intended parents end up reaching courts at both national and international levels. The present paper looks into some of these cases, with a focus on recent developments in Switzerland. While genetic intended fathers of children born through surrogacy can usually have their filiation link recorded in the local civil registry without delay, this is mostly excluded for genetic intended mothers. For the latter, biology - i.e. having given birth - usually still takes precedence over genetics - i.e. the child having been conceived with their eggs - and over intention. This results in situations of inequality between intended parents and different family forms. The question therefore arises as to whether legal parenthood should be rethought in some ways and, if applicable, to which extent in order to best accommodate today's new reproductive options and family forms.

Prof dr hab Piotr Fiedorczyk University of Bialystok

Family Laywers from Communist Countries and their Participation in the ISFL Activities

Plenary 2. Golden Jubilee

The ISFL was established in 1973. It was the time of so called detente, so the relations between Soviet block states and the Western World started improving. The Helsinki Conference and the Final Act of the CSCE opened a new phase also in the scientific cooperation between East and West. Also the cooperation among family lawyers became more open than earlier and ISFL was one of the fields of this cooperation. The paper will examine how many family lawyers from the Eastern Block took part in the ISFL activities. The author will try to find out if they were members of the Society (who were they) and from which countries they were coming from. The most important is their presence at the world congresses of the ISFL. The author will try to identify their presentations and to present their field of research and views on certain issues of family law. One of the most interesting questions is if the lawyers from Communist countries were only reproducing their governments' standpoints or they were presenting their own original concepts. The cooperation of Eastern Block lawyers continued in the 80's, but after Soviet invasion to Afghanistan it was not so wide as earlier. Although the participation of Eastern Block family lawyers was always very small, but their views were somehow marked. The ISFL was then one of the most important fields of dialogue between family lawyers from countries of different political and legal systems.

Lívia Possi Lyon III University (France) and University of São Paulo (Brazil)

Autonomy of the Will in End-of-Life Issues

Protection and Autonomy of Adults 3: Selected Topics

The presentation intends to approach and understand, besides questioning the current modus operandi of civil autonomy at the end of life, in a comparative perspective especially between Mercosul (Brazil) and the European Union (France), about the evolution and efficacy of the application of local laws, concerning the optional contractual measures to formalize end of life issues, also called anticipated directives and living will.

The aim is to better explore questions that permeate the collective unconscious about the theme of death, in the societies of the two blocks studied, which would possibly motivate or not the adherence to the elaboration of a document that formalizes the personal options at the end of life, with the discussion of themes such as euthanasia, dysthanasia, orthothanasia and assisted suicide, but not only : suggesting also that the document may become a true instruction manual for the end-of-life demands, such as the choice of eventual proxies, the option to accept or reject a certain health treatment, and its social significance, or even, rite of passage preferences and general orientations, not necessarily only of a patrimonial or civil nature, exploring the possibilities that such a contractualization of the theme generates full efficacy for the declarant.

Associate Prof Barbara Preložnjak University of Zagreb

The Protection of the Elderly in Modern Croatian Family Law

Protection of the Elderly

Population ageing is one of the most significant demographic and social trends of the 21st century, affecting almost all countries of the world. It affects all areas of human life and brings numerous legal challenges in protecting human rights.
The existing international legal norms do not sufficiently consider the unique needs of the elderly, and soft law documents do not contain legally binding norms for the state, so the elderly remain a vulnerable population group without sufficient legal protection. This problem is obvious in regulating restrictions on legal capacity and representation of the elderly. Therefore, it is of special importance for national legal systems to develop appropriate legal institutes for the protection of the rights of elderly persons, which would primarily aim to preserve dignity and prevent discrimination.

Starting from the de lege lata analysis of existing family law legal institutes that provide legal protection for the elderly in Croatia, the paper will pay attention to de lege ferenda projections of normative improvement of the institution of guardianship and co-decision making to improve the legal position of the elderly and the protection of their rights, especially at the time when the solidarity within the family is increasingly weakening, so the elderly can less and less rely on some kind of help and support that can be provided voluntarily by family members.
Keywords: elderly, deprivation of legal capacity, guardianship, co-decision making

Dr Hab Ilaria Pretelli Swiss Institute of Comparative Law

The regulation of cross-border contractual filiations by means of private international law

PIL 3: Cross-Border Parenthood

The existing differences in the regulation of assisted reproduction technologies have boosted the number of cross-border contractual filiations. In the absence of clear private international law solutions, both at the national and supranational level, the status of persons involved in the process is often limping. This circumstance creates discriminations both at the domestic level and at the international one. As reproductive tourism may undermine social cohesion as a result of such discriminations, there is a growing need of developing minimum standards of regulation of the fertility industry, especially in the global south. While a legal vacuum has proven beneficial to the fertility market, it has also created legal uncertainties, substantial injustice and disrespect for children's rights. Sometimes their filiation status is unclear, they may be stateless or even parentless. The aim of the paper is to identify the most urgent issues to address by means of private international law and to review existing universal and regional values, whether or not codified in principle of justice, which allow to rank, if desirable and in case of irreconcilability, universal rights deserving legal protection. The paper also suggests private international law rules for global governance of contractual filiations

Ilaria Pretelli, Swiss Institute of Comparative Law

Dr Hab Ilaria Pretelli Swiss Institute of Comparative Law

(R)evolution of international filiation

PIL 4: Panel Debate on Cross-Border Filiation

Over the past years the European Commission and the Permanent Bureau of the HagueConference on Private International Law (HCCH) have been working on cross-borderaspects of filiation. Filiation is subject not only to an evolution, but a revolution, due tothe growing use of artificial reproduction techniques and the resulting pressure onexisting legal frameworks. Policy makers world-wide are aware of a global market ofreproduction (e.g. surrogacy) and also of the difficulties families face to have filiation tiesrecognised trans-nationally. These difficulties are prevalent in but not limited to non-traditional forms of filiation. Drafting international or even EU legislation has proved tobe particularly difficulty, not only due to ethical, but also on a legal-technical level. First,filiation is often recorded in public documents and these documents have differentconsequences across borders. Some States' laws require a reassessment of the law thatwas applied while others recognise the document unless there are public policy or otherserious concerns. Second, public documents are submitted to population or civilregistries, who are not always ready to apply complex legal reasonings.

Method: Panel debate with a moderator; participants provide answers and encouragesdiscussion with the audience on:

- What has been done by the HCCH or can be done internationally to regulate cross-border filiation?
- How can we regulate or set standards in the international fertility market (eg.Verona Principles; UN Special Rapporteur and UNICEF)?
- What is the EU doing to regulate cross-border filiation?
- What is the relevance of the principle of free movement within the EU?
- What is the role of contracts for filiation?
- How can we guarantee the child's right to know their origins?
- How can States cooperate to gain evidence on filiation and find information about foreign law?

Dr Anna Przytula-Pieniazek Open University UK/Martin Tolhurst Solicitors

"Presumption on shared parenting post-separation – best interest of children or a parental right?"

Child Custody, Contact and Information 1

Shared parenting is becoming subject to an increased debate. It is a multi-disciplinary area covering not only legal aspects, but also empirical evidence and socio-legal practice.

The issue of shared parenting is being seen in the context of either becoming a benefit to children or parents involved. Parents have hopes to protect their own rights, very often unintentionally forgetting about the best interest of their children. However, one should provide evidence to check if in fact shared parenting is a benefit, and if it is, to whom and what method of shared parenting is best in certain circumstances.

Shared parenting post-separation is in most cases dependable on the courts. Is it therefore likely that the courts presume shared parenting is beneficial to children? If so, are the courts more likely to use specific arrangements and favour that over, for example, a 'bird nesting' method?

The paper is looking to check what the actual presumption on shared parenting is and whether that presumption is rebuttable. The paper would provide discussion from a comparative perspective to compare different legal systems. Differences in those legal systems are to be further analysed in the context of certain solutions being either a benefit or a detriment to children and parents involved.

Marco Poli Universities of Turin and Antwerp

Shared Physical Custody and High Interparental Conflict. A comparative analysis.

Child Custody, Contact and Information 2

In recent years, post-breakup shared parenting has been increasingly secured with shared physical custody (SPC), rather than only through the joint exercise of parental responsibilities (joint legal custody, JLC). In 2006, under Belgian law, after years of lobbying, mainly from fathers' groups advocating for the recognition of the paternal parenting figure, equally divided alternating residence became the default judicial recommendation in the case of JLC. Even though such a recommendation is not explicitly provided in Italy, and in England and Wales, their national courts started recognising new relevance to residence and contact in joint custody scenarios. SPC promotes the child's continuative and direct relationships with each parent, rather than predominantly with the primary caretaker (in most cases, the mother). Some argues that SPC pursues the best interests of the child (BIC) and gender equality among parents. As a result, SPC is claimed to decrease post-separation interparental conflict, since an equal split of the child's time would result in both parents individually deciding on an equal amount of child-related issues. Such a claim is assessed using high-interparental-conflict (HIP) as litmus test. This paper argues that SPC broadens the number of decisions non-partnering parents are forced to make together: this has substantial effects on parents' autonomy and dependency in the exercise of parental responsibilities; moreover, it forces us to consider the impact of HIP on the parents' ability to co-parent.

This paper compares relevant national case law and statutory laws on SPC, with reference to the Belgian and Italian Civil Codes, as well as the Anglo-Welsh Children and Families Act 2014. Due to the inextricable link between society and its laws, sociology and psychology literature are taken into primary consideration, with specific regard to secondary quantitative and qualitative analyses, and attachment theory.

Tessa Quina University of Hasselt

How to redefine the role of parents in the light of the CRC to enhance child participation in decision-making?

Children's Rights 2

Traditionally, legal systems start from the need to protect persons who have not yet reached the age of majority (the so-called minor children, hereafter: children). This protection in the legal framework is twofold: on the one hand a legal incapacity of children to act and on the other hand a duty of parents to bring up their child (so-called 'parental responsibilities' or 'parental authority'). Inspired by the International Convention on the Rights of the Child (CRC), an evolution can be observed towards more openness for the child's voice in the decision-making process in matters of direct concern to them by redefining the role of the parents in the minor's upbringing. In France, for example, parents need to involve their children in decisions that concern them, according to their age and maturity. In Scotland, parents have to provide direction and guidance in a manner appropriate to the stage of development of the child. Furthermore, parents have the right to control, direct or guide, in a manner appropriate to the stage of development of the child, the child's upbringing. In the Netherlands, a child, provided he acts with the consent of his parents, is competent to perform legal acts unless the law provides otherwise. How can the role of parents be redefined to enhance effective child participation and strike a just balance between protection and empowerment as required by the CRC, considering the child's evolving capacities? To answer this question, I will examine, from a human rights and comparative approach, how the role of parents is redefined in light of the CRC in different legal systems like the ones mentioned before, what kind of measures these legal systems have taken to ensure the child's empowerment and how this can be implemented in an effective way.

Prof Amihai Radzyner Bar Ilan University
Prof Avishalom Westreich College of Law and Business

Rethinking Reproduction: The Status of Frozen Embryos in Divorce Disputes in Israeli Rabbinical Court Rulings

Unborn Human Life 1: General

Modern reproductive technologies provide various options for procreation that reframe the structure of the family. In cases of family conflicts, especially in divorce cases, new family structures become highly challenging. It is even more so in the Israeli legal structure that very uniquely combines civil and religious laws in family matters, and thus makes family conflicts even more complex – but also with a great potential of developing new and creative solutions.

Our lecture will discuss the status of fertilized ova in divorce conflicts. The question which will be at the core of our discussion is who, if at all, has the right to use fertilized ova for reproduction when the spouses are in a highly conflictual situation. This question occurs, many times, when one spouse refuses to proceed with the reproduction process, while the other (who might not be able to go through this process again) demands it. The lecture will focus on rabbinical court decisions from recent years that deal with this issue. Classic Jewish law sources did not discuss it, of course, thus modern-day rabbinical courts need to find creative interpretative ways in order to justify their opinion. Analyzing these interpretations will be the first objective of our lecture. But this is not enough: any discussion is affected by cultural, religious, and ethical presumptions of the court, and rabbinical courts are no different. The second objective of our lecture will be revealing these presumptions and discussing their influence on rabbinical court decisions. Finally, we will ask in our lecture whether the Jewish law discussion on the status of fertilized ova may contribute to the similar discussion conducted by civil law, many times from a liberal perspective, or, maybe, the gaps between these two worldviews cannot be bridged.

Hadas Raichelson Bar-Ilan University

Confronting the Problem of Get Refusal: The Potential of Applying Criminal Law

Law, Culture, and Religion 2: General

According to Jewish law, it is not the court, but rather the couple which dissolves the marriage. Get refusal (a get is a Jewish bill of divorce) occurs when a married spouse refuses to grant or receive a get following the request of their partner.

In recent years, several developments occurred in Israeli criminal law regarding the prohibition of get refusal. In November 2016, the state prosecutor released guidelines regarding the prosecution and penalization of recalcitrant spouses. Following these guidelines, criminal

procedures have been set forth against several recalcitrant husbands. In one case, a recalcitrant husband was convicted of Violation of lawful direction.
Further developments also occurred in the United Kingdom. In April 2022, for the first time, a recalcitrant husband was convicted of controlling and coercive behavior. Additionally, in July 2022, Statutory Guidance issued in the United Kingdom, alongside the Domestic Abuse Act, formally recognizes that get refusal can amount to domestic abuse under the offense of controlling and coercive behavior.
In this research, a discussion is conducted regarding the question of the appropriateness of imposing criminal liability on recalcitrant spouses. This question will be analyzed in light of theories of criminalization, the aspects of family law, and the feminist critique of law.

Lukas Rass-Masson University of Toulouse Capitole

Rethinking European Families in light of EU-wide Recognition of Parenthood

PIL 3: Cross-Border Parenthood

After having hesitated for a long time, the European Commission has finally proposed a regulation on jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood and on the creation of a European Certificate of Parenthood. The adoption of this instrument will be a game-changer for European families. By providing a framework enhancing recognition of parenthood within the EU, not only will the free movement of families be facilitated. More importantly, new family models will circulate more easily between Member States, especially for non-genetic parents. The remaining relevance of the "couple" and its legal forms will also be considered as far as they influence the establishment of parenthood. The proposed paper will discuss how the common framework for cross-border families will contribute to the potential evolution or emergence of a European family model.

Recent evolutions of legal aspects of reproduction will have a decisive influence on such a hypothetical "European family model", as well as will have the question as to how to respect the child's fundamental rights in the context of cross-border families. The existing diversity of national legal aspects of reproduction is a major challenge in the contemporary context, in which "family" is more and more based on the parent-child relationship. How can a European model be construed, while respecting the sociological, and hence strongly national, dimension of family law?

It is striking how a European consensus on core values translates into a large variety of national rules on parenthood, rendering the EU-wide recognition of parenthood uncertain. Beyond the need to avoid the denial of parenthood in some Member States, while legally establishing it in others, the paper will evaluate to what extend the EU's private international law approach efficiently implements a European family model, based on the diversity of national family law legislations.

Prof Christa Rautenbach also on behalf of Prof Mitzi Wiese North-West University

Rethinking the meaning of spouse? Recent developments under South African law

What is a Partner 2: De Facto Unions

Legislation struggles to keep up with societal changes in the evolving familial relationship and its legal consequences. Census data from 2016 reveals that approximately 3.2 million South Africans cohabit outside conventional marriage forms, and the numbers are steadily increasing. Our courts have emphasised the importance of marriage and the nuclear family as important social institutions of society, which give rise to important legal obligations, particularly the reciprocal duty of support placed upon spouses. The fact is, however, that the nuclear family has, for a long time, not been the norm in South Africa. South Africans have lower rates of marriage and higher rates of extra marital child bearing than found in most countries [Paixão v Road Accident Fund 2012 (6) SA 377 (SCA) paras 30-31].
Also, other types of marriages, such as religious marriages that are not legally sanctioned, often challenge the idea that a marriage-like relationship should be regulated by law to bear legal consequences. Fortunately, the South African Constitution enables courts to develop the law to protect couples that do not conform to the existing statutory types of marriages. As a result, the case law on familial relationships and the meaning of spouse read like a jurisprudential chronicle, and the legislature struggles to keep up. To give a few examples: the inclusion of unmarried same-sex partners as surviving spouses under the Intestate Succession Act (Gory v Kolver 2007 (4) SA 97 (CC)) and unmarried heterosexual partners as spouses under the Maintenance of Surviving Spouses Act (Paixão v Road Accident Fund 2012 (6) SA 377 (SCA)). Also, the courts have recognised the partners in unrecognised Muslim and Hindu marriages as surviving spouses, both under the Intestate Succession Act and the Maintenance of Surviving Spouses Act; see Daniels v Campbell 2004 (7) BCLR 735 (CC) and Hassam v Jacobs 2009 (5) SA 572 (CC).
It seems that expanding the meaning of spouse to untraditional categories is unstoppable. This presentation will deal with some of the groundbreaking judgments on familial relationships as an illustration of how the judiciary has expanded the meaning of a "spouse" to provide legal protection to members of unrecognised marriage-like relationships.

Dr. Shiran Reichenberg Hebrew University, Jerusalem

You only know me by reports" – a therapeutic approach to social reports

Youth Law 4

The lecture main objective is to examine the impact of social reports and their role in care proceedings on the well-being of young girls in residential care. Social reports detail the girl's social history, including her relationship with her family, her school performance, her social powers, if she has any mental illness, drug use, abuse, neglect, etc., and it is the main method and evidence the girl is presented to care-plan committee and to the Youth Court Judge. I will suggest a therapeutic social report approach which is based on my research. This approach trying to promote the well-being of adolescents' girls at-risk, hopefully allowing them to trust the stakeholders and cooperate with their care proceedings and their treatment plans.

The lecture will present the main finding of a research held on young girls in locked residential care in Israel – Mesila. One of the main findings that will be discussed is that there is a significant gap between how a young girl's at risk experience their social reports verses the importance and possibility for the social reports to improve her well-being. By analyzing interviews performed with young girls at risk in locked residential care, I'll suggests how to decrease their objection to social reports and improve their well-being.

I will also address the legal difficulties in care proceedings emerging from the combination of treatment issues concurrently with children's rights and procedurals doctrines. From my experience as an advocate of adolescents' girls at-risk in care proceedings, and according to the research findings, social reports are one conflict to address, yet its impact can have meaningful effect on the girl's well-being.

Iris Reinders Utrecht University

It takes two to tango: the settlement of disputes between parents about joint custody after divorce according to the ECHR and CRC

Child Custody, Contact and Information 1

The last couple of decades the standards of the European Convention on Human Rights (ECHR) and the United Convention on the Rights of the Child (CRC) have contributed to major developments in European family law. One example is the shift from sole custody to joint custody for parents, irrespective of their marital and relationship status. Parental authority is seen by the European Court of Human Rights as a fundamental part of the right to family life under Article 8 ECHR for both parents. Article 18 CRC also contains the principle of joint responsibility of both parents for the child. With the shift from sole to joint custody several challenges arise, such as the exercise of joint custody after divorce, which may become a source of conflict. Most European countries have established arrangements for the settlement of these disputes, although these arrangements vary greatly.
Seeing as the CRC and ECHR have played a vital role in the trend from sole to joint custody, this presentation examines the standards which the CRC and ECHR apply to the resolution of the disputes in the exercise of joint custody. We currently do not know which conditions the settlement of such disputes must meet. We know, for example, that on the basis of Article 3 of the CRC the best interests of the child should be a primary consideration when settling these disputes. However, this principle is generally undefined because the interpretation of the interest of the child depends on the circumstances of the case. Another question to be asked is whether joint custody should always be the standard according to the CRC and ECHR. Is it really in the child's best interest that parents have joint custody if they keep on fighting? In other words: is (the exercise of) joint custody the best option for all families in daily life?

Prof Branka Rešetar Faculty of Law Osijek, University of Josip Juraj Strossmayer

Comparison of law and social work in the protection of family rights

Changing Perspectives in National Family Law 1: Central and Eastern Europe

This research focuses on the family and family relationships that are central to the well-being of family members, the well-being of the communities and larger societies where families exist. The family of the 21st century is complex and volatile, and is facing new challenges e.g., diversity of family forms, family conflicts, parenting problems, behavioral problems of the child, health and financial problems, care for the elderly or the complex issue of domestic violence. Family law literature mostly advocates for the establishment and protection of family relationships from the perspective of a single-family member, with an emphasis on his/her individual rights, autonomy, and independence. When trying to resolve family problems beyond the court, the light is shed on the autonomy and independence of a family member. At the same time, social work with families is based on the following setting: "When the family is understood as simply a background for what the individual does or as a set of obligation, it is no longer a family." Accordingly, since social work and law approach the family from different perspectives,

apply different theories and methods, though the goal of law and social work is the same - to resolve problems in the family, establish justice and protect vulnerable members. This paper has the goal to define similarities and differences between law and social work processes in tackling problems with families.

Prof Jordi Ribot Igualada University of Girona

Support agreements in the 2021 Spanish reform on legal capacity: Breaking new ground for people with intellectual and psychosocial disabilities?

Protection and Autonomy of Adults 4: the work of FL-EUR

Dr Sara Rigazio University of Palermo

The technological tools we use daily – mostly the phone – are also affecting the dynamics related to family life.
The case of the 'legacy contact' between the right to privacy and the right to succeed.

Digital Family Law 1: General

Starting from the Italian framework, I analyze the management of data stored in a phone belonged to a deceased member of the family. I consider the tension between:

- "family reasons deserving protection" (as provided for in the Italian Privacy Code) that allows family members access data, and the right to privacy both of the deceased and of the potential third persons involved
- the 'law in the books' (the codified rules governing the right of succession) and the 'law in action' (the option of some tech companies of designating a 'legacy contact' directly on the phone).

Through the analysis of the recent jurisprudence, and the recommendations by the National data protection authority, the proposal looks at two legal nuances:

1. the 'legacy contact' (not necessarily a family member) designed by Apple, who could be a person designated by the phone owner and maybe different than the one provided as heir or legatee by the civil code on legitimate succession.
2. the codified specific formal requisites and deed if the de cuius addresses part of her assets to a designated person, that do not include at present any digital support.

The analysis suggests an approach that mitigates and balances the rights to be protected and the development of technology.

Prof Ram Rivlin Hebrew University of Jerusalem

Property Relations between Spouses upon Death: A Comparative and Analytical Study

Money & Property: Upon Death

Marital property, i.e., property acquired by partners during their marital (or quasi-marital) relationship, is mostly allocated equally between the partners upon divorce or separation. Yet relationships often end not in divorce but in the death of one partner. Surprisingly, despite a relative uniformity in the norms of marital property upon divorce, in case of a relationship ending in death, there is a great deal of variation between legal systems, in the structure of the law, its conceptual basis, and its expected distributive results. Moreover, within each system in itself, the consolidation of the two separate branches of law – matrimonial property law and succession law, which sometimes evolved separately – creates inconsistencies and incoherence in terms of the theoretical basis of the law as well as its practical implications. Finally, theoretical discussions regarding the rationale of marital property law often fail to account for the case of a marriage ending in death, thus neglecting to provide a proper theoretical basis for this field as well as to yield a satisfying unified theory for the law of marital property.

The proposed paper will explore the relation between marital property at divorce and marital property at death; and the interaction between marital property laws at death and the law of succession, by providing a comparative picture of the status of property relations between partners at death in key legal systems; develop an analytic framework for evaluating the various regulative options; and suggest normative guidance for the coherent legal regulation of the matter. In this way, the paper advances both the design of the law and the theoretical understanding of the law, together with providing conceptual tools for the comparison between different regulatory regimes.

Victória Rodrigues Superior School of Law - Brazilian Bar Association (ESA)

Comparative Approach of Legal Regulation of Polyamorous Relationships as Protection of Family Pluralism

What is a Partner 4: Polyamory

The stigma faced by unconventional families due to lack of legal regulation extends beyond social aspects. These families, bound by affection between individuals, face issues such as property disputes, custody battles, child support, and kinship in courts. It is necessary to recognize affection as a legal value that protects family pluralism. While some countries like Brazil still only recognize monogamous marriages, other countries like Canada and Australia have made progress in protecting diverse families. The presence of eudaemonism in forming family arrangements is a reflection of a more complex and free society. It is important to discuss this topic with sensitivity and criticality, considering the protection of plural families through affection and the legal peculiarities of each country.

Dr Whitney Rosenberg University of Johannesburg

"Children must be seen and not heard" SM v TM and others, was the child's right to be heard ignored?

Child Custody, Contact and Information 1

In the matter of SM v TM and others the court emphasized the protection of the father's right of contact in respect of his child, aiming to uphold the father's dignity by punishing the respondents for contempt of court. What the court failed to do was ask the important question "why does the child not want to see her father?". In a decision that was widely celebrated as being progressive in affirming fathers' rights of contact the child's right to be heard was completely ignored. Section 10 of the Children's Act read with sections 7 and 9 requires that a child's objections against contact must be considered depending on the age, maturity and stage of development of the child. The court went out of its way to protect the father's right to equality and much emphasis was placed on the rights to a child as opposed to the rights of a child. Is this a step backwards for South African law? Back to the 1975 decision of Germani v Herf where the child was forced to see his father despite his outright refusal during court proceedings to do so? Should children only be seen and not heard as indicated by the old English proverb? Or should the courts be more accepting of a child's views despite the child not being at the age of maturity? In a world where child abuse and domestic violence is prevalent, how should courts ensure that a child's best interests are upheld in all matters concerning a child?

Roni Rothler Bar Ilan University

Access to Parenthood: A Disability-Rights-Oriented Dispute System Design

Protection and Autonomy of Adults 3: Selected Topics

Child welfare proceedings are held when the state intervenes in parent-child relationships based on children's neglect or abuse. The proceedings manifest a complex conflict: they involve multiple sides, interests, moral, cultural, and policy aspects, and long-lasting outcomes.
The dominating theme is the need to make decisions that favor either autonomy or protection. Parents and professionals (judges, lawyers, and social workers) often describe them as a choice between tragedies. That is because the "autonomy-protection paradigm" leads to long-lasting or even irreversible decisions. Under these circumstances, decisions that favor protection often limit the litigants' parenthood rights and the family's unity, while decisions that favor autonomy might risk the children in other ways. Consequently, parents and professionals are frustrated with the current options and outcomes provided by the existing socio-legal system.

Parents with disabilities, predominantly intellectual and mental disabilities, may find themselves, more often than others, as litigants in these proceedings. 185 countries have signed, and 164 countries have ratified the UN Convention on the Rights of Protection and Autonomy of Adults, and are supposed to promote family rights, according to article 23. Nevertheless, disability rights are rarely implemented or discussed during child welfare proceedings.

In my presentation, I will suggest a new way to achieve access to justice for parents and their children, addressing both the "autonomy-protection" paradigm and disabled parents' rights, intending to bridge the gap between the existing family law and policy, and the reality of families that experience disability. This will be done by integrating two theoretical approaches: Dispute System Design (DSD) and the Disability Rights discourse. According to the universal approach to disability, such a design would provide better access to justice not only for parents with disabilities but for everyone. The research combines legal-theoretical tools and qualitative interviews with all relevant stakeholders.

Prof Clare Ryan University of Alabama School of Law

Are Children's Rights Enough?

Children's Rights 1

Are parental rights or children's rights better for protecting children and vindicating their interests? Scholars and advocates often criticize the United States for its failure to ratify to Convention on the Rights of Child and for denying children constitutional family rights. This critique of U.S. family law assumes that incorporating children's rights would result in better outcomes for children. This Article challenges the assumption that children's rights are enough to vindicate children's interests. Instead, I identify how the current conceptions of children's rights present

structural barriers to full vindication of the child's interests.

To illustrate how these structural barriers operate, this Article analyzes case law on custody and family separation from a jurisdiction that uses a strong children's rights approach, the European Court of Human Rights. These cases provide a valuable comparator by which to test whether children's rights framing changes the way that courts reason about children.

Changing Perspectives in National Family Law 1: Central and Eastern Europe Prof Irena Majstorović, University of Zagreb

What has changed and what has stayed the same in Serbian family law over the years?

Sandra Samardzic Faculty of Law, University of Novi Sad

The changes in the legislation of the Republic of Serbia in the last 30 years have been aimed at improving the field of family law in a comprehensive way. The goal was to improve the position of children by proclaiming the best interest of the child a guiding principle in all activities concerning children. The possibility for parents to exercise parental authority jointly was meant to ensure that the child spends approximately equal time with both parents and to emphasize the importance of both parents for the child. Efforts were also made to find the best way to solve the problem of domestic violence, especially against women, first by regulating this issue, and then with more specific steps such as the empowerment of women, as well as constantly promoting zero tolerance to violence. These changes are not the only ones and the need for further improvement is constant. However, the question remains as to how effective these changes have really been if people's way of thinking has remained unchanged. Has the child's welfare really been the court's paramount consideration if a parent is deprived of the right to decide on a child's residence, only because that parent wishes to continue to see the child regularly? How much sense does the possibility to exercise parental authority jointly make if parents almost never want it, even when it is suggested as extremely desirable for their child with developmental difficulties? To what extent is the regulation of domestic violence sufficient if there is still a significant number of young people in Serbia who consider violence against women acceptable? The author tries to analyze what changes have really taken place in Serbia in the field of family law, primarily by analyzing the judicial decisions of national courts.

Prof Kirsten Sandberg University of Oslo

Grandparents' and grandchildren's right to contact under the European Convention on Human Rights

Child Custody, Contact and Information 3

Do grandchildren and grandchildren have a right to contact under Article 8 of the ECHR? The presentation explores the extent of the right to family life in this regard. An analysis of decisions from the European Court of Human Rights shows that although such a right may exist, it is not strong and it depends heavily on the circumstances of the specific case. There seems to be an inconsistency in the Court's approach to these cases with some of them giving grandparents a stronger right. The child's best interests are mentioned in the judgments but for some of the cases only at a general level. Whether the child's own view is mentioned and, if so, what weight it is given, varies greatly.

Prof Kirsten Scheiwe University of Hildesheim, Germany

Time to care and its limited recognition - ambivalent regulation in family law and social law

Caring and the Law

Time poverty is an experience of many people, especially during the rush time of life, when paid work and care for young children or the elderly coincide. Time is a limited resource: whoever takes on more care work (mainly women), has less time left for other activities. This leads to inequalities which can be conceptualized as the gender time gap or gender care gap. How does the law influence time patterns or time rights? How is the time for caring conceptualized in law, especially in (German) family and social law? Neither European law nor German constitutional law recognizes the societal responsibility for care and for the support of caring and carers, although some steps forward in the recognition of caring time have been taken; but those steps remain insufficient and contradictory.

Prof Jens Scherpe Aalborg University

Individual vs. joint parental responsibility

Child Custody, Contact and Information 1

The English Children Act 1989 was a milestone in the development in family law in many respects. Not only did it introduce parental responsibility

as a concept, it also – rather uniquely – allowed for more than two persons to hold parental responsibility. Moreover, the Children Act is based on a concept of individual rather than joint parental responsibility, meaning that each holder of parental responsibility can – in principle – take decisions regarding the child's upbringing without having to consult anyone else. This required a robust mechanism for decision-making should the different holders of parental responsibility disagree. Also, there are certain limitations of this right to decide alone foreseen are if either there is a) a specific statutory rule requiring consent (of which there rightly are very few in English law), or b) a court order that limits the exercise of parental responsibility. The paper will show that constructing parental responsibility as individual rather than joint has many the significant advantages.

However, the English judiciary not only has created a duty to consult but also a consent requirement for 'a small group of important decisions' which the holders of parental responsibility need to take jointly. This paper argues the re-introduction of a consent requirement is contrary to the spirit and the letter of the Children Act as it effectively deconstructs the concept of individual parental responsibility and reintroduces joint parental responsibility. The paper strongly suggests that the consent requirement must be abandoned, and that even a duty to consult, while not contrary to the wording of the law, is undermining the legislative intentions. Instead, the introduction of a duty to inform is suggested to ensure the function if the concept of individual parental responsibility.

Prof Jens Scherpe Aalborg University

Social Parenthood in England and Wales

What is a Parent 8: Social Parents B - Comparative Perspective

English law regarding parenthood is a curious mixture of old and modern. While the law doggedly clings to the two-parent paradigm and does not recognise more than two legal parents, the jurisdiction was one of the earliest ones to regulate parenthood through assisted reproductive techniques. It also allowed joint and stepchild adoption for same-sex and unmarried couples in 2002, and arguably introduced one of world's most modern regulatory framework for parental responsibility in the Children Act 1989 to allow more than two persons to hold parental responsibility. Moreover, both opposite-sex and same-sex couples can formalise their relationships as a marriage or civil partnership, and there is little difference between the two, including regarding parent-child relations. By contrast, a comprehensive regulatory framework for cohabitation/de facto relationships is missing, even though these couples have access to assisted reproduction and can jointly adopt children, albeit with less favourable laws than for those who have formalised their relationships.

Prof Wendy Schrama Utrecht University

More family or less? Developments during the last 50 years on the role of the state and family in law: who is family and what does that matter?

General Evolutions 4: Past and Future of Family Law B

More or less family, that is the question. Families are heavily regulated by the state and the state has many expectations of what families are and should do. In regulating families, responsibilities of the state, families and individuals are divided. Clearly, there has been a turning point in recent history from familiarization to defamiliarization. This implied a shift of responsibilities from the family to the state. However, we now seem to be heading to another turning point. Ageing societies and a decline of the welfare state beg the question whether or not to put more responsibilities on families and individuals. Intriguingly, at the same time the question who qualifies as a family for the law is heavily contested with new families calling for change of the old family model.

In this paper I will look at the developments during the last 50 years on families and what the law expects them to do. On the basis of Dutch law, I will show that the question who qualifies as a family has changed to a broader concept of nuclear families, while at the same time some remarkable trends took place as to what families are expected to do. On the one hand, the parent- minor child relationship has been more heavily regulated than (ever?) before. What parents should and should not do is prescribed in much more detail by the law than before. At the same time, responsibilities of ex-partners towards each other after a relationship breakdown have gradually been shifted to individual partners (mostly women). Before, the regulation of the state of partner relationships aimed at more shared responsibilities for choices during the relationship. This paper furthers the debate at the conference about whether these developments in Dutch law are rather a-typical, or that in other legal systems the same trends occur.

Fiore Schuthof Utrecht University

Comparative perspectives on legal capacity and guardianship-like measures for older persons in Europe

Protection and Autonomy of Adults 4: the work of FL-EUR

The United Nations estimates that the share of the world population over the age of 65 will double in the coming 30 years, increasing from 962 million people in 2017 to 2.1 billion people in 2050. As a result of population ageing, a growing number of older persons may develop an impairment that impacts their ability to manage their own affairs, such as dementia. Many European countries, including the Netherlands, subject these older persons with declining abilities to a guardianship-like measure. These measures commonly result in a restriction of this group's 'legal capacity', i.e. their right to make decisions that have legal effect.

The Convention on the Rights of Protection and Autonomy of Adults (CRPD) and the European Convention on Human Rights (ECHR) set out several requirements that are relevant for older persons with declining abilities who are subject to guardianship-like measures. Problematically, there are strong indicators that the Dutch legal system does not comply with several of these requirements, for instance when it comes to procedural safeguards. A comparative law research is therefore being conducted to identify and analyse promising rules and practices of other European legal systems. These rules and practices may ultimately serve as an inspiration for the Dutch legislator to reform its legal system of guardianship-like measures.

The aim of this presentation is to provide initial insight into these promising rules and practices of selected European countries, using the country reports that scholars have compiled for the academic network Family Law in Europe (FL-EUR). The findings of this presentation may be particularly relevant to other European legal systems striving to comply with the requirements of the CRPD and ECHR regarding legal capacity and guardianship-like measures.

Mr William Seagrim Lecturer, Swansea University and 9 Park Place Chambers

Severing ritual infant male circumcision from acceptable family practice – collapsing the dichotomy between 'being' and 'becoming'

Law, Culture, and Religion 1: Parents and Children

Diduck identified a tension in the role that law plays in family life concerning the upbringing of children: a paradigm of "being" and "becoming". On the one hand, there is the romantic developmentalism of children as projects, shaped by adults. On the other, children are no longer seen as "inactive moulds of clay". The vexed issue of ritual infant male circumcision ('RMC') embodies this tension.

In this paper, I question the acceptability of RMC in the family experience of children within any modern society that respects children as ends in their own right. The underlying context of my analysis is the law of England and Wales, which I address and briefly critique. The focus of my analysis is the internationally respected and applied concepts of children's rights, and their best interests.

Diduck suggested that children's family experiences might collapse the "being"/"becoming" dichotomy. Regarding RMC, such is correct following a re-delineation of what constitutes acceptable family experience. Although long-accepted, it is high-time to expose RMC to the gaze of 21st century society. I submit that no amount of cultural practice or religious dogma should justify the irreversible and unnecessary severing of healthy tissue from an infant male's body.

Dr Sharon Shakargy Hebrew University of Jerusalem

The Difference Between Having a Voice and Being Heard: Thoughts on the Legal Capacity of Children

Children's Rights 2

The United Nations Convention on the Rights of the Child (CRC) aims to improve the legal awareness and protection of children. In doing so, this Convention, like its counterpart, the United Nations Convention on the Rights of Persons with Disabilities (CRPD), challenge the once-clear divide between capacity and incapacity. Since the inception of legal capacity, it has served to differentiate classes of people: those who have (capacity) and those who have not.

The CRC can be read as a framework, inviting signatory states to fill in the blanks and far exceed the basic respect and protection afforded to children in the Convention. However, this framework is very lacking, mainly when considered vis-à-vis the CRPD and how the CRC protects children's rights. Children are protected against harmful and exploitative work. Instead, they are supposed to be provided for by adults. But by the same token, they cannot control the decisions made by others to their benefit.

The proposed paper criticises the limited revolution of the CRC and the current limiting legal understanding of childhood by comparing it to the

CRPD and the emerging enabling understanding of people with disabilities. The paper further uses Ian McEwan's "The Children's Act" as a vivid – though fictional – demonstration of the situation in which one has a right to be heard, but no one is obliged to listen. Using these backdrops, the paper strives to offer a new conceptualisation of childhood and children's rights that is more fitting to the rights-based era.

Molshree A. Sharma Partner, Birnbaum Gelfman Sharma & Arnoux
Jonathan R. Standeford Associate, Birnbaum Gelfman Sharma & Arnoux

The State, The Family, and The Individual: Reproductive Rights and the Implication on Divorce

Unborn Human Life 2: Abortion and Reproductive Rights

The practice of embryo cryopreservation has increased in the recent years. While initially a treatment provided to heterosexual couples with issues of infertility, it is now also an avenue for same sex couples to have families. As a result, Courts all over the world are grappling with multiple, new, and complex legal issues.

My paper shall compare the US Court's jurisprudence with that of European Courts such as in the UK, France and Belgium, when adjudicating disputes regarding the legal treatment of embryos in the event of a dissolution or separation.

Additionally, I will discuss the potential issues regarding recognition of parental and custodial rights generally and specifically in the context of Article III (exercise of custody) challenges in countries that have acceded to the Hague Convention on the Civil Aspects of Child Abduction.

Finally, my paper shall discuss the impact of the US Supreme Court case in Dobbs v. Jackson Women's Health Organization (142 S. Ct. 2228 (2022), 213 L.Ed.2d 545) on embryos and assisted reproductive technology given the Court reversed the constitutionally protected right of abortion and upholding a Mississippi abortion law's 15 week ban which was before it. The Court explicitly stated that "potential life" and "unborn human life" are unique and deserving of protection" as Embryos represent potential life. Therefore, issues of discard or donation of unused embryos may face scrutiny. While embryos have not yet been declared legal persons, some states in US such as Louisiana has statutes that provide that an embryo is a "biological human being".

In conclusion, I propose a paper regarding the challenging issues surrounding the use of Assisted Reproductive Technology and approaches that are shaping jurisprudence in the United States and Europe in the context of the dynamic shifts in norms surrounding family structure and the power of the State and Courts over individual liberties and reproductive rights.

Prof Bruce Smyth Australian National University

The Meaning of Home for Children and Young People after Parental Separation: Key Insights for Family Law System Professionals

Child Custody, Contact and Information 1

Prof Bruce Smyth Australian National University
Prof Jason Payne University of Wollongong

Popular Post-Separation Parenting Apps: Can they help families avoid conflict?

Digital Family Law 2: Parents and Children

In recent years, a bewildering array of smartphone applications ('apps') has emerged to support separated parents' communication and post-separation parenting arrangements. These apps usually comprise a messaging tool, shared calendar, expense tracker, and a means to download messages and documents for courts. It is difficult for separated parents – and family law professionals – to know which app or app features might best suit their needs, circumstances, and budget. This session seeks to highlight the potential benefits and risks of post-separation parenting parenting apps. The study comprises three discrete but inter-related data collections:

1. an online survey of family law professionals' knowledge of, willingness to use, and experience with co-parenting apps;
2. a critical evaluation of 10 popular co-parenting apps and their features; and
3. an online survey of separated parents who use these apps. The study is funded by the Australian Research Council.

Dr Federica Sona Senior Research Fellow Affiliation: Max Planck Institute for Social Anthropology, Department 'Law & Anthropology'

The "Daily Laws" - Muslim intended parents dealing with childlessness and (in)fertility

Changing Perspectives in National Family Law 5

Against the backdrop of a broader discourse on bioethics, the proposed paper investigates the Muslim prospective parents' right to a private family life as enacted within the boundaries of Islamic provisions, on the one hand, and Italian domestic law, on the other. Exploring potentially sharī'ah-compliant remedies to involuntary childlessness, reproductive and procreative technologies are brought into focus as alternative routes to parenting and creative forms of filiation. Carefully examining the relationships between fertility centres' personnel and prospective Muslim parents, the proposed study documents and evaluates healthcare providers' perceptions and Muslim patients' distinct (sometimes unspoken) specificities. In point of facts, staff members of clinics providing reproductive and biotechnological medical treatments are increasingly addressing religiously and culturally sensitive issues, as raised by intended mothers and fathers. Fertility treatments can indeed be supported, accommodated, or rejected by Islamic scholars and national legal systems. Coexisting partially overlapping legal and normative orders thus eventually affect the agency of Muslim intended parents as well as healthcare professionals offering reproductive remedies and bio-medical therapies. Relying upon legal, scholarly and empirical data, the proposed analysis intends to offer decoding tools for academic purposes as well as for healthcare providers and religious authorities, who are coping with the progressive pluralisation of filiation patterns, on a daily basis. Paying specific attention to normative principles and customary praxes as understood and implemented in local Muslim realities, light is also shed on possibly partially concealed "old-new" kinship dynamics leading to imaginative family constellations on Western soil.

Seroné Stal University of Fort Hare
Katlego Mashiane North West University

Legal analysis of the reproduction rights of the father, specifically in abortion matters

Unborn Human Life 2: Abortion and Reproductive Rights

The jurisprudence of the local courts and foreign courts, as well as the writings of legal scholars, have built the argument on whether fathers have rights in relation to unborn children. This paper looks at the concept of abortion, specifically the failure to take the father's rights into account at the time of the abortion. Furthermore, it examines whether abortion is legally or morally permissible without the father's consent, even though he adhered to his paternal moral duties. The issue of fathers' reproduction rights has become controversial since more fathers claim that abortion should not be a unilateral decision but rather a mutual decision between both parents (married) of the unborn child.
Suppose the father fulfilled all the requirements of autonomy for himself and his partner in respect of the interest of reproduction. In that case, the view is that the woman has a prima facie obligation towards the father not to destroy the unborn child. According to moral understanding, the father is obliged to financially support the mother of the unborn child. Which, consequently, leads to misrepresentation of the father's reproduction rights towards the unborn child. Therefore, the question of paternal rights concerning unborn children in abortion cases is very complex, as several issues arise, such as the right to bodily integrity of the women, the right to healthcare, and the right to socio-security. In view of the intricacies, this paper investigates whether a father can use the following argument to claim his paternal rights towards an unborn child and whether an unborn child can be viewed as a person at conception.

Prof Barbara Stark Hofstra University

Human Rights as a Normative Framework for Families

Plenary 4. International Family Law

This paper argues for the adoption of human rights law as a normative framework for family law as well as for family obligations. This means that family law would be subject to human rights law, including gender equality and respect for the rights of the child. It also means that family obligations, including those imposed by custom or religion, would not excuse violations of another family member's human rights. Finally, it would mean that the federal government would be responsible for assuring the right of everyone to "an adequate standard of living" (Economic Covenant, Article 11). The child's right to an adequate standard of living is especially important in view of the "widespread recognition of the adverse consequences of deprivation" (CRC Committee 2005).
The explicit adoption of human rights law as a normative framework would dramatically benefit families. The paper highlights some of the ways in which human rights have already benefited families in other affluent democracies. It also considers much poorer states with far fewer resources, which have still managed to support families.

Prof Orsolya Szeibert Eötvös Loránd University

Parental autonomy and children's rights and interests in the light of the parental responsibilities

Children's Rights 1

Children's rights are provided in the New York Convention on the Rights of the Child (UN 1989). These rights are to be interpreted and applied also in the family law context and concerning the parent-child relationship and parental responsibilities. In many cases the parental rights

and autonomy may serve the child's (best) interests, in many cases clearly do not. Also, in further cases it is a question whether the parental agreements and the way the
parents (or either of them) exercise the parental responsibilities serve the child's (best) interests. The parents may enter into agreements while taking care of their child together and also when they separate or divorce and even later on as separately living parents. The subject of these parental agreements may span from the decisions on the child's everyday life to as far as the decision on the alternating residence of the child. (My contribution does not deal with cases when the child is endangered but with those where it is doubtful whether the parents' agreement really serve the best interests of the child.)
As we witness the debating parents in many situations, especially when they do not live together anymore, the parents' agreements are regularly and legally welcomed also because the parental autonomy and cooperation might be also realized. The starting point of this way of thinking is that the parents know their children's needs and they are well educated to determine whether their wills and decisions are in the child's best interests. The point is that we may doubt whether all parents are really so conscious and especially conscious about his or her own child's real needs and interests. Is there any standard for the parents which they must reach that we may trust them that their agreements do the best for the child, or we have to trust all parents as the parenthood and/or the fact that someone has parental responsibilities itself is enough?

Prof Orsolya Agnes Szeibert Eötvös Loránd University

Families on the Move: the Coordination between International Family Law and Migration Law (FAMIMOVE)
Famigration 3: FAMIMOVE

At the interface of family and migration law, one can observe deficits in the protection of children and family relationships. This is often due to the fact that various actors, such as migration authorities, have too little knowledge of the respective provisions. Sometimes, there are also deficits at the legislative level.

On 1 January 2023, a consortium of seven European universities embarked on a research project at the crossroads of private international law and migration law, funded by the European Commission (FAMIMOVE).

FAMIMOVE's objective is to contribute to the effective and coherent application of the EU acquis in the field of international family law, in particular by ensuring more awareness of international child protection instruments applicable to migrant children among critical stakeholders (e.g. migration authorities, child protection authorities, NGOs, lawyers, judges).
The project will collect comparative empirical data by organizing a series of awareness raising seminars in each of the seven countries represented in FAMIMOVE and will complete three transnational round tables relating to key issues of international child protection in a migration context.
The overall goal is to ensure solid network-building and lasting cooperation among different civil protection and migration authorities responsible for migrant children as well as a better dissemination of information about the relevant instruments of international child protection.

In this panel, we will present FAMIMOVE and some interim findings, share insights from practice on the problems key stakeholders experience when handling cases with migrant children and gather additional insights from interested participants.

Dr Naema Tahir Utrecht University

Uncovering misrepresentations of power inequalities regarding consent in arranged marriage – how does arranged marriage do marital consent
Law, Culture, and Religion 2: General

The 'full and free maritalconsent', makes reference to the free, autonomous individual, who expresses consent in relationships that are considered equal. It is this consent that must be achieved in all marriages, including the arranged marriage. Arguably this consent is more easily achieved in the autonomous marriage system than in the arranged one. In the latter the collective incorporates to varying degrees the individual in a hierarchized interdependent relationship and parents heavily influence the match making process and individual marital consent. Viewed from the perspective of the standard of full and free consent, the arranged marriage system is considered to violate the rights of marital agents to consent as equal, free individuals. In addition, marital agents in such a system are regarded as victims of parents, especially patriarchs, who quash free choice. Consequentially, the cultural space of the arranged marriage system is seen as a battlefield between freedom seeking marital agents and oppressive patriarchs.

This presentation argues that applying standards of full and free consent to the arranged marriage system not only misrepresents this system, it also hinders a proper understanding of how consent is really played out in families practising arranged marriage. In this system, marital agents depend and trust their parents to take varying degrees of authority on matters of marital choice.

Prof Allison Tait University of Richmond School of Law

Family Trees and Family Fortunes

Families: the Rich and the Poor

This paper explicates differences in rules governing inheritance first in the context of low-income families and then with respect to high-wealth ones in the context of legal definitions of family. The paper elucidates the ways in which family definitions embedded within inheritance rules constrain low-wealth families as well as how high-wealth families actively reshape the rules to fit their idiosyncratic needs. In so doing, the inquiry focuses on the disciplinary and extractive nature of rules for low-income families as opposed to the facilitative and supportive nature of legal rules for high-wealth families. In so doing, the paper investigates how these rules exacerbate differentiation of the population along lines of race, gender, ethnicity, and other forms of minoritization – producing and reproducing imperial versions of family power and privilege.

Prof Teiko Tamaki Niigata University

Can one draw a line between "family" and "non-family" on a voluntary basis?: A focus on the familial relationship between siblings in older age

What is a Family: Siblings

Who is and who do I regard as my family members? The answers may change through time as we age in that many people experience a shift from the primary/or birth family to a family brought about through marriage and having children. Some studies have shown that people in their forties and over become "less family" orientated towards their siblings. It is not uncommon to choose to re-evaluate the importance of "family" and "non-family" as one ages. The law defines family rather broadly as "shinzoku" despite that the majority are unlikely to regard all "shinzoku" as their "family". The law requires that duty of care includes sibling support dependent upon "affordability".

Given the current trends in society - an increase in the unmarried population, the shrinking birthrate and 'super-aging', there is speculation as to how people whose family is confined to the family of birth see their responsibility in providing support to the "family".
The paper aims to illustrate how siblings in older age are interacting in familial relationships whilst experiencing problems with nursing care and inheritance referring to the results from the 2017 Nationwide Survey on Disputing Behaviour in Japan (Sato et al).

Prof Paula Távora Vítor UCiLER, University of Coimbra

Gestational surrogacy in Portugal: a Tale of Two Mothers

What is a Parent 6: Surrogacy

In 2016, Law No. 25/2016, of August 22nd, introduced gestational surrogacy in article 8 of the Portuguese Law of Medically Assisted Procreation (MAP). The Portuguese legal system became, therefore, one of the few European jurisdictions to allow this assisted reproduction technique. However, despite the existence of a legal provision that regulates gestational surrogacy since this date, the possibility to resort to it has been far from guaranteed.
Indeed, the Constitutional Court has declared several relevant provisions of article 8 unconstitutional, which rendered the remaining regime inoperative (Ruling No. 225/2018 and No. 465/2019). The Constitutional Court considered that the regime raised issues regarding the right of the surrogate to freely develop her personality, the child's right to personal identity and also principle of legal certainty.

In December 2021, article 8 was subject to extensive alterations, that aimed to overcome the objections of the Constitutional Court (Law No. 90/2021, of December 16th) and the current regime has been established.

Gestational surrogacy is defined as the "situation in which the woman is willing to undergo a pregnancy for someone else and to hand over the child after the birth, renouncing the powers and duties pertaining to maternity" (Article 8, No. 1, of the Law of MAP). However, whereas several issues are sorted out by the law, other relevant (even decisive) matters are ignored by the new regime.

In this presentation I will address the current state of gestational surrogacy in the Portuguese system – I will seek to clarify the legal options regarding the requirements and the limitations of the resort to this technique, the characters involved, the demands of consent, the acquisition of parental status and ultimately to track the issues left unsolved, namely the ones regarding rejection of the child by the intended parents or the revocation of consent by the surrogate.

Prof Nicola Taylor University of Otago
Prof Marilyn Freeman University of Westminster

Nurturing the 1980 Hague International Child Abduction Convention

PIL 2: International Child Abduction

In 2017, the 7th Special Commission on the 1980 Hague Abduction Convention adopted Conclusion and Resolution No. 81 recognising "the value of research ... into the operation of the Convention and into the outcomes of cases dealt with under the Convention". We will share key findings and insights drawn from recent projects we have undertaken in furtherance of C&R81:

- FindingHome website providing child-friendly information on abduction and the Convention (launched December 2022).
- Our co-edited Handbook on International Child Abduction: The 1980 Convention (published by Edward Elgar, June 2023).
- Our Special Journal Issue (published by Laws, April 2023).
- Global research conducted in England & Wales (2022-2024) on abduction in the context of domestic violence.
- Trends in the longitudinal data on incoming cases (2010-2019) collected by the NZ Central Authority to track parties' involvement in court proceedings prior to the child's wrongful removal, and following return.

We will address the challenges facing this 42-year-old Convention regarding prevention, child participation, domestic violence, and the aftermath of the child's return to their state of habitual residence – all issues identified as needing to be nurtured to help ensure the Convention's future efficacy and utility for abducted children, their families and the international family justice community.

Hannelore Thijs KU Leuven

Is there a future for the default community property regime?

Money & Property: Upon Separation 2

In many Continental European jurisdictions, including Belgium, France and the Netherlands, spouses are by default subjected to a community property regime. This type of regime is especially beneficial for the spouse that is not professionally active nor owns property, as they are granted immediate property rights on all community assets. At times when the male breadwinner family model was dominant, many legislators preferred to implement a high solidarity through such regime and protect the economically weaker spouse, often the wife.

However, it can be questioned whether the legislator's preference for this regime remains justified in light of evolving societal realities, as many couples have moved away from the traditional male breadwinner model and instead reflect a dual-breadwinner model. The high solidarity that was desired by legislators may not necessarily be wanted or needed by contemporary couples. As the default regime should reflect the majority's wishes and needs, it is essential to question whether there still is a future for the default community property regime. In the current contribution, the current state of affairs is therefore evaluated from both a theoretical and practical point of view.

Prof Jaan Toelen KU Leuven, Department of Pediatrics, University Hospitals Leuven

Self-determination for adolescents in medical decisions: a survey of adolescent, parent and physician opinions.

Minors and Medical Decision-Making

Objective: Physician-patient confidentiality and patient autonomy are complex topics for medical doctors, specifically when relating to an adolescent's legal status. It is known that adolescents value confidentiality and autonomy. It affects the likelihood that they will seek out medical care and confide in physicians, while presence of a parent may constitute a barrier to seeking appropriate medical care. In this study we assessed the opinion of adolescents, parents and physicians on the 'appropriate age' at which an adolescent can seek medical care.
Methods: We used a case-based methodology with hypothetical medical scenarios where the participants had to define the age (12-18yr) at which an adolescent could –in their opinion- be allowed to consult the family physician without a parent. The survey contained 12 scenarios with either neutral (constipation, allergy...) and taboo (STD, alcohol consumption...) medical situations related to confidentiality and consent.
Results: The average age of the hypothetical adolescents at which the family physicians would allow an autonomous consultation was 14.4yr, whereas adolescent participants scored this significantly higher at 15.8yr and parents the highest at 16.7yr. There were significant differences in the average ages between neutral or taboo scenarios (higher in the latter) and between confidentiality and consent scenarios (also higher in the latter).

Conclusion: Our study shows that family doctors would allow patients to consult at a relatively young age, especially compared with the age at which parents would find this appropriate. In Belgium the law allows physicians to decide on patient autonomy for minors. We also documented that the context of a medical scenario (taboo, consent) matters when participants define the appropriate age. These data provide insights into the perspectives of the three involved parties (adolescent/parent/physician) and could lead to more evidence-based practice guidelines for shared decision-making in adolescents.

Dr Rorick Tovar University of Bern

Regulatory Competition and the Law Market for Matrimonial Issues

General Evolutions 3: Selected Topics

One interesting innovation introduced by the 2007 Hague Protocol, the Regulation 1259/2010, and the Regulation 2016/1103 is the possibility to conclude choice of law agreements related to marriage. The restrictions imposed on the party autonomy of spouses are however significant compared to the discretion people have pursuant to the Rome I Regulation. Whereas contractual parties are allowed to choose the legal system they regard as the most appropriate, the spouses' freedom of choice is much more restricted. The aim of this presentation is analyzing from an economic perspective the effects of eliminating barriers to the spouses' freedom of choice. To carry out the analysis, an analogy with regular markets will be made: the law is treated like a product – an economic asset that is demanded and supplied by individuals and states. The place where the interaction between these actors – individuals and competing states – happens, is called "law market". The presentation suggests that in a situation without barriers to the freedom of choice, the conduct of both actors could be like the behavior of consumers and suppliers: Individuals will choose a legal system that meets their needs. States will be encouraged to introduce changes in their domestic laws according to the people's preferences.

Rosamaria Tristano University of Palermo

Influencers or influenced? Children surfing online at risk of sinking

Digital Family Law 2: Parents and Children

Surfing online exposes children to several risks and raises many problems: on one hand, the need to protect their privacy and personal information when they interact online, while ensuring their right to self-determination; on another hand, the need to guarantee their right of publicity when their images are posted online by third parties, especially if exploited to make gains or popularity on social networks; finally, the possibility for children to exercise the right to be forgotten concerning their images circulating online.
France and United Kingdom have already enacted specific regulations, otherwise in Italy a technical committee of the Italian Ministry of Justice addressed the issue, but there isn't yet a regulation, and protection is guaranteed only by the action of the Courts.
An Italian regulatory intervention is certainly desirable, but in order to achieve an effective protection, law rules should be combined with a specific education provided by schools and families.
Therefore, the challenge is double and, as well as the law, involves families. The educational role remains the same, traditional, one but, in line with the times, acquires new content, and can only be supported and strengthened by the law, but not replaced.

Dr Laima Vaige Uppsala University

Divorce and Gender from the Perspective of EU's Private International Law

PIL 1: General

A possibility of divorce in Europe still depends on the gender of spouses, which this paper highlights and criticizes. In particular, some States reserve marriage only to different-sex couples and it is not clear whether the national courts in such States would accept the claims for termination of same-sex marriages. On the basis of the case-law of the European supranational courts, this paper argues that Member States' courts should apply EU private-international-law rules to same-sex marriages, in order to assume jurisdiction in divorce matters. Even though substantive divorce laws are within the discretion of the States, and not EU, in the area of private international law, a possibility to apply to court for divorce should not depend on spouses' gender. That is considered to be against the logic of private international law, which usually favors the possibility of divorce in international cases. It also clashes with the European human rights standards, which prohibit discrimination on the grounds of gender, sexual orientation, or nationality of EU citizens. An impossibility to divorce risks creating limping civil statuses and legal uncertainty as to their legal effects.

Cinzia Valente University of Modena and Reggio Emilia

Children's Informational Privacy and "digital parenting" in the U.S. and Italy: Ground of Convergence or Litmus Test of an Unbridgeable Gap

Digital Family Law 2: Parents and Children Prof Bruce Smyth, Australian National University

In recent years, family relationships seem to be affected by the interference of social networks; technology entails the adoption of different family governance strategies to face unique challenges offered by the digital world, which enables users to make recourse to new forms of communication but at the same time raises serious concerns about minors' protection. In this context, the parents-child relationship must be reconsidered by focusing on the threats related to the digital dimension and privacy protection without compromising the child's self-determination. This proposal aims to compare the US and the Italian minors' informational privacy models in connection with "digital parenting". Whereas in the US information privacy may be represented as a "negative" freedom, shielding its holder from external constraints on her personal decision making, in Italy it underwent – well before the GDPR – a significant expansion of its semantic sphere, being also understood as a "positive" freedom having at its core the control over one's personal information. We wonder if these divergent approaches impact differently on the parental relationship and where the balance has to be struck between the recognition of greater autonomy and self-determination of the child in the management of his/her own data and the claim for a parental control able to afford an effective protection to minors. We will analyze the existing regulations (in the US, the 1998 Children's Online Privacy Protection Act and bills recently introduced, but not yet enacted; in Italy, the GDPR and the Personal Data Protection Code amended in 2021) in order to assess – by resorting to comparative law methodological tools – whether the two models ensure an effective protection to children or rather excessively hinder the business interest to have access to a huge amount of personal data and how parents should act in order to ensure minors' welfare.

Dr Marjolein van den Brink and Dr Jet Tigchelaar Utrecht University

Gender challenges to civil registries

Gender & the Law 1

Civil registration systems are increasingly challenged by lived realities and legal claims of transgender and non-binary people, because of their rigid rules, grounded in a binary and essentialist conception of sex, whereas the sex attributed at birth based on visible sex characteristics does not per se match one's felt gender identity. New questions continue to arise: like how to qualify legally male or non-binary persons who give birth: as mother, father, birthparent, or ..? . Especially where registration allows for non-binary or fluid gender identities, the question arises 'what' exactly is registered (sex, gender?), for which purpose(s), how valid are those purposes, and can these not be achieved by other means? Can the state do without registration of sex/gender in civil status registries? Which interests are at stake and how can these be balanced? Other concerns are raised by those who perceive such (proposed) changes as a threat to traditional social (m/f) gender roles, while some feminists consider the shift away from legal gender as undermining the whole project of empowering women.
In this presentation we will identify and analyse the arguments in legislation and jurisprudence in the Netherlands about registration of sex/gender, initiated by the experiences of transgender persons.

Dr Marjolein van den Brink Utrecht University

De-gendering parental status: how and why

Gender & the Law 2

The Dutch Civil Code systematically qualifies parents as either fathers or mothers, depending on their legal sex/gender marker. There is one exception to this rule: currently, the law prescribes that trans men who give birth, will be regarded as the child's mother. Early in 2023 this policy was modified. Although the law itself remains unchanged, the underlying decree now provides that trans men may choose whether they wish to be registered as the child's mother or parent, although they cannot opt for father.
The issue of the gendered qualification of parents raises many interesting questions, including why the government seems to insist on emphasising the sex/gender of children's parents despite its endeavours to achieve equality between men and women. This contribution will focus primarily on the legal state of play in the Netherlands, the possibilities and challenges for legislative change in the (near) future, and what this means for parents of all sexes and genders.

Dr Tine Van Hof University of Antwerp

The weight given to family relations in international child abduction proceedings

PIL 2: International Child Abduction

When an international child abduction occurs, courts of the State of refuge have to decide whether to order the child's return to the State of habitual residence. These proceedings are firstly based on the Hague Convention on International Child Abduction. While this instrument's aim is protecting family relations - namely custody rights, the family relations of the particular case only play a limited role. Indeed, this instrument's principle is the prompt return of the child, and the exceptions to this principle do not directly take family relations into account. At the same time, courts have to take into account the Convention on the Rights of the Child which provides that the child's individual best interests shall be a primary consideration in all actions concerning children. In light of this instrument, the family environment is a substantial aspect of the child's best interests and can thus play an important role in the decision- making.

This presentation will scrutinize which weight is given to family relations in the context of return proceedings. Answering this question will indicate whether courts manage to balance both instruments applicable in the proceedings or whether they limit their decision-making to one or the other.

The weight given to family relations in return proceedings will be examined based on a content analysis of case law of five jurisdictions: Belgium, England & Wales, Ireland, the Netherlands and Switzerland. Those jurisdictions' case law on international child abduction was collected and analysed by using NVivo. This analysis focused on whether and how courts take the following factors into account in their decision-making on the return of the child: relationship with siblings and family in the State refuge and in the State of habitual residence, relationship with the left-behind and the abducting parent, relationship between parents, and addiction/psychological problems of the left-behind parent.

Eva Van Kelecom KU Leuven

Physical and emotional sibling violence in a conflict management perspective

What is a Family: Siblings

Conflicts occur within almost all intimate relationships and sibling relationships are no exception. Whether those conflicts are constructive or deconstructive depends to a certain extent on how they are handled. Sibling conflict is therefore not necessarily a cause for real concern. In general, sibling conflict declines with age. Children and adolescents also learn prosocial skills to handle conflicts adequately (e.g. negotiation and compromising skills). However, some sibling relationships remain conflictive and some siblings continue to use inadequate conflict management strategies when young adulthood emerges (e.g. verbal or physical violence). This raises the important question at which point healthy sibling conflict turns into sibling violence. For a long time, any form of aggression among siblings has been considered as harmless, and has been tolerated or minimised. Meanwhile, increasing evidence has made clear that violent sibling interactions are widespread and sibling violence is assumed to be the most common form of family violence with detrimental effects on victims.
First, this contribution reflects on available research on sibling conflict and violent conflict management. Second, the prevalence of physical and emotional sibling violence and factors associated with it, are presented, using secondary data of a school survey conducted in Flanders (Belgium).

Dr Veerle Vanderhulst Vrije Universiteit Brussel

From kinship to 'careship': in search of a new concept in family law

Caring and the Law

Full title: From kinship to 'careship': in search of a new concept in family law to denote the legal anchoring, facilitation and activation of caring relationships

Abstract:

1. In this presentation it is argued that current Belgian (family) law provides only to a limited extent a legal framework that anchors, facilitates and activates caring relationships within members of a social network. Current Belgian (family) law focuses primarily on members that are related to each other by legal filiation, marriage or statutory cohabitation. Law attributes these members rights, powers and obligations enabling them to fulfill a caring role towards each other. Other members – members that are not related to each other by legal filiation, marriage or statutory cohabitation – are attributed far less rights and powers. As a result, these other members may not be able to fully fulfill the caring role they are willing to take up.

2. In this presentation a new concept is introduced, called 'careship'. This new concept denotes the legal anchoring, facilitation and activation of caring relationships. It will be examined whether the introduction of this new concept may be useful for Belgian (family) law in order to enable all members of a social network to take up a caring role. This attention devoted to caring relations is justified, taking into account that this would come especially to the benefit of vulnerable members of society who have a high need for care and support (f.e. people with disabilities).
3. In this presentation two different approaches towards this new concept of 'careship' are explored. In the first approach 'careship' is considered as a new legal relationship, being part of the status of a person. The legal content of this relationship would be predefined by law, thus joining the other traditional legal relationships like legal filiation, marriage and statutory cohabitation. In the second approach, 'careship' is considered in a more functional approach whereby rights and powers are attributed merely on the basis of the caring function this person fulfills towards someone else.

Dr Veerle Vanderhulst Vrije Universiteit Brussel

Children with intellectual disabilities and their parents. Autonomy and/or protection?

Protection and Autonomy of Adults 1: Intellectual Disability

GENERAL ABSTRACT

This panel deals with the legal position of (minor and major) children with intellectual disabilities in Belgium/Flanders in relation to their parents. It makes an evaluation of this position to the principle of autonomy as it is embedded in the United Nations Conventions on the Rights of Persons with Disabilities (hereafter: CRPD) and (for minors) on the Rights of the Child (hereafter: CRC).

First, a CRPD and CRC-based evaluative framework will be developed. The question arises to what extend children with disabilities enjoy a right of autonomy in the relationship to their parents, and to what extent protection should be possible. It will be examined in which way the CRPD and CRC instruments facilitate, or do not facilitate, the position of the child with a disability in relation to the right of autonomy (contribution 1). Second, the evaluative framework will be applied to three domains in which the question of autonomy might arise: family law (contribution 2), health law (contribution 3) and social law (contribution 4). The conclusion and subsequent discussion will explore whether these diverse areas of law can inspire each other.
This panel is innovative in that it does not merely focus on either the position as a child or the position as a person with a disability but examines them together. Moreover, in doing so, it sheds a legal light on the for persons with intellectual disabilities often challenging transition from minority to majority.

PRESENTATION 1. Evaluative framework - Noami Blomme
PRESENTATION 2. Family law - Veerle Vanderhulst
PRESENTATION 3. Health law - Tim Opgenhaffen
PRESENTATION 4. Social law - Elisabeth Alofs

Prof Domitilla Vanni University of Palermo

Medical assisted reproduction and the right to know own origins

What is a Parent 4: the Right to Know One's Origins A

The research will focus on new boundaries of Family Law in the specific field of Assisted reproduction with reference to the right of the child born by new medical assisted reproduction tecniques to know his/her natural relatives included siblings.
This analysis will be conducted in a comparative perspective as the comparison between different legal models-i.e. the English one and the Italian one - will be very fruitful in exploring the differences or the analogies between them which often are more apparent than real and which only a comparative analysis can reveal without any prejudice and objectively.

Eleni Varvarousi Democritus University of Thrace

The Definition of Family in the International and European Context

Changing Perspectives in National Family Law 6

The family is one of the main social groups that plays an important role in the creation of the character of a child among school and friends.Therefore is a basic group for the social life of an infantile . During the years the concept of family has changed due to the various changes in our society. This

article aims to present selected international and European legal tools regarding the definition of family. There would be an analysis of selected international and european regulations such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms etc. Furthermore there would be a short analysis regarding the same sex relationships and conclusions regarding this topic.

Prof Jinske Verhellen Ghent University

Families on the Move: the Coordination between International Family Law and Migration Law (FAMIMOVE)

Famigration 3: FAMIMOVE

At the interface of family and migration law, one can observe deficits in the protection of children and family relationships. This is often due to the fact that various actors, such as migration authorities, have too little knowledge of the respective provisions. Sometimes, there are also deficits at the legislative level.
On 1 January 2023, a consortium of seven European universities embarked on a research project at the crossroads of private international law and migration law, funded by the European Commission (FAMIMOVE).
FAMIMOVE's objective is to contribute to the effective and coherent application of the EU acquis in the field of international family law, in particular by ensuring more awareness of international child protection instruments applicable to migrant children among critical stakeholders (e.g. migration authorities, child protection authorities, NGOs, lawyers, judges).
The project will collect comparative empirical data by organizing a series of awareness raising seminars in each of the seven countries represented in FAMIMOVE and will complete three transnational round tables relating to key issues of international child protection in a migration context.
The overall goal is to ensure solid network-building and lasting cooperation among different civil protection and migration authorities responsible for migrant children as well as a better dissemination of information about the relevant instruments of international child protection.
In this panel, we will present FAMIMOVE and some interim findings, share insights from practice on the problems key stakeholders experience when handling cases with migrant children and gather additional insights from interested participants.

Prof Jinske Verhellen Ghent University

International family law and migration law: Living Apart Together in a globalized world Verh

Plenary 4. International Family Law

This presentation takes a closer look at the cross-border portability of migrants' personal and family status (e.g. age, parentage, guardianship, marriage). It will address several legal problems encountered by migrants with regard to their personal and family status acquired in one country and transferred to another country (such as the absence of documentary evidence, the issue of limping legal relationships). These family law issues are intertwined with migration law rules, including those on family reunification and the appointment of guardians for unaccompanied migrant children. Cross-border mobility in general, and migration in particular, should not lead to a loss of one's personal and/or family identity. The aim of this presentation is to highlight the need for better communication between private international law and migration law, including refugee and asylum law.

Prof Bea Verschraegen Universität Wien

Latest developments in Austrian Family Law and their implications on Conflict of Laws. Rights of registered partners, transgender persons, intersex persons and access to medically assisted procreation

Changing Perspectives in National Family Law 6

Eva Vertommen KU Leuven

A comparative analysis of the measures in case of non-compliance with residence and contact arrangements

Child Custody, Contact and Information 2

When parents are no longer living together, a contact or residence arrangement has to be made for their minor children. However, in case of problematic divorces and separations, parents often do not live up to these arrangements.

The Belgian legal framework provides a range of measures to enforce the compliance with contact arrangements, f.e. changes to custody or

residence arrangements, penalties, compulsory enforcement by a bailiff, ... In criminal law, failure to hand over the child is also punishable by imprisonment. These measures, however, do often not lead to a satisfactory result.

Recent legislative changes and case law show the evolution not only to enforce the contact arrangements, but also to put more effort in assisting the parents in conflict resolution and in counselling or supporting the parent-child contact (the so-called "accompanying measures"). Questions arise though about the effectiveness and the legitimacy of these accompanying measures.

This presentation aims in a first part at giving an overview of the (civil and criminal) measures which can be imposed on parents in case of non-compliance with contact arrangements. In the second part, there is a specific focus on the accompanying measures. Dutch law, as well as German law, will provide a comparative law perspective to this presentation.

Dr José María Lorenzo Villaverde Associate Prof University of Örebro, Assistant Prof University of Southern Denmark, External Lecturer University of the Faroe Islands

The Danish state as an example of a decentralised state in family law. A critical analysis of the transference of the field "family law" to the Faroe Islands

Law, Culture, and Religion 2: General

The Faroe Islands is an autonomous territory within the Danish Rigsfællesskab since 1948, autonomy further developed in 2005. Family law was transferred to the Faroese authorities in 2018, prior negotiation with the Danish central ones. Family law in both parts of the Realm was already different before, as the Faroese authorities could decide not to implement certain Danish laws.

This paper critically analyses the transference of competences in Danish Rigsfællesskab as an example of a decentralised state. I delves into some specific matters such as recognition of same-sex marriages, co-motherhood and the introduction of a new act on matrimonial property regimes. The consequence is a framework riddled with loopholes and problems of legal uncertainty and leaves broad margin to political discretion. Moreover, it evidences discrimination based on the place of residence and even poor compliance with ECtHR case law.

Furthermore, the paper approaches the question of the existence of ordre public in the inter-provincial private law context, arguing against relying on the ordre public exception within the Rigsfællesskab. The picture evidences a lack of reflection of Denmark as a decentralised state and its functioning, with the Danish authorities as main responsible ones, negatively impacting on citizens and families.

Dr Christiane von Bary LMU Munich

Social Parenthood in Germany

What is a Parent 8: Social Parents B - Comparative Perspective

In this panel, we bring together some of the authors of a collected volume entitled Social Parenthood in Comparative Perspective. Around the world, same-sex couples are raising children; parents are separating and re-partnering, creating blended families; and children are living with grandparents, family friends, and other caregivers. In these situations, there is often an adult who acts like a parent but who is unconnected to the child through biogenetics, marriage, or adoption – the common paths for establishing legal parenthood. Psychologically, and especially from a child's point of view, such a person, a "social parent", is a parent. But the legal status of social parents is hotly debated.
Many countries do not extend parental rights or responsibilities to social parents. The countries that do extend recognition have adopted widely varying legal rules with different degrees of protection. On our panel, we consider how the law does – and how it should – recognize social parenthood. In Germany, social parents are mainly recognized through a limited form of parental responsibility and certain contact rights if they are stepparents or foster parents.

Jan von Hein University of Freiburg

Beyond the family: Cross-border protection of Adults in light of the recent European Commission Proposals

Protection and Autonomy of Adults 2: Cross-Border Aspects

On 31 May 2023 the European Commission published two proposals on the protection of Adults. The first one is to authorise Member States to become or remain parties, in the interest of the European Union, to the Hague Convention of 13 January 2000 on the International Protection of Adults. The second is a legislative proposal to supplement the Convention's rules, for instance on jurisdiction and the cross-border recognition of measures of protection. This panel will discuss the European Commission's proposals in their broader context of the Hague Convention and of the UN Convention on the Rights of Persons with Disabilities (CRPD).

It will address the following questions:

- What is the framework that the UN Convention on the Rights of Persons has established?
- What is the approach that the European Commission takes in these proposals? What is the legal basis of the proposals?
- What does the European Commission propose in terms of allowing Adults to choose the court that would have jurisdiction over measures of protection for them?
- How does the European Commission proposal approach the applicable law, especially regarding ex lege powers of representation?
- What does the European Commission propose in terms of the cross-border recognition of measures of protection?
- What would the European Commission's proposal change in terms of registers of protective measures, their interconnectivity, and access to such registers by authorities?
- How would the European Commission's proposal interact with the Hague Convention of 2000?
- How does the European Commission's proposal fare if assessed critically against the UN Convention on the Rights of Persons with Disabilities?

Prof Machteld Vonk Radboud University

Social Parenthood in The Netherlands

What is a Parent 8: Social Parents B - Comparative Perspective

The presentation will focus on development in the context of social parenthood in The Netherlands. This presentation is part of a larger comparative study into the legal regulation of social parenthood.

Prof Machteld Vonk Radboud University

Assisted Reproductive Technologies, Families, and the Law: exploring the intricacies, limits, and future of the role of law in determining 'family'

What is a Parent 9: Panel Debate on ART

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The topic is broad, and intentionally so, in order to allow the discussion to flow spontaneously between the panellists and the audience. Of course, the ongoing discourse pertaining to the legal determination of parenthood given the splitting of the genetic/gestational/social or intentional elements of parenthood via contemporary ART practices (i.e. gamete extraction and preservation, gamete/embryo donation, IVF, surrogacy) will necessarily form part of the panel discussion. However, panellists will also be invited to think further ahead and consider the legal and ethical implications of emerging and future ART (e.g. mitochondrial replacement therapy (MRT), CRISPR-CAS9 gene editing, in vitro gametogenesis (IVG), and artificial wombs) vis-à-vis the notion of 'family' in law. What do these technological advances mean for reproductive rights and intentional family planning? And what do they mean for the resulting child and their establishment as a person in the context of their family, the law, and broader society? How do we balance individual interests in planning and shaping our families and family life with collective interests as a society and as a species? Ultimately, how do these technologies impact what we have hitherto perceived as 'family' in law, and how can family and fertility law adapt to these (inevitable?) technological advances?

This diverse panel draws together early career and established researchers, from across the fields of family law, bioethics, and biolaw to engage in an open, cross-disciplinary discussion on what ART means for familyhood, now and in the foreseeable future.

Els Vyncke Ghent University

Aligning Belgian family property law with contemporary society: headed toward a fata morgana?

General Evolutions 3: Selected Topics

Aligning family property law with contemporary society is an objective of the Belgian legislator, as made explicit in the preparations for the fundamental reforms of 2018.Yet, on examining the preparatory works, it is striking how scarcely scientific sources are referenced for statements about Belgian society, e.g. that a parent-child relationship is characterized by solidarity, whereas that between a stepparent and stepchild is marked by conflict.This raises the question whether or not the reform's underpinnings are corroborated by scientific evidence. The answer could be that the current legislation is based on invalid assumptions.By conducting a systematic literature review of social scientific research (240

publications from WoS, Scopus and ProQuest), this researcher analyzed the validity of two underlying assumptions of Belgian family property legislation. The first pertains to the difference in commitment in various relationship types (marriage, registered and informal partnerships). The second assumption concerns the difference between blended families and nuclear families regarding intergenerational solidarity and conflict.Using data analysis software (NVIVO), this research was carried out in a quantitative manner (evidence maps), as well as a qualitative manner (thematic analyses). The presentation will go into the methodology and the results of the systematic literature review.

Dr Tone Linn Waerstad Faculty of Law, University of Oslo

Families in Europe: changing Concepts and Overcoming Divergences

Families in Europe

What constitutes a family in Europe? The answer to this question is constantly changing and increasingly varied. Strong disagreements exist within Europe. States do not move at the same pace or even in the same direction. These differences can have grave consequences for multi-national families and families that move across borders. Private international and procedural law are called upon to mitigate these issues. They are themselves, however, fragmented and often not entirely equipped to protect families cross-border. And while harmonization of substantive family law might seem like a desirable solution in certain areas, such efforts are even less politically feasible than the more timid steps to unify private international and procedural law within Europe. At the ISFL World Conference we want to present a joint project of close to 20 younger academics from all over Europe, which tries to bring a new perspective to these changes in family life and family law across Europe as well as their international consequences. Konrad Duden (University of Leipzig) and Denise Wiedemann (Max-Planck-Institute Hamburg) will provide a general framework of the issues addressed above. Additionally, three panellists will go into more depth in relation to particular areas.

Prof Avishalom Westreich College of Law and Business
Prof Amihai Radzyner Bar-Ilan University

Rethinking Reproduction: The Status of Frozen Embryos in Divorce Disputes in Israeli Rabbinical Court Rulings

Unborn Human Life 1: General

Modern reproductive technologies provide various options for procreation that reframe the structure of the family. In cases of family conflicts, especially in divorce cases, new family structures become highly challenging. It is even more so in the Israeli legal structure that very uniquely combines civil and religious laws in family matters, and thus makes family conflicts even more complex – but also with a great potential of developing new and creative solutions.

Our lecture will discuss the status of fertilized ova in divorce conflicts. The question which will be at the core of our discussion is who, if at all, has the right to use fertilized ova for reproduction when the spouses are in a highly conflictual situation. This question occurs, many times, when one spouse refuses to proceed with the reproduction process, while the other (who might not be able to go through this process again) demands it.

The lecture will focus on rabbinical court decisions from recent years that deal with this issue. Classic Jewish law sources did not discuss it, of course, thus modern-day rabbinical courts need to find creative interpretative ways in order to justify their opinion. Analyzing these interpretations will be the first objective of our lecture. But this is not enough: any discussion is affected by cultural, religious, and ethical presumptions of the court, and rabbinical courts are no different. The second objective of our lecture will be revealing these presumptions and discussing their influence on rabbinical court decisions. Finally, we will ask in our lecture whether the Jewish law discussion on the status of fertilized ova may contribute to the similar discussion conducted by civil law, many times from a liberal perspective, or, maybe, the gaps between these two worldviews cannot be bridged.

Dr Denise Wiedemann Max-Planck-Institute Hamburg

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Prof Harry Willekens University of Hildesheim

Once again: what is family law for?

General Evolutions 1: Past and Future of Family Law A

What is family law for?
Family law imposes special obligations on its subjects which go beyond the obligations applicable to all citizens. The special rules of family law are deemed to be justified by the relations subjects have entered into, but are they? One person's rights are the other one's burdens, and family law is a means of disciplining individuals.

From the 1960s onwards, family law was the object of societal critique, and critics used to predict its demise. In reality, a wave of reforms transformed family law, but family law survived. Critical demands came to be integrated into the general framework and basic concepts of family law (the best and simplest example: marriage was not abolished, it was opened to new groups).

It is time to go back to the old emancipatory question: why should there be family law at all? After looking backwards to the social functions fulfilled by family law in the past and looking forward to the social goals claimed for family law nowadays, I defend the position that the only tenable justification for having special rules of family law is that family law functions as one of a set of institutions providing material security to the members of society. To fulfil this function, however, a family law is required which bases rights and obligations on need rather than on kinship or on voluntary decisions to enter into specific relations.

Prof Sandra Winkler University of Rijeka

Poverty and its impact on the family - a legal perspective

Families: the Rich and the Poor

Poverty should not be an obstacle to the family life and to the realization of the life projects of the family members. The author takes the opportunity of this paper to reflect on the impact that poverty unfortunately has on family dynamics. In rethinking family law, it is certainly necessary to investigate the legal instruments available to the interpreter in order to combat the many forms of poverty that afflict today's society. Particular attention will be paid to the protection of minors, as statistics show that often the poverty is even more present in families with children. Reflecting on the impact of poverty on families it is clear that it generates inequalities: indeed, all the vulnerable groups are in danger of the social exclusion. In this sense, a number of fundamental rights protected under the European Convention on Human Rights, as well as under the Charter of the Fundamental Rights of the European Union will be examined, such as the right to respect for private and family life or, even more importantly, the right to dignity, both greatly affected by the impact of poverty.
Starting from an approach that looks at family law on a supranational level through the protection of the fundamental rights of the individual, the investigation will continue on the level of Croatian substantive family law, making a comparison with other European legal systems.
In the final part of the paper, an attempt will be made to conclude about the importance of rethinking family law in order to combat the social exclusion that poverty entails, with particular reference to the most vulnerable persons.

Zendy Wulan Ayu Widhi Prameswari Universitas Airlangga

Legal Protection for the Inheritance Right of Children with Dual Nationalities: The Case of Indonesia

Changing Perspectives in National Family Law 4: Asia

The Law on Nationality of Indonesia provides limited dual nationalities for certain groups of children. These children must choose one of their nationalities after they are 18 years old or married. This stipulation is in order to provide better protection for children and women because the previous law governing nationality only gave fathers the right to pass on nationality to their children. However, one of the problems that arise in the application of limited dual nationalities is regarding the inheritance rights of children. The Law concerning Basic Agrarian Principles allows only Indonesian to own land. This paper will analyze how Indonesian law provides protection for these with regard to their inheritance rights. It will also raise some issues that have been the challenges in the application of the laws to the protection of the inheritance right of these children. This paper is legal research using statute and conceptual approaches. Furthermore, it will also use approaches pertaining to conflict handling. The study shows that the Indonesian laws are not yet clear and raise several different opinions between agencies in implementing them. Further, this creates legal uncertainty for children with limited dual nationalities and their families as well as several related agencies.

Prof Tim Wuyts University of Hasselt

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Dr Anna Wysocka-Bar Jagiellonian University

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Dr Nazia Yaqub University of Leeds, also on behalf of Prof Helen Stalford, University of Liverpool, Dr Sarah Woodhouse, University of Liverpool and Dr Melanie Griffiths, University of Birmingham

The role of family law: sharing good practice with other fields of law

Famigration 2: Children

The role family law has played in past decades is to respond to legal lacunae and appears to be in a constant state of catching up. Yet when compared with other fields of law, the family law framework on hearing from children can be regarded as progressive and in fact could serve as a framework to emulate. A new study by the authors examines children's welfare considerations in deportation cases when the state is pursuing an outcome that will result in the child being separated from their parent. The study highlights that the infrastructure embedded within family law to assess the impact of court decisions on the child is more advanced than other branches of law. Whilst the deportation legal framework requires the welfare of the deportee's child to be taken into consideration, the procedural processes to give effect to the legislation are limited, and consequently, the child's views pertaining to his or her welfare are not considered by immigration tribunals. The study examines the potential for the family law framework on hearing children to be replicated or extended to deportation cases affecting children. This paper argues that one of the roles of family law is to guide other branches of law and this interdisciplinary method is key to developing the law to accommodate the needs of "law's families."

Ze

Prof Nadjma Yassari Max Planck Institute for Comparative and International Private Law

New kids on the block: Assisted Reproduction Technologies in the Islamic Republic of Iran

What is a Parent 2: Assisted Reproduction - General

The paper looks at the social, legal and religious framework of assisted reproductive technologies (ART) in Iran. There is a substantial diversity of opinions between Muslim scholars on the permissibility of ART, with Sunni authorities having evaluated all forms of heterologous procedure as being forbidden. Conversely, Shiite Scholars, especially the Iranian Grand Ayatollahs, have come to different positions, with particularly the current Supreme Leader Ali Khamenei allowing all forms of assisted reproductive technologies including third party gamete donation.

The paper wants to shed light on the diversity with which Shiite scholars have evaluated the permissibility of ART and how their alliances with medical specialists and their endorsement of ART legitimacy in Iran. In the absence of one official voice in Shiite Islam, the individual reasoning of each scholar stands on its own, based on the strength of its rationality. However, the reasonings of Shiite scholars are often consequential rather than – what one would expect from a religious debate – deontological. Many important ethical and legal issues have not been discussed among the scholars and the Act on Embryo Donation to Infertile Couples enacted in Iran in 2003 leaves many questions open.

Prof Virginia Zambrano University of Salerno

The "Jus corrigendi" between educational purpose and child abuse

Youth Law 4

In all legal systems, the educational function is considered an obligation of the parent towards their children (art.147 c.c.it .; art.154 Còdigo civil esp; art. 202 Code Civil etc.). But what are the limits that the parent must respect in carrying out this function, considering that the child - in the light of the principles of the NY Convention - has perfect and autonomous rights? To what extent, spanking children is a dangerous disciplinary practice? The comparative survey returns an extremely complex panorama. In addition to countries such as Canada (sect. 43 Canadian Criminal Code) which allows "reasonable" use of the jus corrigendi, there are regulations (Germany: Inhalt und Grenzen der Personensage § 1631 BGB; Austria § 146 ° ABGB; Scandinavian countries) in which any "vis" exercised on the minor is prohibited. In England the ban is absolute for teachers, but not for parents. In Italian law, for example, art. 571 of the Italian Criminal Code which punishes the abuse of the means of correction, has been interpreted considering that only the "continuity" in the use of violent means integrates the most serious crime of mistreatment (art. 572 It.c.p.). The possibility of parents to sanction the child's conduct seems to be limited to the use of a moderate vis (violence). The "punctum dolens" is to establish when the "correction" turns into abuse and if parent can benefit from a kind of "tort and criminal privileges" for child corporal punishment. So much to determine whether and to what extent the rules of civil liability are involved (i.e. endofamily offenses), and to verify the activation of criminal protections.

Associate Prof Eleni Zervogianni Aristotle University of Thessaloniki, Greece

Social parenthood in Greece - A critical approach

What is a Parent 8: Social Parents B - Comparative Perspective

The regulation of parent-child relationships in Greece still revolves around the principle that a child can have no more than two parents of different sex. Yet the increase of blended families and the rising social acceptance of same-sex partnerships, coupled with the broad availability of medically assisted reproduction techniques, make it increasingly common that persons other than the child's legal parents assume parental responsibilities. The law in Greece largely does not recognize the relationship between a social parent and a child, although in 2021 a new law (Law 4800/2021 that amended the Civil Code) provided some protection, establishing a right of contact between a social parent and a child. Drawing upon the findings of psychological studies that the preservation and strengthening of the bonds between children and their social parents is in the children's best interest, the presentation shall address the legal issues and challenges that arise in such settings, explaining the protection that Greek law does—and, more typically, does not—offer.

Conference presentations

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