

# 22<sup>ND</sup> ANNUAL FAMILY LAW CONFERENCE 2019

DATE: THURSDAY 4<sup>TH</sup> AND FRIDAY 5<sup>TH</sup> APRIL 2019  
VENUE: THE PRESIDENT HOTEL, ALEXANDER ROAD, SEA POINT, CAPE TOWN

## Thursday 4<sup>TH</sup> April 2019

07h45 – 08h50 Registration

### PLEASE BE SEATED BY 08H50

09h00 – 09h10 Opening and Welcome : **Dedication to Sir Peter Singer** (our good friend and mentor) **and to Nick Crichton**

09h10 – 10h00 Hague Conventions  
**Philippe Lortie & Laura Martinez-Mora** (HCCH, the Hague) (also with reference to Art 13(1)(b) defences and the guide to good practice)  
**Commissioner Matlodi Angelina Makwetla** (SAHRC) – "The Role of Human Rights Commissions in furthering Children's Rights"

10h00 – 11h00 **Stephen Baker** (Jersey) - "Trust and assets in the international arena"  
**Advocate Brian Pincus SC** (Cape Bar) - Trust and assets in South Africa

Questions

11h00 – 11h20 **TEA**

### **BREAKAWAY SESSION A**

11h20 (Room A) ART (session 1)  
Chair: **Barbara Connolly QC** (London and Chair IBA Family Law Committee)  
**Professor Amrita Pande** (Department of Sociology, University of Cape Town) – "International surrogacy laws: The domino effects of cross border surrogacy bans"

**Laura Martinez-Mora** (HCCH, the Hague)

**Samantha Lewis** (Miller du Toit Cloete Inc) – "A view of developments in South Africa"

**Margaret Swain** (AAARTA, USA) - ART and revisiting the HHP judgment

13h00 – 14h00 **LUNCH**

**Rahima Nato-Kalfane** (Attorney, BWG Associates, Paris, France) – "Legal Parentage of a child born by a surrogate mother: the French case law and first request on an advisory opinion by a contracting state to the ECtHR submitted by France on 5 October 2018"

Questions

14h35 – 15h40

**Session dedicated to the memory of Sir Peter Singer**

Gender issues

Chair: **Barbara Connolly, QC** (London and Chair IBA Family Law Committee)

**Advocate Pathmavathi Moodley** – "A total shutdown – a picture of femicide in South Africa"

**Karabo Ozah** (Deputy Director: Centre for Child Law University of Pretoria) - Child marriage

Questions

15h40 – 16h00

**TEA**

16h00 – 16h40

Chair:- **Rachael Kelsey** (IAFL, attorney, Scotland)

Research and policy relating to children's interests: the International perspectives:-

- **Professor Marilyn Freeman** (Westminster Law School, London)
- **Associate Professor Nicola Taylor** (University of Otago Law Faculty, Children's Issues Centre, New Zealand)

16h40 – 17h30

**Professor Julia Sloth-Nielsen** (UWC) – "The Children's Act and the Child Justice Bill – amendments"

Questions

**BREAKAWAY SESSION B**

11h20 (Room B)

ADR

Chair:- **Susan Abro** (Attorney, Durban)

11h20 – 11h50

**Ananda Louw** (SALRC) – "The Law Commission's discussion paper on ADR in family law matters"

11h50 – 12h20

**Elizabeth M Picker** (Barrister, Australia) – "Arbitration in Australian Family Law System; mediation, arbitration, FDRP's – Ethics?"

12h20 – 13h00

**Marici Corneli** (Mediator, Family Assist) – "Child focused mediation when compiling a parenting plan and the Family Advocate's requests with child participation (voice of the child)"

**Alison Shalaby** (Reunite, London) – Mediation in Hague matters

Mediation, arbitration, parenting coordination, children's voices, difficult matters and parties, court acceptance of ADR processes and legislative amendments update:-

Chair:- **Astrid Martalas**

- **Craig Schneider** (Craig Schneider & Associates)
- **Zenobia du Toit** (Miller du Toit Cloete Inc)
- **John O'Leary**
- **Martin Yodaiken**
- **Suzanne Kingston** (London, UK)
- **Esna Bruwer** (Morgenzon Practice)

Questions

13h00 – 14h00

**LUNCH**

14h00 – 15h40

ADR session continued

15h40 – 16h00

**TEA**

16h00 – 17h30

Developing Law and practical issues for practitioners

**Advocate Julia Anderssen** (Cape Bar) – "Exclusion of personal maintenance in ANCs"

**Advocate Narghis Bundhun** (Advocate, Mauritius)

Procedure, discovery and submissions to the SA Law Commission

IT and courts

Cohabitation and universal partnerships – is reform crucial?

Questions

19h30

**Pre-booked OPTIONAL DINNER at NV 80 (above Checkers in Regent Road, Sea Point)** (cash bar)

Dress code: casual

## Friday 5<sup>th</sup> April 2019

08h00 – 08h30	Registrations
08h30 – 08h50	<p>The elderly Chair:- <b>Beverley Clark</b> (Attorney, Johannesburg)</p> <p><b>Barbara Connolly QC</b> (London and Chair IBA Family Law Committee) - "Issues of protection of the elderly and vulnerable includes welfare, incapacity, prosperity and POA"</p>
08h50 – 09h20	<b>Kantha Padayachee</b> (SALRC) - SALRC issue paper on matrimonial property
09h20 – 09h40	<b>Katharina Boele-Woelki</b> – "The Principles of European family law regarding property, maintenance and succession rights of couples in <i>de facto</i> Unions"
09h40 – 11h40	<p>Muslim marriages and intestate succession updates Chair:- <b>Yumna Mookrey</b> (Attorney, Miller du Toit Cloete Inc)</p> <p><b>Fareed Moosa</b> (UWC) – "Recent CC case on intestate succession and MPL"</p> <p>Muslim marriages and in particular the WCL judgment:-</p> <ul style="list-style-type: none"> <li>• <b>Advocate Nazreen Bawa</b> (Cape Bar)</li> <li>• <b>Advocate Stuart Humphrey</b> (Durban Bar)</li> </ul>
10h40 – 11h00	<b>TEA</b>
11h00 – 11h40	<p><b>Hassan Elhais</b> (Dubai) – "Spouses' financial rights under Islamic principles and UAE laws"</p> <p>Questions</p>
11h40 – 13h00	<p>Customary marriages update</p> <ul style="list-style-type: none"> <li>• <b>Dr Anthony Diala</b> (Senior lecturer, Department of Private Law UWC) – "Legal pluralistic interfaces in the development of customary family laws in Nigeria"</li> <li>• <b>Professor Elena Moore</b> (Associate Professor, Department of Sociology, UCT) – "Harmful cultural practices and inter-generational consent: challenging the notion of binary from a legal pluralism perspective"</li> <li>• <b>Dr Nkanyiso Sibanda</b> (Department of Private Law, UWC) – "The practice of and the significance of lobola: revisiting the HHP judgment"</li> <li>• <b>Professor Lea Mwambene</b> (Associate Professor, Department of Private Law, UWC) – "Access to Justice: Gender and Ukuthwale"</li> </ul> <p>Questions</p>

13h00 – 14h00	<b>LUNCH</b>
14h00 – 16h20	<p>Children (continued)</p> <p><b>Leslie Kaufman</b> (CA, Israel) – "Habitual residence and the unborn child in Hague Child Abduction Convention proceedings – ie. a child who is born in a country other than that of a planned habitual residence as a result of the mother leaving when she is pregnant"</p> <p><b>Dr Sonia Vohito</b> (The African Project Co-ordinator) – "The YG case and worldwide progress"</p> <p><b>Makiko Mizuuchi</b> (Mimosa International Law Office, Japan) – "The Hague Convention – the Japanese experience"</p> <p><b>Alan Wright</b> (Attorney, Bowman Gilfillan, Cape Town) - Children and the media</p> <p><b>Advocate Mary O' Gorman</b> - Draft rules for The Children's Court</p> <p><b>Violet Odala</b> (African Child Forum, Ethiopia)</p> <p><b>Adelaide Benneh Prempeh</b> (Accra) - Legislative reform in child and family law in Ghana</p> <p>"The best interests of the child in divorce proceedings: A critical evaluation of the law and practice in Ghana" - <b>Edmund Foley</b> (Ghana) (Unable to attend but has submitted a paper)</p> <p>Questions</p>
15h30 – 15h50	<b>TEA</b>
16h20 – 17h00	<b>Nancy Zalusky Berg</b> (Attorney, USA) – "Global implications at the end of the road: anticipating, recognising and dealing with international legal issues in family law"
17h00	<p><b>Closing</b></p> <p><b>Cocktail at the venue</b> Sponsored by 5 SAH Chambers, London</p>