



معهد الدوحة الدولي للدراسات الأسرية والتنمية

DOHA INTERNATIONAL INSTITUTE  
for Family Studies and Development

عضو في مؤسسة قطر  
Member of Qatar Foundation

## ***Symposium on the Jurisprudence of Extended Families, Extending Families and Intergenerational Solidarity***

*April 30-May 1, 2012  
Doha, Qatar*

### **Monday, April 30, 2012**

#### **9:00-9:30 Welcome**

*H.E. Abdulla Bin Nasser Al Khalifa*, Chair, Board of Governors, Doha International Institute for Family Studies and Development

*H.E. Noor Abdulla Al Malki Al-Jehani*, Executive Director, Doha International Institute for Family Studies and Development

*Lynn D. Wardle*, President, International Academy for the Study of the Jurisprudence of the Family

#### **9:30-11:15 Session I: Family Laws and Jurisdiction**

**Chair: H.E. Noor Al Malki Al-Jehani**

#### **09:30-09:50 Prof. Scott FitzGibbon, USA, The Biological Basis for the Recognition of the Family**

**Scott FitzGibbon** is a graduate of the Harvard Law School (J.D.), where he was an Articles Officer of the Harvard Law Review, and of Oxford University (B.C.L.), where he studied legal philosophy. He is a professor at Boston College Law School, a member of the American Law Institute, and a member of the International Society of Family Law. He is the Editor in Chief of the International Journal of the Jurisprudence of the Family and Vice President of the International Academy for the Study of the Jurisprudence of the Family.

He is the author of "Marriage and the Good of Obligation" (American Journal of Jurisprudence, 2002); "A City Without Duty, Fault or Shame," in RECONCEIVING THE FAMILY: CRITICAL REFLECTIONS ON THE AMERICAN LAW INSTITUTE'S PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION; "Educational Justice and the Recognition of Marriage," and "Parent, Child, Husband, Wife: When Recognition Fails, Tragedy Ensues", 2011

**Abstract:**

We are specially connected to ancestors, and descendants, and to blood relatives. We and they comprise a family, an association of persons which implies special obligations, one from which each member derives some substantial portion of his or her self-understanding and towards which each devotes much care.

Can an account -- a definition -- be given which could form a ground for the explanation and justification of the remarkable flex and stretch of the familial obligation and persona across space and time?

This paper proposes that central among such elements -- basic to the definition of family -- is an element which is here referred to as "juristic knowledge": reasoning and belief about the firmer and more law-like aspects of practical reason. It further proposes that among the primary objects of this familial cognition is belief about the procreative project. This paper proposes that the elements here proposed best explain and justify familial obligation and ground the familial character.

**09:50-10:10 Dr. Ali Al Marri, Qatar, Legislation and Laws related to the Family in Qatar, Reflections on the Policies and Practices**

**Dr. Ali Bin Samikh Al - Marri** is the chairman of human rights committee in Qatar ( NHRC) as well as the Chair of the Sup-Committee on Accreditation (SCA) from 2011-2015. Dr. Al Marri served as Vice president of the Asia Pacific Forum(APF)2011-2013. He is the chairman of Arab human rights experts committee, league of Arab States and holds a P.H.D in Political Science from Cairo University in 2006 as well as a Master Degree in Political science in 2002.

**Abstract:**

The State of Qatar reaffirms on the importance of the family as the basic unit of society, as stated in Islamic law and by the Permanent Constitution of the State, God says in the Holy Quran: O mankind! Be dutiful to your Lord, Who created you from a single person (Adam), and from him (Adam) He created his wife [Hawwa (Eve)], and from them both He created many men and women and fear Allah through Whom you demand your mutual (rights), and (do not cut the relations of) the wombs (kinship) . Surely, Allah is Ever an All-Watcher over you."verse (1) \* Nisa \*.

Then, the text of Article (21) of the permanent Constitution of the country: "The family is the basis of society. Founded on religion, morality and patriotism, and the law regulates the means to protect and strengthen its structure, strengthen its ties and protect maternity, childhood and old age in its shadow." The paper presented and discussed three topics:

1. The importance of family and its role in security, stability and progress of society.

2. Family in the State of Qatar and the national development strategy of the State (2011-2016), and contained in the national vision of the State of Qatar 2030, the overall strategy of the family in the State of Qatar and finally
3. Legislation of the State of Qatar on the family.

**10:10-10:30 Dr. Ursula Cristina Basset, Argentina, What is the Juridical Ground of Familiarity Today? The Swing that Goes from the Biological Ties to Affection, Friendship, Contract or Even Neighbourhood**

**Ursula Cristina Basset:** Lawyer, PhD in Juridical Sciences. Professor and Researcher (Pontificia Universidad Católica, Universidad Nacional de Buenos Aires). Director of the Postgraduate Career in Family Law (Universidad Católica de Salta). Member of the Directive Board of the International Academy for the Study of the Jurisprudence of the Family. Member of the Executive Board of the International Society of Family Law. Member of the Institute of Bioethics of the National Academy of Moral and Political Sciences (Buenos Aires, Argentina), Member of the Subcomission of Reform of the Civil Code (Argentina), Author of several publications in Family Law and Bioethics.

**Abstract:**

The concept of family is becoming a crux interpretum. The more marriage declines as a founding institution of family law, the less are there identifiable boundaries of the concept of family to be found. As familiar bonds fade, familiar solidarity that could be previously enforced by law loses its very foundation. However, the emergence of artificial reproductive techniques has disrupted the coherence of the legal system of affiliation, weakening the social significance of biological ties. As life expectancy grows, and the birth rate falls, the sustainability of social solidarity is called into question. The traditional family is no longer there to take care of the elderly and the handicapped.

Our presentation will aim to explore and analyse what are the grounds for a familiar juridical obligation between citizens in the actual trends of family law, by an examination of legal institutes in modern family law.

**10:30-10:50 Dr. Ameena Al Jaber & Dr. Asma Al Attiyah , Qatar, Family in Islam**

**Family within Islam (Rights and duties)**

**Dr. Amina Mohamed Al-Jabber** is an Ex-Professor in family jurisprudence, faculty of Sari 'a, at Qatar University and Deputy Dean, Faculty of Sharia and Islamic Studies from 2000 – 2003. She is Member of the Muslim Scholars Union, Qatar Branch and Member of the Al-Azhar scholars Union, Arab Republic of Egypt, Cairo. Dr. Ameena has been a Member of the committee ,Reviewing Qatari Family Law

**Dr. Asmaa Al- Attiyah** is an Associate Professor of Special Education Diploma Program Department of Psychological Sciences - Faculty of Education - University of Qatar. She is also a Member of the Academic Accreditation - Faculty of Education - University of Qatar and the Chairman of the Committee of graduates Faculty of Education 2007-2011. Dr. Asmaa is Member of the National Committee for Human Rights - the State of Qatar and a Board member of the Learning Center (Awsaj Institute of Education) - Qatar Foundation for Education, Science and

Community Development as well as a Board member of the Social Rehabilitation Center (Owain) - State of Qatar.

***Abstract:***

The importance of talking about the family in the midst of the conflict of civilization and the cultural, physical and moral degradation which impact heavily on all aspects of human life in general and the family in particular is being highlighted. Hence the importance of this paper which seeks to shed light on the protection of the family which is the real nucleus which forms a proper human society in Islam. The formation of the family starts since the first step of thinking of founding a family and choosing the right partner as well as the operational terms starting with the marriage contract and finally reproduction, custody, care and fixation of the family and all its members as well as the minimizing marital problems and ways of dealing with these problems in a way that achieves marital, family and social harmony.

**10:50-11:15: Q&A**

**11:15-11:45: Break**

**11:45-13:30 Session II: Family Courts and Extended Families  
Chair: Dr. Ossama Abdel Hadi**

**11:45-12:05 Judge Sheikh Fawaz Gettal, Qatar, Family Courts in Qatar**

Judge Fawaz Bakhit Mubarak AL-Gaatal holds a Master of Laws from the University of Case Weston Ohio, 1999 and a Bachelor of Sharia and Islamic Studies from the University of Qatar in 1986. He studied English for a year at the Institute of Aomst Manchester in England, 1997 and Trained for two years in the Ohio Court of year 2011. He is currently the President of the Court; Court of First Instance and Head of the first Family Court. He is also a member of the Commission on Human Rights on civil society.

***Abstract***

The State of Qatar believes in the importance of the family and its role in the continuous development of a society, being the first and most important social institute which holds an important role in achieving psychological understanding between children. In order to protect the family and stand in the way of the various challenges it faces, laws, legislations, programmes, institutes as well as Family Courts were introduced in the State of Qatar. This paper aims to define Family Courts and their role in the development of the State of Qatar. It will also discuss the goals and inspirations of the family courts.

**12:05-12:25 Dr. George W. Dent, Jr., USA, Extended Families and the Expressive Function of Law**

**George W. Dent, Jr.**, has been a Professor of Law at Case Western Reserve University Law School since 1990 and the Schott-van den Eynden Professor of Law since 1998. Before joining the faculty at Case Professor Dent taught at New York Law School. Professor Dent holds a B.A.

(1969) and J.D. (1973) from Columbia, and an LL.M. from New York University (1981). Before entering academia he clerked for Judge and practiced corporate law. Professor Dent has published extensively in the areas of corporate and securities law; law and religion; and family law. *No Difference? An Analysis of Same-Sex Parenting, \_\_\_ Families We Choose? Visions of a World Without Blood Ties*, 2 INTERNATIONAL JOURNAL OF THE JURISPRUDENCE OF THE FAMILY 13 (2011); *Straight Is Better: Why Law and Society May Justly Prefer Heterosexuality*, 15 TEXAS REVIEW OF LAW & POLITICS 359 (2011); *Is Traditional Marriage Unconstitutional?*

**Abstract:**

The extended family is under stress from two directions. One is the movement to deprive the concept of “family” of any objective meaning, including particularly any connection to real marriage or biological relationship, and to substitute a subjective definition of “family” as “families we choose”--i.e., as any group of adults that chooses to call itself and the children they control a “family.” The second, and statistically more important, is the declining birth rate across most of the globe.

The law has great difficulty dealing with the first phenomenon and even greater difficulty dealing with the second. At least in liberal societies, the state has limited tools to deal with couples who bear children and cohabit without marrying.

The extended family cannot flourish without a strong culture of (real) marriage, which should therefore be the first goal of an effort to preserve the extended family. Beyond that there are many steps that could be beneficial even if they do not create enforceable rights.

**12:25-12:45 Dr. Carmen Garcimartín, Spain, Shorten Legal Family vs. Extended Social Family**

**Carmen Garcimartín** is a lawyer with a PHD in Jurisprudence from the Santiago De Compostela in Spain. Her experience varies between teaching, administrative and research and is currently an Associate Professor at the University of La Coruna in Spain.

She is a member of the Spanish Royal Academy for Jurisprudence and Legislation and has been granted by the Regional and National Government of Spain a two year research grant and served as the Secretary of Department of Public Law at the University of La Coruna. She is also a member of several National Research Projects and is a visiting scholar at the Università La Sapienza in Rome; the National University of Ireland in Galway and the Catholic University of America in Washington D.C.

Dr. Carmen has published four books on Relations between Church and State and Marriage Law as well as more than twenty five chapters of books and articles in Spanish, European and USA Journals, and several reviews in European Journals. She has been invited as a Keynote Speaker in National and International conferences in Spain, Iran, Italy and Lithuania and has presented in Mexico, Granada (Spain), Washington D.C., London, Copenhagen, Buenos Aires, and now I would like to welcome her to present her paper in Doha, Qatar.

**Abstract:**

The idea of family has evolved in the last century from the extended family towards a narrower concept, the so-called nuclear family. This evolving situation had an impact in the Law. There are increasingly less juridical restrictions in a number of areas. Criminal law also took a restrictive approach to the issue.

However, the social pressure is now pushing for a wider involvement of the extended

family, remarkably due to the financial crisis. Very often, people turn to the extended family as an ultimate resource in cases of special need.

There is a compelling interest in this action if we take into account that the welfare State seems to be collapsing. In times of economic growth the State provided for most of the basic needs, and therefore family support appears as non essential from an economic point of view. Now, family is replacing the State because the latter cannot universally grant those basic needs. This way, the family is gaining again a primary role in the society.

### **12:45-13:05 Dr Fawzi Khamis, Protection of Juveniles at risk in the Lebanese Law**

**Dr. Fawzy Khamis** is an Advocate-General in the Court of Cassation of Lebanon. He took many of the judicial positions, including President of the Court juvenile delinquency in Beirut (2004-2009). The President and member of several committees took over the preparation of draft laws on the protection of the juveniles, traffic laws and informatics. He has issued a number of judicial decisions in bold and important topics of public freedoms and the protection of crime information and juveniles which have had a great impact locally and internationally. He is the author of the book "Protection of Juveniles at risk in light of law and jurisprudence in Lebanon" (2009), the first book of its kind to address this issue.

#### **Abstract:**

The first specialized study in juvenile at risk cases and the description of the situations of risk. What are the functional and quality competences of the juvenile judge in the protection of juveniles at risk? Then how the juvenile judge intervenes and puts his hand on the call or file protection concerning the juvenile at risk. What are the procedures followed by the juvenile judge in cases of these Juveniles. What are the measures of protection that can be taken by the juvenile judge? Will these measures be included in the statements of criminal record for the juvenile? Is it possible to extend the deadline protection measures beyond the age of eighteen? Can a juvenile judge take precautionary measures against the juvenile at risk? The study also addresses methods of reviewing decisions concerning the Protection of Juveniles and whether the juvenile judge is capable to impose expenditure on the Juvenile's parents as well as ordering family psychotherapy? How do the implementation of the resolutions and the provisions of the juvenile judge that are taken in order to protect juveniles at risk are carried on and are the legal guarantees to implement the resolutions of protection that were already judged.

**13:05-13:30: Q&A**

**13:30-14:30 LUNCH**

### **14:30-15:50 Session III: Family Law: Ruling and the Concept of Parenthood**

**Chair: Dr. Ursula Cristina Basset**

**14:30-14:50 Dr. Imad Kattan, Qatar, Qatar Family law: General overview**

**Dr. Imad Kattan** received his PhD in Law from University of Strasbourg , his thesis has been published in European University . He was Associate Dean for Academic Affairs in College of law at Damascus University from 2003 to 2007; then during 2007 to 2009 he was the National Director in Modernization of Litigation Procedures in the United Nations Development Program jointly with Ministry of Justice in Syria. Dr. Kattan is currently Assistant Professor of Civil Law, Family Law and Law of Procedures in Civil and Commercial Matters.

**Abstract:**

Family law was passed in Qatar to reflect how the State of Qatar is really interested with the family and promoting it stability as well as reform, protection from cracking, and working to resolve what is being said of disputes between its members. There is no doubt that the historical context, social, religious and cultural heritage upon which was released the Qatari family law, was reflected to a large extent on the principles and rules enshrined. The Qatari Family Law contains Article 301 which deals with marital relations and the consequent rights and duties, and the resulting effects, in addition to the children; their right in kinship, custody, alimony, as well as the provisions of the Wills and Inheritance.

We will review the above, and focus on what can be touching the theme of the Symposium from issues such as alimony and custody of relatives.

**15:10-15:30 Dr. Rasha Al- Disuqi, Juristic Family Rulings, a Study of Maqasid Al- Shari’ah**

**Dr. Rasha al-Disuqi**, is Associate Professor at the Faculty of Islamic Studies and director of the Contemporary Jurisprudence Program at QFIS. She is currently supervising six Masters Theses and has taught over ten courses at QFIS. She has obtained her doctoral from the University of Wales, U.K., has taught at highly prominent institutions as California State University and Al-Azhar University, the most celebrated institution in Islamic Studies. She is published extensively in the United States, and internationally in distinguished Arabic journals. She is author of the best seller, *The Resurgent Voice of Muslim Women*, and *Muslim Family Fiqh*. As a recognized scholar in the area of women and the family, her most recent research papers are “Violence Against Children” published in *International Council for Jurisprudence*, and “Reproductive Health: A Study in the Objectives of Shari’ah,” “Woman and International Agreements,” both published in the *Cairean, The Contemporary Muslim*. She has been invited as a speaker in hundreds of lectures on university campuses in the United States, Canada, Turkey, China, Cairo and South Africa.

**Abstract:**

This paper unfolds the multi-faceted nature of *Shari’ah* , projecting achievement of multiple goals in protecting, both nuclear and extended family. It is divided into an introduction and four sections. The first discusses juristic rulings establishing goals of family formation, integration of mercy and affection, balancing rights and duties, parental and children’s rights. The second, explains the *Shar’i* goals of protecting honor and lineage, the importance of agnation, illegalizing adoption, and explaining rulings on honor violations and family penal law philosophy. The third section, elaborates on the crucial role lineage plays in protecting uterine relations, how *Shari’ah* guards extended family relations setting penalties against committing major sins of severing them. It explains the sacredness of inheritance rulings in rights of descendants and grand- parents. This brief exposition concludes that Allah’s plan for humanity is encapsulated in family juristic rulings embraced in *Shari’ah* to guarantee vicegerency.

**15:30-15:50 Dr. Nigel Lowe, UK, Working Towards a European Concept of  
Parenthood and Parental Responsibilities**

**Nigel Lowe is a** Professor of Law and Head of Cardiff Law School, Cardiff University, Wales, UK. He has been a member of the Executive Committee of the International Society of Family Law since 1993 and was Vice President and the Convenor of the ISFL's World Conference in Cardiff in 1994. Member of the UK's International Family Law Committee, Sometime Consultant both to the Hague Conference on Private International Law and the Council of Europe.

Author of numerous books, reports and articles including:

*The Plan for the Child – Adoption or Long-term Fostering* (2002, with M Murch)

An editor of Clarke Hall and Morrison *on Children*. Is involved in three international projects; helping to draft a new Council of Europe Recommendation on The Legal status of Children and Parental Responsibilities based on his report; drafting 8armonizing principles of European Family Law regarding Property relations between Spouses with the Commission on European Family Law (CEFL) .

**Abstract:**

The paper will comprise an examination of the work I have been doing for the Council of Europe with regard to the drafting of a new Recommendation on The Legal Status of Children and Parental Responsibilities. It will discuss the main provisions of the proposed Recommendation and will explain some of the major difficulties in the negotiations and in particular about what provision, if any, should be made in respect of same-sex couples and international relocation issues.