

Wikizine Family: Law for Life

As Wikizine celebrates its first birthday with the theme for the magazine being 'one year on', I started to think about family law and what had happened to it over the last twelve months. It dawned on me that most of us would remember the negative headlines which plagued the press, the many sad stories that touched our hearts and the seemingly never ending problems dogging the family courts. Yet within those twelve months, some extraordinary things have happened.

As with any process experiencing a transformation, slowly and quietly the good continues to breathe life into the system. The field of family law is vast, ironically not so much because of its legislation or its countless precedents, which are so complex at times that even senior judges argue over the various interpretations but more so because unlike any other field in law, it encompasses every aspect of day to day life. So it can be hard to spot the positive changes, as they come from so many different directions but birthdays give us cause to celebrate and in this article, I have tried to pick out some memorable moments to illustrate that now, more than ever, the concept of 'law for life' is coming into its own.

Although splitting hairs is often what causes disagreement amongst families, there are some circumstances where the art of hair splitting can be a wonderful thing. In August 2009, Family Law Week featured an [article](#) about the introduction of hair tests for use in family proceedings and how they have revolutionised the way we work and the way we can acquire information. Hair tests are used in divorce proceedings and contact disputes to determine amongst other things, the presence of any substance abuse and are a much more humane and accurate way of gathering this information and helping to protect children who may be at risk in the family home. Interviewing Avi Lasarow, the managing director of Trimega Laboratories, Family Law Week outlined how this technique offers more detailed and valuable information, saving time and increasing the courts' ability to get to the truth of the matter. Better for families and for professionals.

And as Wikizine commemorates its first year in 2010, one year before so too did The Children Act 1989, celebrate its own anniversary. At the grand age of twenty, the Act is considered by many to be an elegant piece of legislation, which whilst flawed was really the first of its kind in England to attempt to make the welfare of the child of paramount consideration in family law cases. My own view of the Act is that it is not to blame for the shortcomings the system faces; an inanimate object, malleable and capable of responding to changing trends and policies, professionals in the system have for many years ignored its potential but in 2009, one law firm took the command decision to try to make a change.

In November of that year, Mischon De Reya took part in the [Westminster Debate for KIDS](#), with a view to highlighting the need to change the system in a way that would benefit families and eliminate the associated traumas children often experience when their parents separate or divorce. The result was increased momentum in the national press to address these issues and a heated national debate over collaborative law and mediation. Powerful contributions from our now President of the Family Division, Sir Nicholas Wall and our current Chairman of the Law Commission, Lord Justice Munby were also made, at once acknowledging and re-iterating the need for change (both gentlemen have spoken openly about the difficulties for many years and very generously took part themselves in the Westminster Debate) and in 2010 with their newly acquired responsibilities, are now actively seeking to make that change.

But it is not only lawyers and law makers who have blazed a trail in the field of family matters; [Quakers](#) too have pushed the boundaries of society and religion, by becoming the first mainstream religious organisation in England to approve gay marriages, which they did in 2009. Further to that, in the same month, women in [same sex relationships](#) would finally be allowed to register both their names on the birth certificate of a child which was conceived using fertility treatment. There were critics aplenty, but this did not stop the gentle persistence of logic and life.

Logic and life also found its way into Labour's Green Paper, Support for All. Published in January 2010, it was the first Green Paper to my mind at least, that was symptomatic of a renewed interest in actively including the general public in political affairs whilst at the same time, demonstrating that it had understood what the nation was asking: the system does not understand us – so how can it help us? The Green Paper's response, although limited, was earnest: the government knows it is out of touch. Help us to reconnect. That, is exactly what the paper did and although it was unable to cover in depth the many and varied issues involved and arguably came too late on in Labour's term in office, the content was sensitive to change, coherent on relaying the majority of the public's concerns and diligent in its bold effort to court debate on the topics that mattered to us.

But the government's curiosity has not stopped there and in February 2010, the [Family Justice Review](#) started to will itself into action and became the new catch phrase for a hopeful nation. The Review was set up with a view to finding out why the system was not working and what could be done to make it better and the first step saw the appointment of five experts, who would act as a panel and try to make sense of the information that they hoped to collect. An ongoing project, the first phase, Call for Evidence, is now underway and hopes to gather as much factual information as possible. In the spirit of public inclusion, everyone, including children, is welcome to fill in the questionnaire and share their thoughts with the government.

Making their views increasingly more prominent through the use of court judgments as political tools, working judges too began to voice their concerns about the family justice system in court documents that were made readily available to the public. [History](#) was also made in that same month, with Mrs Justice Black allowing the wishes and feelings of the then five year old girl to be given meaningful weight in a case relating to relocation and contact. The family courts had finally come to understand that in order to deliver justice for the most vulnerable members of society, they had to listen to them first.

But it was not only female practitioners who pushed this policy forward; in May 2010, the then all male Voice of the Child Sub Group, put together [guidelines](#) for children to be able to speak with judges about their cases. The guidelines are cautious but they have left room for the more adventurous judges to really drive the policy of listening to children forward and it will be fascinating to see how this area of family law develops. Ever hopeful, I believe that these new improvements will lead the courts to the inevitable conclusion that flexibility and responsiveness are the only way forward when protecting the rights of our children.

Yet in order to protect those very rights, another very significant element also needs to be addressed: that of transparency in the family courts. So in July of this year, Lord Justice Munby once again rose to the challenge and delivered a [speech](#) at the Hershman-Levy Memorial Lecture which focused on proposing the sharing of more information with the nation, publicising a wide range of judgments and above all, giving our families back their voice. It is hard to believe, in amongst the

sound of ancient pillars falling and the clamours of an ever cynical Britain that advances are being made, but the walls of our ailing system are coming down and as it bears its heart for all to see, one year on, there are reasons to celebrate and the thrilling possibility of a brighter future.