

Up Against Family Law Exceptionalism: The Economic Family

Faculty of Law
University of Toronto
84 Queen's Park
Solarium

February 8-9, 2008

Agenda and Questions

Friday, February 8th

3 pm Registration and Coffee

3:30-4 pm: **Introduction**
Janet Halley
“Family Law Exceptionalism’ So Far”

4-5 pm **The State of Our Art I**
Philomila Tsoukala
“Economic Theories of the Family”

5-6:30 pm **The Family, the Market and the State I – Modes of “Private” Ordering**
Panelists: Rashmi Dyal-Chand, Maria Rosaria Marella, Mary Anne Case

We have long recognized that private law rules are critical to the operation of markets, and the rights and resources of different parties. How does location and bargaining in the market affect relations inside the family and vice versa? (How) are regulative ideals about competitive and efficient markets filtering through to family life and family law? Is the family still the locus of altruism? Is the market still ‘public’ to the ‘private’ family? What and where are the new ideologies about the family and the market? What do property and contract, land, tenancy and consumer laws, even corporate law have to say – explicitly and implicitly – about family roles and responsibilities? What if anything does family law contribute by way of background rules affecting the operativity of other private law regimes?

Evening Into Toronto

Saturday, February 9th.

9 – 10 am **The State of Our Art II**
Kerry Rittich
“The Family and the Market in the International Order”

10-10:15 am Coffee

10:15 -- Rounds I

11:45 am **The Family, the Market and the Transnational**

Panelists: Chantal Thomas, Prabha Kotiswaran, Audrey Macklin

We take Francis Olsen's 1981 article, "The Family and the Market" to be canonical for our project. From the vantage point of 2007, its exclusive focus on domestic law cries out for amendment. Families and family forms, like goods and services, now straddle the border, and even purely 'domestic' households now often include workers from away. What do we know about the place of the family and family law in the regulation of labor migration, in the institutions that make international law, in the local reception of globalization? How do families intersect with transnational economic transactions? How might 'open' markets encourage the migration of workers, legal and illegal? What role do intra-family transfers play in sustaining communities across borders and the 'formal' economy, and how are they regulated? What research tools might be developed to ask questions about the nexus between the family and the market in the transnational?

Most discussions of international flows of capital and labor and their regulation are silent on questions of gender, sexuality and reproduction. Where and why do sex and care workers so often operate in legal 'grey' and black zones? How might we study such new informalities? Where and when does international law proper, such as human rights or trafficking laws, have something to say about the family and the market?

11:45 am -- Lunch

1pm

1-2 pm **Report from the Queer Frontier**

Panelists: Aeyal Gross, Libby Adler, Darren Rosenblum

Queer theory is on the move in international law circles, and is producing new work on domestic law as well. Given our somewhat fuddy-duddy focus on "the family" in the ULFLE series generally, can we break the frame a little and ask about the place of gender and sexuality in our inquiries? What gender arrangements and what sexual practices are implicated in the regulatory regimes we have discussed so far – and what theoretical shifts might help us to reframe the very subject of regulation, the very subjectivity of regulations? This Report from the Queer Frontier is, we hope, a moment for speculation and prediction about frames other than the family that might be a productive alternative, proximate to it but not it.

2-3:30 pm Rounds II

The Family, the Market and the State I: Modes of "Public" Ordering

Moderator: Brenda Cossman

Martha McCluskey, Anne Shalleck, Hila Shamir, Lisa Philipps

Welfare rights and social programs have been under siege since the Reagan-Thatcher revolution, and ‘familialization’ has become a routine event as privatization - of programs, services and costs - has placed the family once again at the center of securing household and individual welfare. Is this the entrenched ‘new deal’, or can we see cross-currents and resistance? What varies from jurisdiction to jurisdiction? What difference do doctrinal and institutional rules make? What is happening with the informal norms - gendered, racial, and other – about who does what, whose work is worth what, that have operate across the work/family divide? How do new/reconstructed family obligations dovetail or conflict with the ‘new deal’ at work – universal market participation?

How does the family show up in the legal regimes we associate with the ‘welfare state’: aid to families, labour and employment laws, tax policy, for example? Where and how has family law proper assisted in traditional welfare goals? If we understood family law to be part of the law of the contemporary social state, and labour law, by contrast, as part of what structures families and households, what would look different? Would we have a better grasp, for example, of the total or ‘global’ distribution of resources?

3:30-3:45 pm Coffee

3:45 – 5 pm **The State of Our Art III**

Hani Sayed

“The Family and the Market in Development”

Commentator: Lama Abu-Odeh

Discussion Moderated by Kerry Rittich

5-5:15 pm Next Steps

Saturday night – dinner