
The Family Law Act and Access to Justice

May 31, 2018

Last year, the Law Foundation of British Columbia established a \$100,000 fund to support legal research in British Columbia that advances the knowledge of law, social policy, and the administration of justice. This year's recipients of the fund include three of our faculty members: Isabel Grant, Erez Aloni and Régine Tremblay.

With the enactment of the FLA, the BC government made a commitment to access to justice and respect for diverse family forms. Assistant Professor Régine Tremblay's research project "5 years later: An Analysis of Family Law Reform in British Columbia – Access to Justice and Family Diversity," will critically examine how to measure success in the context of family law reform and in relation to a) access to justice and b) the inclusion of diverse family forms.



Assistant Professor Régine Tremblay

The Problem

The *Family Law Act*, which came into force in March of 2013, is a groundbreaking piece of legislation emphasizing B.C.'s commitment to recognizing diverse family structures. The FLA is the first act in British Columbia to provide rules for determining parentage in diverse family forms (a term which here means multi parent families, families that have used assisted reproduction, families created via a surrogacy agreement, and single parent families by choice). While Tremblay will be studying the FLA's impact on access to justice for all families, an important component of her research will be determining if the legal guidelines pertaining to diverse family forms have made it easier for members of diverse families to navigate the legal system and secure parental status. A second component of Tremblay's project involves creating legal material in French, to increase access to justice for French-speaking British Columbians. Franco-Columbian families are not directly mentioned in the FLA, but Tremblay sees legal translation work as an important step in increasing access to justice in an increasingly multilingual province.

Though the FLA has been in place for over five years, little scholarship has been written on certain components of the act. And according to Tremblay, the fact that a thorough review of the parts of the FLA that she'll be evaluating has not been released in the five years since its enactment is problematic. "I think we need to engage with metrics. We need to be accountable. A reform is not an end in itself; it is a starting point. It is important to engage with reforms and their results."

Why is this Important?

The 2016 Census shows that proportionally fewer Canadians are choosing the nuclear family model. Single-parent households, common-law partnerships, and multigenerational families are all on the rise. Similarly, French speaking British Columbians make up a significant percentage of the population, with over 300,000 BC residents self-identifying as Franco-Columbian. The FLA was a step in the right direction: but is family law progressing fast enough to keep up with BC's increasingly diverse population?

The Solution

While Tremblay will be looking specifically at BC's family law reform, she hopes to eventually engage with other jurisdictions across Canada. Tremblay notes that many provinces are in the process of evaluating their family law. "Recently, Ontario reformed some aspects of their family law. BC did. Alberta did. Among themselves, they can compare. But Quebec is in French and from a different legal tradition." With her background in both common and civil law, Tremblay is uniquely situated to begin the process of breaking down the language and conceptual barriers that might be preventing Quebec from participating in the current transnational dialogue. Despite the language and policy differences, Tremblay is adamant about the importance of collaboration. "Canadian families are facing similar issues. So I'm trying to build bridges."

Peter A. Allard School of Law

Allard Hall
1822 East Mall
Vancouver, BC Canada V6T 1Z1

For JD/Combined Program Admissions Inquiries contact : admissions@allard.ubc.ca (mailto:admissions@allard.ubc.ca)

For Graduate Students Admissions Inquiries contact : graduates@allard.ubc.ca (<mailto:graduates@allard.ubc.ca>)
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