



THE UNIVERSITY OF  
MELBOURNE



The Leverhulme Trust

International Network on  
New Families; New Governance

## 'Delegalization' and new forms of Governing 'The Family'

The following is an overview of the three presentation domains. Presenters will need to explore the session theme within the broader context of 'delegalization and new forms of governing the family'.

### Responding to diversity

The Intervention: Insights from Northern Territory and Australia (Arney, Australia)

Who regulates marriage? The case of religious marriage and divorce (Douglas, UK)

Special kids, special families: Differences between children and differences between parents (Karen (Czapanskiy, US)

The Koori Court: Responding to cultural diversity (Grant, Australia)

### Protection, surveillance and rights

Protection, surveillance and rights: Are they mutually exclusive? (Harris, Australia)

Child protection: Avoiding litigation (Doughty, UK)

Troubled Families (Butler, UK)

child protection as family surveillance in African American communities (Roberts, USA)

### Reimagining regulation

Family dispute and family services: exploring parents' experiences post 2006 (Fehlig & Carson, Australia)

Substantive Parenting Arrangements: The Tragedy of the Snipe Hunt (Brinig, USA)

Awareness and experiences of alternative family dispute resolution in England and Wales (Barlow, UK)

Contractualization and mediation (Swennen, Euro)

Procedure or theory - the case of the PLO (Masson, UK)

## Day One, Session 1: Responding to diversity

### Abstract

Cultural issues, across the various practice domains, continue to challenge socio-legal decision-making across international jurisdictions. How we respond to diversity in family life now, and in the future, is critically influenced by the questions we ask of practice. For example, whose voices are heard in decision making processes? How do we understand the experiences of those affected by the processes of law? Within the context of a rapidly changing world, the ways in which society responds to difference and specialist need is complex, particularly when regulatory frameworks lack flexibility, or where there may be limitations placed on whether an issue can be debated openly within societies. Session 1 is interested in the degree to which institutions can respond to diversity; whether cultural demands are perceived defensively or embraced as an essential part of development; and the ways in which countries have responded to the challenges of diversity and difference.

## **Day One Session 2: Protection, surveillance and rights**

### **Abstract**

Managing the needs and rights of individuals within civil society is influenced by notions of 'de-legalisation' and the virtues of 'a smaller state'. Many countries nevertheless find that marginalised groups of families and/or those who are considered troublesome within communities become more intrusively scrutinized and governed. In Britain, the 250 families identified as most problematic have become the object of scrutiny. Advances in the development of predictive risk modelling tools that claim to identify children at risk, are likely to accelerate opportunities for both increased scrutiny and extending the reach of state intervention. The range of intrusions into the family and community range from relatively benign forms of social engineering, through to the full impact of child protection measures for those families where abuse and neglect is identified. Young people can also find themselves the focus of attention, particularly if they belong to poor or marginalized communities. Complex social justice issues clearly arise, challenging us to find alternative, less stigmatizing solutions that may be found lower in the regulatory hierarchy. Session 2 is particularly interested in the ways in which systems manage the balance between protective interventions and surveillance; and whether strategies are driven by ideology, evidence, or better outcomes.

## **Day Two Session 3. Reimagining regulation**

### **Abstract**

The role of the courts in making decisions about arrangements for family life is increasingly curtailed. Reaching agreed settlements and avoiding the use of the court to air the evidence before a judge is a trend in most countries. Only the most vexed and serious cases in both the private and public law arenas come before the courts, though there is still a role in many jurisdictions for court ratification of decisions already agreed. In its place we have seen a growing and diverse range of strategies for the development of dispute resolution. In Australia, the role of Family Relationship Centres has been critical in providing dispute resolution and mediation services. Less adversarial trials, case conferencing and family group conferencing have all provided models. Issues arise about the merits and models of lawyer representation and its role in alternative dispute resolution, alongside mediation models which are based on a facilitated rather than a representational process. Under each model, whose voices are heard or unheard, in which contexts are these models working, and what is the evidence of effectiveness, for whom and under what circumstances?