La recherche en droit pour l’actualisation juridique des questions sociales concernant la vie et la mort

ENGLISH TRANSCRIPT

[Logo: uOttawa, Faculté de droit | Faculty of Law, Section de droit civil | Civil Law Section]

[Series title]

LIVING RESEARCH IN LAW

[Subtitles]

Access to justice
Knowledge Mobilization

Access to Knowledge
Justice Mobilization

[The following text appears on screen over an image of the cover of La declaration universelle des droits de l’homme]

The laws most crucial laws to our fundamental rights do not always reflect social realities

[The words “de l’homme” are scratched out and replaced with “de la personne” before the next text appears]

and do not always respond to contemporary ethical questions.

Michelle Giroux:
[Voice-over as the words below appear on screen]
Should medical assistance in dying be offered alongside palliative sedation and palliative care? Should a child conceived through assisted reproduction have access to their biological origins? How should the law take into account same-sex families?

medical assistance in dying
access to biological origins
new family configurations
Michelle Giroux:
[In front of camera]
My research allows me to better understand how well the law addresses different contemporary social realities.

[Video title]

At the boundaries of law and ethics
Research in Law to improve how the legal system addresses social issues concerning life and death

Michelle Giroux [Professor, Faculty of Law, Civil Law Section]:
[In front of camera as examples of research articles are displayed beside her]
My name is Michelle Giroux. I do research on many topics concerning human rights and family law, but also in bioethics. I am interested in issues that go from the beginning of life to the end, and in recent years, I have been particularly interested in social issues related to the recognition of different contemporary family forms.

[Subtitle]

Complex social problems challenge law and law research

Michelle Giroux:
[In front of camera]
These complex social problems challenge the law, and I think that it is fundamental to work in a multidisciplinary and collaborative manner to better understand these realities, these emerging social problems.

[Subtitle]

Formal law does not always reflect contemporary family realities

Michelle Giroux:
[In front of camera]
For me, norms should not exist separately from the realities of families. I think it is sometimes limiting to impose a legal solution solely in the name of a major principle of law such as public policy, for example.

[Text]

As part of a field survey of French and Quebec judges, Professor Giroux and her collaborators have tried to better understand the decision-making challenges judges face with respect to families who use assisted human reproduction.

[Text]
Civil Code of Quebec

541. Any agreement whereby a woman undertakes to procreate or carry a child for another person is absolutely null.

The ethical question
How can we better recognize citizenship, identity and the best interests of the child?

Michelle Giroux:
[In front of camera]
In the interviews we did with Quebec judges, it emerged that they often felt caught between a rock and a hard place. So, between public order, which predominates in the Civil Code with regard to agreements of gestational and reproductive surrogacy, and the fact that they were asked, in the name of the interests of the child, to grant an adoption.

[Text animation: the word “juge” is squeezed between the words “l’arbre” et “l’ écorce”]

Rock (substantive law)

Judge

Hard place (best interests of the child)

[Text]

In Quebec, to make up for the nullity of assisted procreation agreements, judges have turned to the rules of adoption as a form of recognition of children.

[Subtitle]

How has the law adapted to this situation in France?

Michelle Giroux:
[In front of camera]
In France, the judges felt exactly the same way in that they told us that they felt a bit like rubber-stampers, where people came to seek their approval for a situation for which they did not have much of a say, in a context where the law was still fairly strict and where public policy should have imposed the non-use of adoption.

[Subtitle]

The contribution of empirical research in law

Michelle Giroux:
[In front of camera as examples of research articles are displayed beside her]
So, through my research, especially with the field surveys, I feel that we can understand the realities experienced by families and the application of the law to these families, and see how this family reality does not always fit the norm in place.

[Subtitle]

The effects of legal research on the law

Michelle Giroux:
[In front of camera]
My research involves considering the law differently, sometimes taking into account the evolution of family realities and other times taking into account the evolution of science or medicine.

[Subtitle]

What is the potential impact of this research?

Michelle Giroux:
[In front of camera, with text below appearing beside her]
In the case of complex family transformations, I would like to imagine, for example, new foundations for the law on filiation. As part of these new foundations, identity would be central to my questioning. So, if I were offered a blank page to write the law, or if I was offered the opportunity to reform the law, in my law, there would be more dignity for people, more respect for fundamental rights. The law must necessarily – should necessarily – also innovate. Another thing that seems essential to me is flexibility in the different family models because the family realities are varied. In fact, the best future for my research would be for it to influence the law, to influence law reform here and elsewhere.

Legal innovation

new foundations for the right of filiation

placing identity at the center of these questions

more dignity for people

more respect for fundamental rights

flexibility of family models

[Subtitle]

The role of research in law

Michelle Giroux:
[In front of camera]
As a researcher, I establish a dialogue between society and the law. It is my greatest motivation, and it is why I do what I do.

[Subtitles and text]

Acknowledgements

Colleagues and Collaborators

Hélène Belleau
Laurence Brunet
Jérôme Courduriès
Martine Gross
Louise Langevin
Carmen Lavallée
Brigitte Lefebvre
Me Jean-Pierre Ménard
Anne-Marie Piché
Jehanne Sosson
Marie-Christine St-Jacques
and many others

[Logos: Familles en mouvance, Partenariat de recherche; Chambre des notaires; Mission de recherche Droit et Justice; Interdisciplinary Research Laboratory on the Rights of the Child (LRIDE); Human Rights Research and Education Centre; Partenariat de recherche – Séparation parentale, recomposition familiale; Social Sciences and Humanities Research Council of Canada; uOttawa]

[Credits]

Featured Researcher

Michelle Giroux
Professor, Faculty of Law, Civil Law Section

Content Direction

Margarida Garcia
Professor and Vice-Dean of Research and Communications, Faculty of Law, Civil Law Section

Cintia Quiroga
Assistant Dean of Research and Professor, Faculty of Law

Andrew Kuntze
Research Communications Strategist, Faculty of Law
Photography and Images
Andrew Kuntze
Flory, iStockphoto.com
Université libre d'Amsterdam
Wangkun Jia, Shutterstock.com

Music
Deliberate Thought, Kevin MacLeod
(original music track remixed for this video)

Language Revision
Natalie Carter

Translation
Natalie Carter
Andrew Kuntze

Content Coordination
Civil Law Section, Faculty of Law
University of Ottawa

Research Office, Faculty of Law
University of Ottawa

Production
Teaching and Learning Support Service (TLSS)
University of Ottawa

The production of the video series Viv(r)e la recherche en droit was made possible thanks to the financial support of the Law Foundation of Ontario.

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While financially supported by The Law Foundation of Ontario, the University of Ottawa is solely responsible for all content.
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