



Balancing everyone's human rights and responsibilities in the Children's Court: The juxtaposition of competing rights and principles in practice

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Saturday 6 August 2011, 8.30 – 10am (Leighton's Theatre)

The current forum will endeavour to address the intersection between human rights and practice in matters before the Children's Court in Victoria in which the rights of children and parents come into conflict. Participants will be provided with background material regarding research in this area and the underlying principles of relevant legislation and human rights covenants/charters (including the Articles of the United Nations Universal Declaration of Human Rights, 1948, the United Nations Convention on the Rights of the Child, 1989, and Victorian Law, including the Charter of Human Rights and Responsibilities Act, 2006, and the Children, Youth and Families Act, 2005). One or two case examples will then be presented that will invite participants to balance human rights considerations and legislative requirements while: (a) delineating relevant psychological factors to consider in the forensic assessment of the children (subjected to abuse and/or neglect) and parents (with intellectual disabilities and/or psychiatric problems); and (b) giving due consideration to factors relevant to the legal paradigm (including the decisions of all courts, and the responsibilities and duties of the state). The underlying learning objective for participants will be to provide participants with a better understanding of what is at stake when balancing competing rights, legislation and the psychological needs of various parties and the potential therapeutic value of upholding rights – therapeutic jurisprudence in practice.



Collaborative practice as a 'bridge' between psychologists and lawyers in dispute resolution of complex family cases: Misattributed paternity

Emily Kwok (University of Sydney) , Lorraine Lopich (Collaborative Lawyers Pty Ltd), Hannah Robert (University of Sydney and Latrobe University) and Chris Lennings (LSC Psychology)

Friday 5 August 2011, 2.40 – 4.10pm (Leighton's Theatre)

The Family Law Act, enacted in 1975, does not cater for the complexities of contemporary family structures. The 'father', as defined by this Act, is the biological parent or husband of the child's mother. With little regard for social relationships between a man and the child, the maintenance of family relationships and children's best interests are often neglected during parental separation or parenting disputes. In misattributed paternity, men are separated from children due to discoveries of non-paternity despite their long-standing social relationship. Children's well-being was not sufficiently considered in the dispute due to the emphasis on paternity deceit and monies for Child Support. Psychological practice and research has informed the law in issues relating to child development and the impact of parental conflict on children's well-being. An interdisciplinary approach through the coordinated efforts of lawyers and psychologists has led to changes within the Family Law system including a move away from the adversarial process. However, when the issues faced by contemporary families are becoming more complex, a uniform law that can resolve all family problems becomes unattainable. In this paper, we explore the potential of collaborative practice, an alternative to divorce litigations, as an option for resolving complex parenting disputes, including misattributed paternity disputes. Unrestricted by the formal courtroom processes but still retaining the legal rights of each party, collaborative process allows flexible and interest-based negotiations to occur in 4-way meetings between the disputing parties and their respective lawyers. The emotional and psychological concerns involved are addressed by child specialists, psychologists, or other professionals. This process of resolving parenting disputes is potentially able to balance children's interests with parent's needs and maintaining positive family relationships post-separation.



Theory-informed assessment and case formulation in clinical forensic settings

Stephen Smallbone (C)

Saturday 6 August 2011, 10.30 – 12pm (Aqua Room)

Recent developments in actuarial and other standardised risk assessment methods have been widely embraced by clinical-forensic practitioners. Conducting and reporting standardised risk assessments seems to have overshadowed, and in many cases even replaced, the traditional clinical task of establishing an individualised case formulation. Unlike most risk assessments, a good case formulation considers the presenting problem in terms of established theory, and thus aims to explain, not just describe, the problem. In this symposium I will 1) outline a number of theoretical approaches to crime and criminality, 2) consider offence-centred, offender-centred, and systemic approaches to clinical-forensic assessment, and 3) demonstrate how these approaches can be integrated to inform individualised case formulation in clinical-forensic settings.