

aussi l'expertise psychiatrique qui produit une pathologisation du crime et du criminel. Cette forme, ancienne, a renouvelé tant ses discours que ses pratiques, par exemple avec la possibilité actuelle, pour les avocats des victimes, de plaider une « incapacité partielle permanente psychique » C'est à dire quelque chose de totalement flou et relevant du plus grand arbitraire.

D'autres dimensions, comme celles développées dans la quatrième partie de l'ouvrage, traitant des enjeux autour du corps, de la mort et du sexe, renouvellent aussi les rapports entre justice pénale et dynamique sociale. Les évolutions législatives sur les stupéfiants et sur la prostitution, supports de cette analyse, interrogent les fondements du Droit mais aussi les bases de ce qui permet de faire société de façon plus générale.

Concluons avec Antoine Garapon, qui écrit la postface, pour noter que, finalement, ce qui est en question dans ces évolutions, et mis au jour par Jean Danet, est la raison néolibérale : c'est elle qui permet de comprendre l'ensemble des évolutions actuelles.

Véronique Guienne
 Université de Nantes
 Chemin la Censive du Tertre BP 81227
 44312 Nantes Cedex 3
 France

Anne Bottomley and Simone Wong, eds.

Changing Contours of Domestic Life, Family and Law: Caring and Sharing. Oxford: Hart Publishing, 2009, 223 p.

The family and family law share a distinctive genealogy. They represent winnowed versions of the early modern productive household. With the industrial revolution, labour and kin were fragmented into a *wage market* and a *family*, producing a bounded “family” governed by “family law.” The family, and family law, came to be viewed as exceptional domains of altruism, tradition, and sacredness in opposition to the market, modernity, and secularism.¹

Changing Contours of Domestic Life, Family and Law: Caring and Sharing, edited by Anne Bottomley and Simone Wong, resists this exceptionalism. This collection overcomes the restrictive view of “family law” as concerned only with entrance and exit from formal family relations (birth, adoption, marriage, divorce, property division, and child and spousal support). The

¹ See Janet Halley and Kerry Rittich, “Critical Directions in Comparative Family Law: Genealogies and Contemporary Studies of Family Law Exceptionalism—Introduction to the Special Issue on Comparative Family Law,” *American Journal of Comparative Law* 58 (2010), 753, 754, 756–58. See also Janet Halley, “What Is Family Law,” *Yale Journal of Law and Humanities* 23 (2011).

collection locates relationships and singleness within multiple nodes of legal regulation. Claire F.L. Young considers, for example, the deleterious effects of Canadian tax law's recognition of spousal status, including now same-sex status, for lower-earning couples. Nan Seuffert challenges progressive narratives of New Zealand's immigration reforms recognizing same-sex couples by situating these moves within a broader commitment to neoliberal politics and a tightening and whitening of immigration. Anne Bottomley and Susan Scott Hunt's respective chapters on cooperative housing schemes and CoHousing movements in the United Kingdom foreground the physical and legal architectures that distribute production, consumption, and reproduction within and across living arrangements. This is a collection that understands families, housemates, singles, and friends as nested in multiple regulatory regimes. "Family law" becomes unbounded, revealing multiple frames of analysis.

In her chapter on family law harmonization, Anne Barlow maps the likely consequences of European matrimonial property law harmonization for couples in England and Wales. Had Barlow understood "the family" and "family law" as a locus of tradition and identity, her discussion might have occurred on the cultural plane. She may have argued that family law is constitutive of the nation and should therefore not be harmonized, or, flipping this, that core European identity is already so shared that family law should be harmonized.²

Instead, Barlow de-exceptionalizes the "economic family" in order to identify the material effects of harmonization. Barlow argues that in England and Wales, where affordable rental accommodation is rare, a community property regime would leave separating parties with insufficient capital to meet their housing needs. Common law property rules may serve them better in effectuating "needs-based redistribution at least at the lower end of the asset scale" (p. 45).

Of course, households are also psychic spaces, where material distribution may be wildly unequal (or extremely equal). Desire, attachment, and anguish can motivate people to sacrifice, to facilitate another's professional endeavours, or to otherwise become financially (inter)dependent. As Simone Wong argues, "caring," which I would call *affect* with its full psychic range, "may make a partner more willing . . . to make certain financial and non-financial contributions for the benefit of parties to the relationship as well as any family constituted by them" (p. 66).

What place should affect hold in our socio-legal frame? Perhaps, as Carol Smart suggests, affect should be acknowledged as driving legal change. Smart wants to escape the paranoia of Michel Foucault's early work by understanding relationality as producing legal flexibility, not only normalization. A deeper analysis of affect may also foreground non-conjugal affective

² See Philomila Tsoukala, "Marrying Family Law to the Nation," *American Journal of Comparative Law* 58 (2010), 873, 874 (discussing European family law harmonization debates).

connections—including friendships and sibling and kin relations—that, as Alison Diduck observes, are “demote[d] by family law’s fixation on couples and spouses” (p. 82).

One oddity of this collection is its subtitle, “Caring and Sharing.” *Prima facie*, this subtitle reflects a cultural feminist ethic of care that risks reinforcing the ideological view of the family as inherently altruistic. “Caring and sharing” contrasts with approaches that emphasize “productive work” and “bargaining.” Indeed, some readers may be left wanting greater discussion of bargaining.

That said, this collection is deeply attentive to material distribution within and between families, the market, and the state. As Susan B. Boyd and Cindy L. Baldassi’s chapter on marriage and unmarried cohabitation in Canada emphasizes, a myopic focus on dependency *within* the family is in lockstep with a thinning social welfare state that places responsibility for care on the family and market employment (p. 115). In this sense, whether altruistic in motivation or not, “caring and sharing” can be understood as an umbrella term referring to household distribution and work.

Changing Contours of Domestic Life, Family and Law: Caring and Sharing is a timely and important comparative family law collection. The authors make visible what is hidden in plain sight—that the household is structured as much by architectural formations as by marriage recognition, that openings in one area of family immigration may mask larger closings, and that the intact household is deeply regulated through tax, bankruptcy, pension law schemes, and the like. This collection captures the contingency and contestability of “family” and “family law.”

Lisa M. Kelly
S.J.D. Candidate
Harvard Law School
Cambridge, MA
USA

Catherine Kellogg

Law’s Trace: From Hegel to Derrida. New York: Routledge, 2010, 184 p.

How do you take the concepts of justice, deconstruction, law, nationalism, feminism, and Freudian fetishism, filter them through a tight weave of Jacques Derrida and Georg W.F. Hegel, and come up with a book of tremendous significance for legal practitioners, theorists, and scholars of law, gender studies, philosophy, political science, queer theory, and cultural studies alike? One places them into the very capable hands of University of Alberta political science theorist and professor Catherine Kellogg. The resulting book is a stunningly rigorous deconstruction of the often complex thinkers and thought