

AALS 2015 MIDYEAR MEETING
WORKSHOP OF SHIFTING FOUNDATIONS: FAMILY LAW'S RESPONSE
TO CHANGING FAMILIES

Plenary on Family Law and Inequality

Presentation Abstract

Presenter: Elizabeth L. MacDowell, Assoc. Prof. of Law, William S. Boyd School of Law, UNLV
Presentation: *Family Court Regulation of the Poor & Access to Justice*

This presentation will explore the nexus of family law with gender, race and class inequality in family courts, along the dimension of access to justice. Family law scholars have noted that class (especially as it intersects with race and gender) impacts the experience of family law, such that there are different systems of family law in operation for families of different economic status. The philosophy and culture of family courts is a core feature of this differential experience. Courts not only help create the conditions under which differential experiences take place, they help shape what *constitutes* family law. In order to address inequality, access to justice initiatives must therefore take the features of family courts into account.

The presentation will examine how family court reinforces hierarchies relating to race, gender and class in both private and state-initiated cases. I will explore the intersectional impacts and paradoxical nature of the problem-solving court paradigm, which was established to promote access to justice and maintain social hegemony—contradictory agendas that continue to fuel problematic state interventions into poor families. The deep historical connection of family courts to informalism, intervention, and intersecting state systems of subordination creates unique challenges. The problem with family courts to be addressed by those concerned with access to justice (and law reform) is not merely that many individuals are unrepresented and need assistance accessing court services, but that the routine operation of the court is hegemonic in nature. Therefore, the function of access to justice interventions in family law cases should include addressing the subordinating aspects of state power and ensuring accountability of judges and other court personnel. My presentation will highlight these issues with regard to nonsupport and domestic violence cases.

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