

# LE JEUNE, AU CENTRE OU EN PERIPHERIE DES DÉ/RECONSTRUCTIONS FAMILIALES ? APERCU DE DROIT COMPARE

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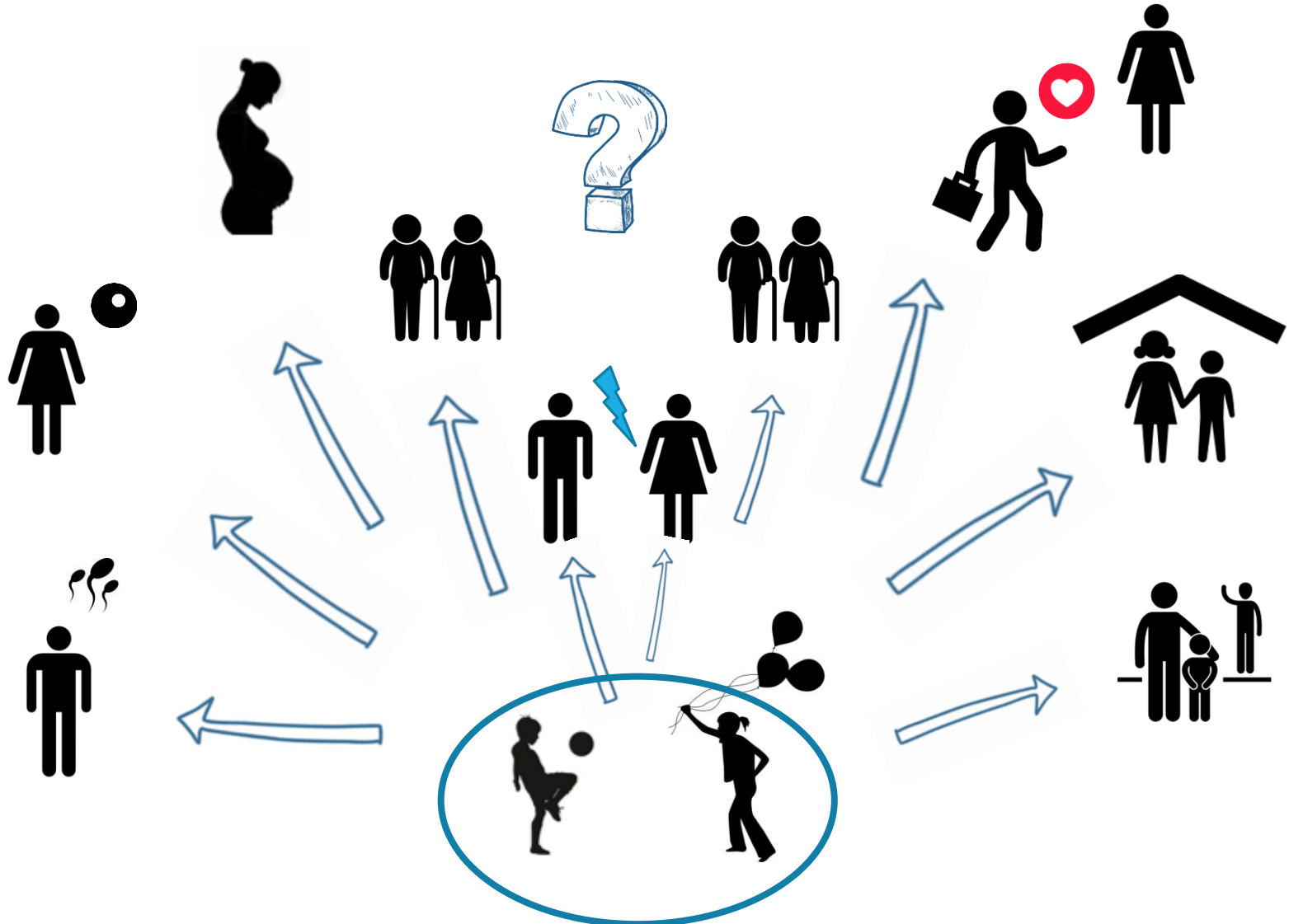
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AVOCAT AU BARREAU DE BRUXELLES



# INTRODUCTION

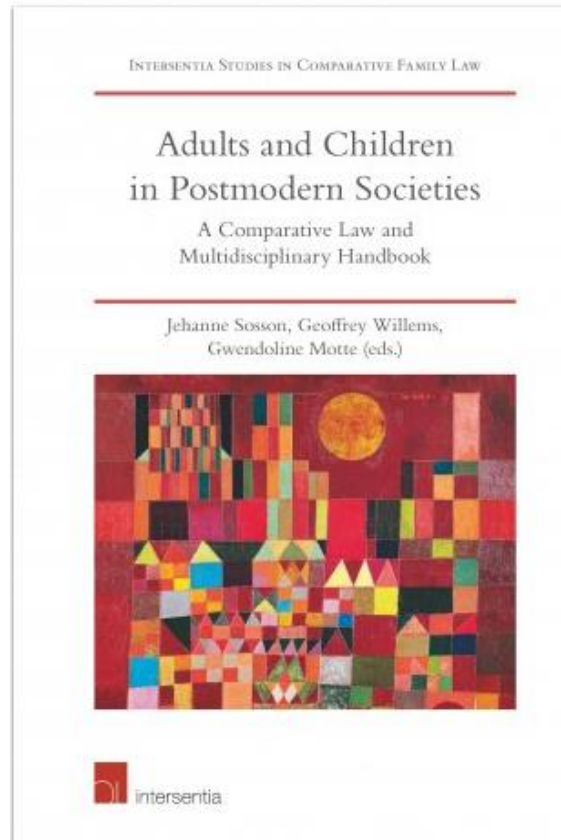


# RELATIONS ENFANTS & ADULTES DANS CONFIGURATIONS FAMILIALES CONTEMPORAINES

Comment reconnaître, promouvoir, protéger  
les relations significatives pour l'enfant ?

Quelles relations protéger ?

Comment ? Par quels « instruments » ?



[https://intersentia.com/en/  
adults-and-children-in-  
postmodern-societies.html](https://intersentia.com/en/adults-and-children-in-postmodern-societies.html)

# INTERDISCIPLINARY APPROACHES

HISTORY, PSYCHOLOGY, PHILOSOPHY

**Transparency**

**Non exclusivity**

# INTERNATIONAL HUMAN RIGHTS LAW PRIVATE INTERNATIONAL LAW

**Pluralism**

**Cosmopolitanism**

# ROLE DU DROIT !

Comment reconnaître, promouvoir, protéger les relations significatives pour l'enfant ?

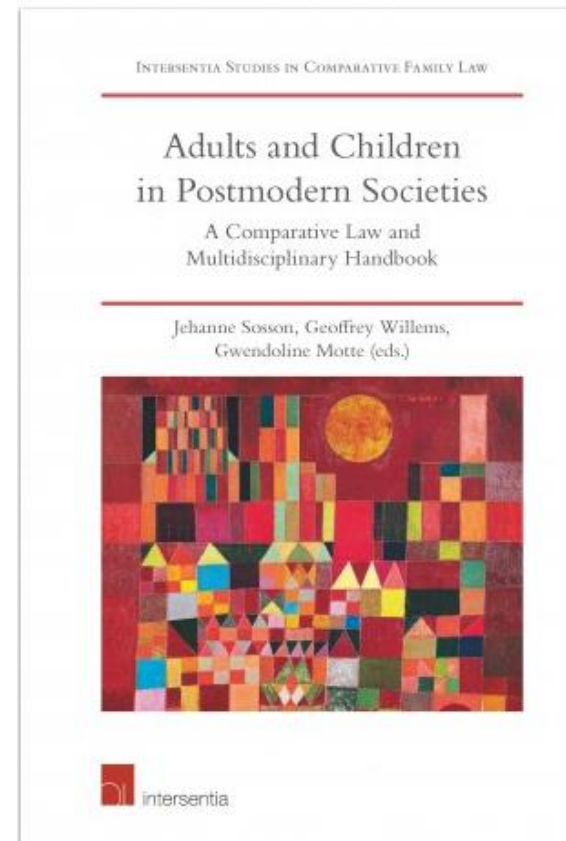
Quelles relations protéger ?

Comment ?

I – Changes in **traditional families**

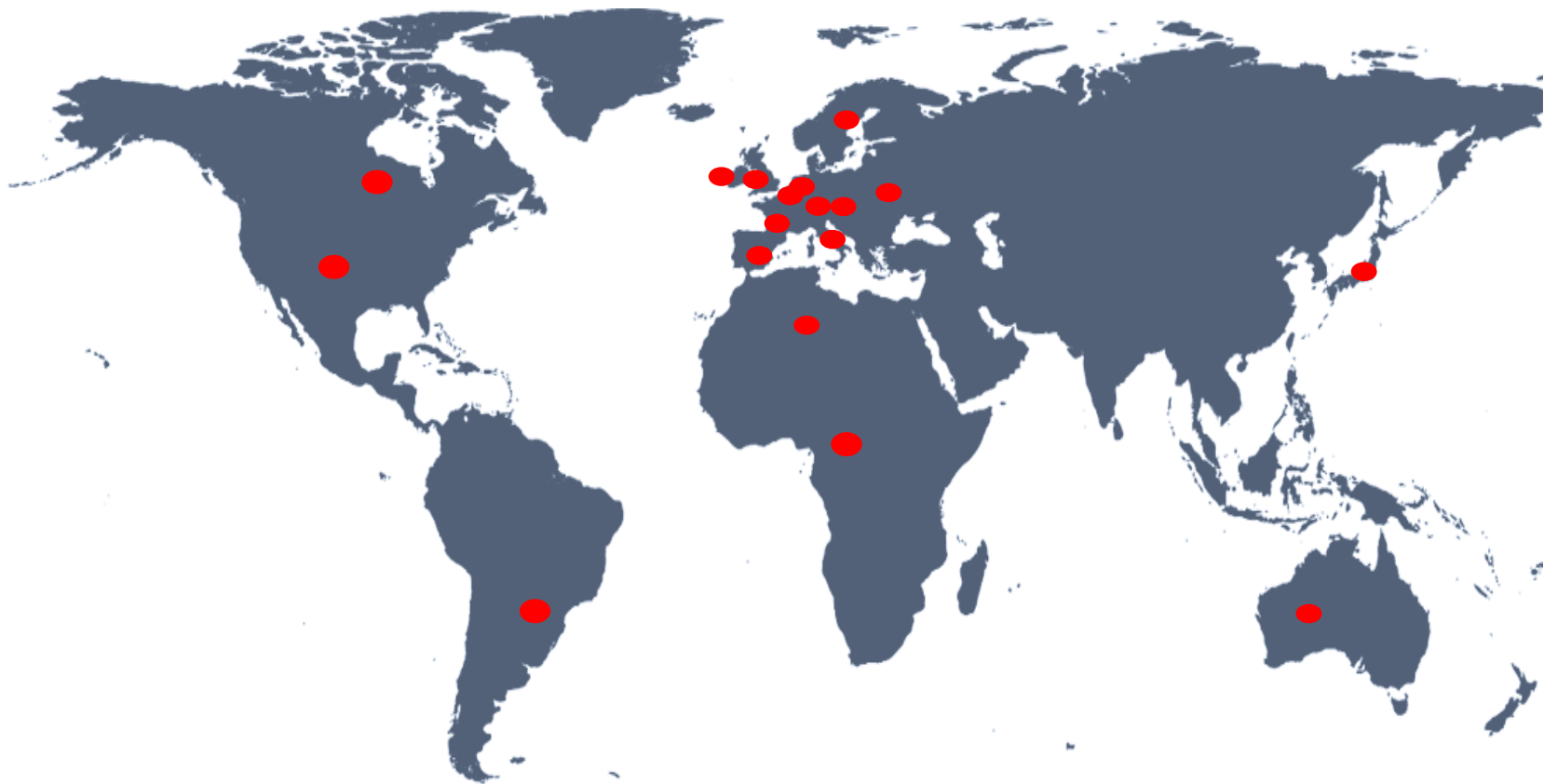
II – Emergence and development of **ART**

III – Multiplication of potential **social and emotional links**



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# DIFFERENT FAMILIES / SIMILAR ISSUES

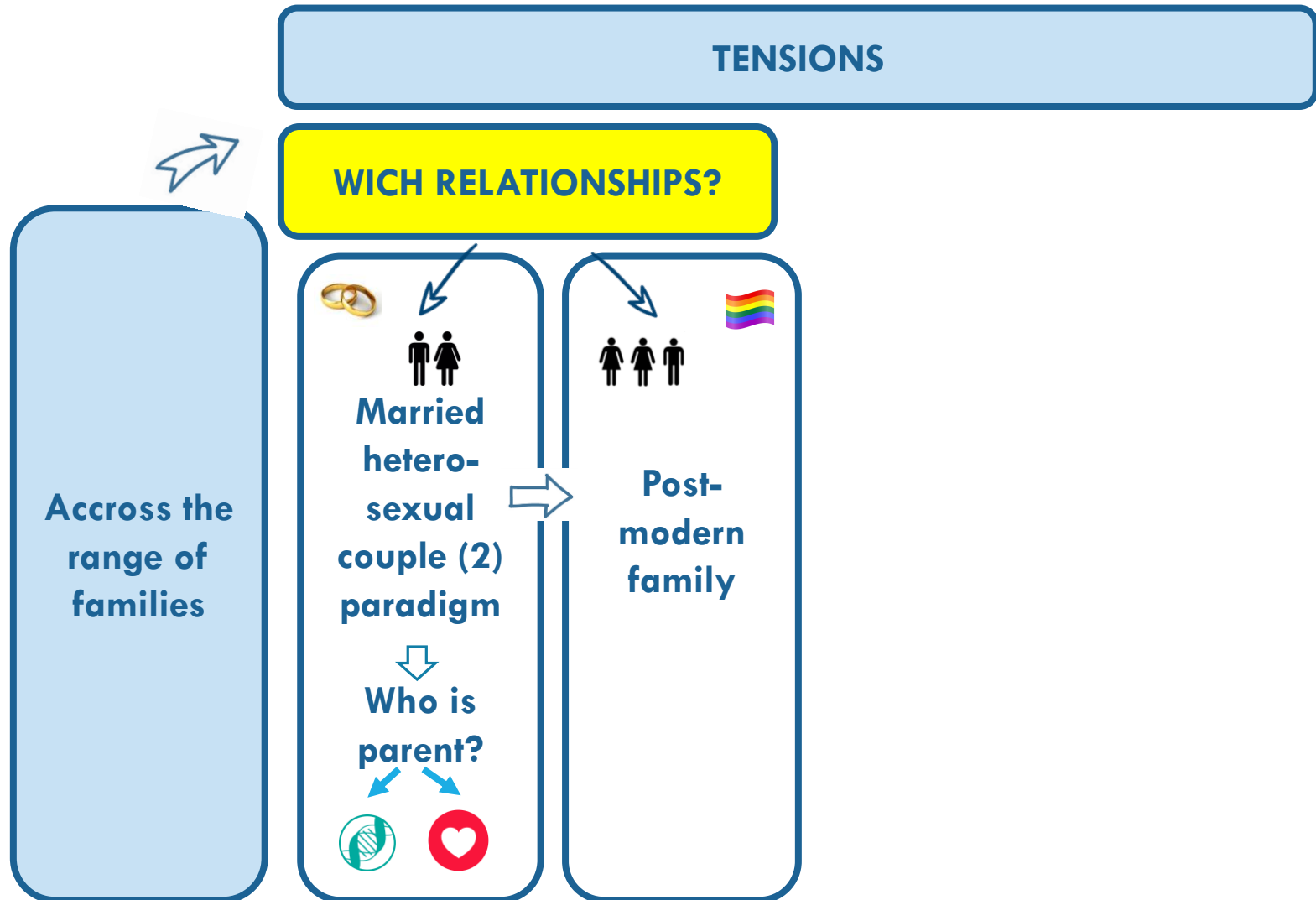
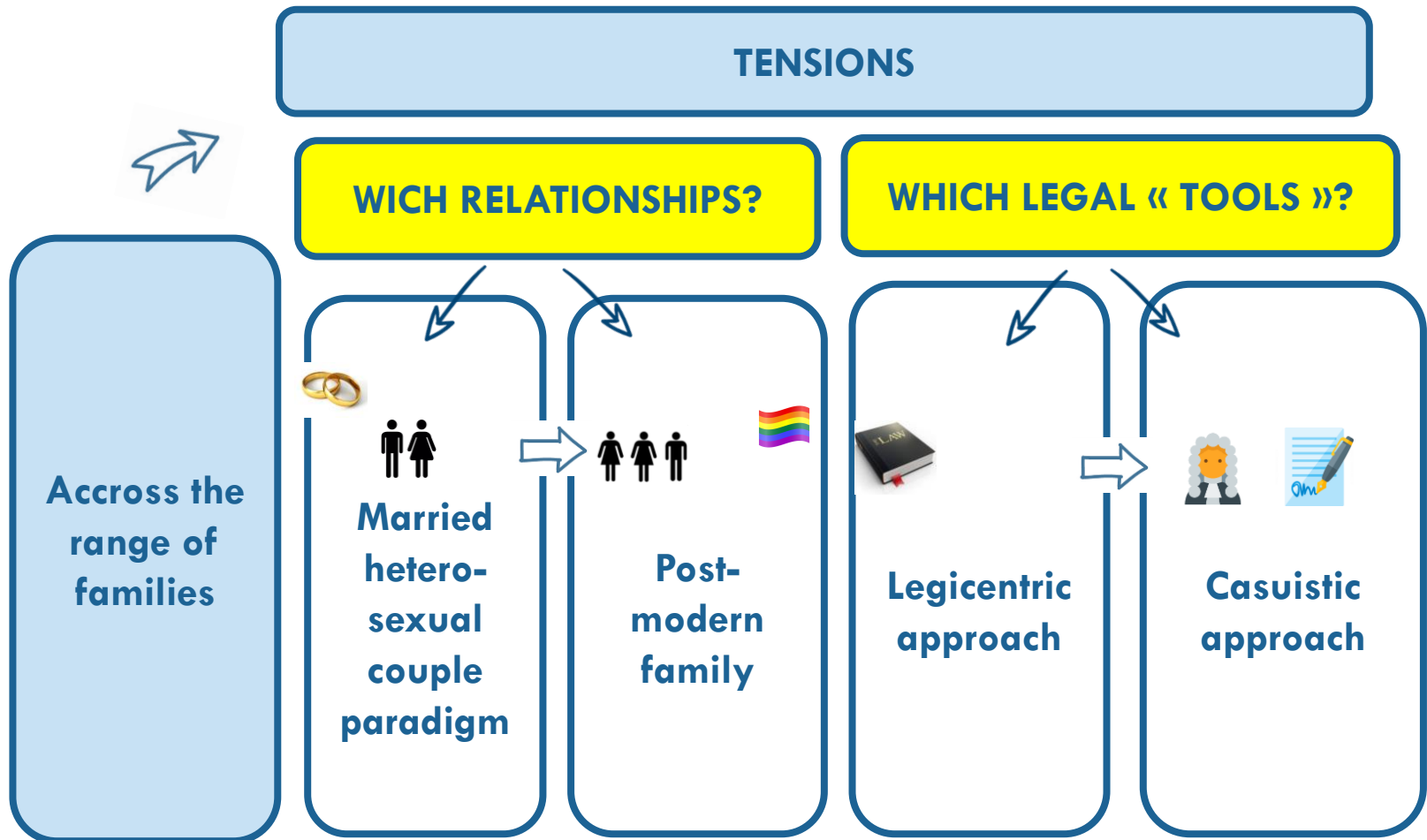


Table 3. Impact of number on legal relationships between adults and children

	Not open to multiple parents	Weakly open to multiple parents	Mildly open to multiple parents	Rather open to multiple parents				
	Algeria* Germany Netherlands Quebec Sweden	Italy Japan	Australia DR Congo Ireland Romania Spain Switzerland	Belgium	E&W France	Argentina	USA (some states)	Canada (Ontario)
Multiple parenthood	No	No	No	No	No	Yes, but ... <sup>31</sup>	Yes	Yes
Multiple parental responsibility (step and/or foster families)	No	No	Yes	Yes	Yes	Yes, but ... <sup>32</sup>	No	Yes
Multiple parental responsibility (amicably assisted reproduction)	No	No	No, but ... <sup>33</sup>	No, but ... <sup>34</sup>	Yes, but ... <sup>35</sup>	Yes, but ... <sup>36</sup>	Yes, but ... <sup>37</sup>	No, but ... <sup>38</sup>
Simple adoption	No (* <i>kafâla</i> )	Yes	No	Yes	No	Yes	No	No



# DIFFERENT FAMILIES / SIMILAR ISSUES



**Table 5. Importance of statutory regulation in legal relationships between adults and children**

	<b>Very strong statutory guidance</b>	<b>Extended statutory guidance</b>		<b>Limited statutory guidance</b>			<b>Weak statutory guidance</b>	
	Algeria	DR Congo Italy	France Romania Spain	Argentina Belgium	Japan Switzerland	Germany Netherlands Sweden*	Australia Quebec USA	E&W Ireland
<b>Paternity</b>	Automatic and strong	Automatic and strong	Automatic	Automatic but weak	Automatic and strong	Automatic (*and strong)	Automatic but ... <sup>95</sup>	Automatic but ... <sup>96</sup>
<b>Attribution of parental responsibility</b>	Automatic	Automatic	Automatic <sup>97</sup>	Automatic	Not automatic	Not automatic	Automatic	Not automatic
<b>Residence after separation</b>	Model (residence with the mother)	Model	No model	Shared residence model	Model	No model	No model <sup>98</sup>	No model
<b>Inheritance</b>	Reserved share	Reserved share	Reserved share	Reserved share	Reserved share	Reserved share	Freedom	Freedom with judicial review

# WHICH MODELS ?

## CONCLUSION

**Flexibilisation**



**Evolution of  
parenthood**

**Inclusiveness**

**Adequacy**

**Diversification**



**Creation of  
alternative  
status**

**Security**

**One size  
fits all**

**Diffraction**



**Distribution of  
specific rights  
and duties**

**Tailor made**

**Arbitrary**

**Hybridation**



**Mixing the  
models**

**Pragmatism**

**Consistency**

Diversification	Flexibility			Diffraction
	Intermediate		Intermediate	
None	Belgium Canada Japan USA	Argentina Italy	Australia England & Wales Sweden	None
<b>Hybrid</b>				
	Spain	Algeria Germany Ireland The Netherlands Romania	DR Congo France	
<b>None</b>				
Switzerland				