

1. The Nature of Family Law

1.1. The concept of family law:

Different Family Structures:

- Law acts to ensure that people in family relationships are financially secure
- Children of that relationship are cared for
- Relationships reflect a greater diversity in domestic relationships due to society changing
- Different family structures include:
 - Marriage & ATSI customary marriages
 - De facto relationships and same sex
 - Single and blended
 - Polygamous
- The law has extended attempting to protect all members of the family

Sources of Family Law: Commonwealth:

- Under the constitution s51 (xxi) the fed govt has the power and authority to make laws governing marriage and divorce
- The commonwealth has brought around legislations such as:
 - The marriage act 1961 (Cth)
 - The Family Law Act 1975 (Cth)
- The main aim of the family law act was to reform the law governing dissolution of marriage

State government:

- In the past only state parliaments could pass legislation about de facto's
- However most powers belongs to commonwealth (such as parenting and property disputes- whether de facto's or married)
 - Family Law amendment act 2008 (Cth), allowed commonwealth the ability to manage issues regarding property division- now Family Law Act 1975 (Cth).
- Family law is about protecting the rights of family and ensuring individuals meet their family obligations- also family relationships
- Main aim is reconciliation + compliance

1.2. The legal requirements of marriage:

- Marriage is a legal institution
- Marriage act 1961(Cth) – established legal requirements for a valid marriage
- Family Law act 1975 (Cth) established legal duties and obligations
 - Hyde V Hyde and Woodmansee established definition:
 - "... voluntary union for life of one man and one woman, to the exclusion of all others."

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Table of Contents Notes On Family Law For Hsc

1. Understanding the eBook Notes On Family Law For Hsc
 - The Rise of Digital Reading Notes On Family Law For Hsc
 - Advantages of eBooks Over Traditional Books
2. Identifying Notes On Family Law For Hsc
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Notes On Family Law For Hsc
 - User-Friendly Interface
4. Exploring eBook Recommendations from Notes On Family Law For Hsc
 - Personalized Recommendations

- Notes On Family Law For Hsc User Reviews and Ratings
- Notes On Family Law For Hsc and Bestseller Lists
- 5. Accessing Notes On Family Law For Hsc Free and Paid eBooks
 - Notes On Family Law For Hsc Public Domain eBooks
 - Notes On Family Law For Hsc eBook Subscription Services
 - Notes On Family Law For Hsc Budget-Friendly Options
- 6. Navigating Notes On Family Law For Hsc eBook Formats
 - ePub, PDF, MOBI, and More
 - Notes On Family Law For Hsc Compatibility with Devices
 - Notes On Family Law For Hsc Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Notes On Family Law For Hsc
 - Highlighting and Note-Taking Notes On Family Law For Hsc
 - Interactive Elements Notes On Family Law For Hsc
- 8. Staying Engaged with Notes On Family Law For Hsc
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Notes On Family Law For Hsc
- 9. Balancing eBooks and Physical Books Notes On Family Law For Hsc
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Notes On Family Law For Hsc
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Notes On Family Law For Hsc
 - Setting Reading Goals Notes On Family Law For Hsc
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Notes On Family Law For Hsc
 - Fact-Checking eBook Content of Notes On Family Law For Hsc

- Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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