

## **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."

# Notes On Family Law For Hsc

**Jean McHale, John Tingle**



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