

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

Barry Spurr



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