



LAW 452

Family Law

S1 External 2014

Dept of Law

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General Information

Unit convenor and teaching staff

Unit Convenor

Archana Parashar

archana.parashar@mq.edu.au

Contact via archana.parashar@mq.edu.au

Credit points

3

Prerequisites

(6cp in LAW or LAWS units at 300 level) or (39cp including LAWS260) or admission to GDipArts

Corequisites

Co-badged status

Unit description

This unit covers the study of legal regulation of family relations. Although a great number of laws have a bearing on the 'family', this unit focuses on the Marriage Act 1961 (Cth) and the Family Law Act 1975 (Cth). The unit is divided into five main parts: the concept of family and its historical development; the concept of marriage as a heterosexual union; dissolution of marriage; financial relationships, especially when they breakdown; children and their rights under family law. An interdisciplinary approach to family law will enable students to analyse the interrelationship between the state, law and society.

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.

Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.

Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.

Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.

Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.

Conduct sophisticated independent research.

Assessment Tasks

Name	Weighting	Due
<u>Class Participation</u>	15%	on campus session tuts
<u>Reflective Essay</u>	35%	20 April 2014, 5 pm
<u>Research Essay</u>	50%	13 June 2014, 5 pm

Class Participation

Due: **on campus session tuts**

Weighting: **15%**

Reading unit materials and preparation of questions/readings for class discussions as per the Tutorial Guide during Tutorials (Internal Students) and OCS (Distance Students).

Students will be given the opportunity to SELF and PEER assess class participation in Week 6 for Internal Students, and during the OCS for Distance Students. The SELF and PEER Assessment Sheet can be found on iLearn in the Class Participation tab. The self and peer assessment will not bind the tutor to give a particular mark or grade. It will be used by the tutor to indicate to the student whether their own view corresponds or differs from that of the tutor. In mid semester it will provide necessary feedback for the students to maintain or improve their performance.

Assessment Criteria

Your work will be assessed according the extent of your:

Excellent

= HD-D

Good

= Credit

Satisfactory

= Pass

Unsatisfactory

= Fail

Preparation for class: Demonstrated by relevance of participation to general discussion

Has the capacity to notice important information in the readings and use it to build new arguments in class discussion

Uses information in the readings to enhance learning in the class discussion

Notices basic contextual issues and asks questions

Fails to identify important information in readings and their relevance to discussion in class

- Understanding and expressing abstract and complex ideas orally

Can generalise from personal reflection on theoretical ideas or real life and evaluate the efficacy of ideas from a number of standpoints

Can synthesise a number of concepts or factors into a larger idea and construct own position.

Limited capacity to synthesise a number ideas into a larger argument

Responses remain anecdotal and not related to other theoretical ideas

- Assisting other class members by contributing to student learning

Willing to share novel insights with others

Supports other members' views but not necessarily adopt them

Listens to other views but does not integrate in discussion

Does not manage to see another point of view

· Expressing and countering arguments orally

Articulates a personal position, but is willing to modify it if persuaded by others

Prioritizes the need for compromise in decision-making rather than formulating opinions

Identifies different viewpoints but tends to follow majority viewpoint

Has difficulty formulating own opinion or relating to another's opinion

· Listening attentively and showing respect to other students participating in class

Independent thinker, takes initiative as well as co-operating effectively with others

Relates professionally to colleagues. Makes effective contributions to the discussion

Attempts to relate to colleagues

Does not make an effort to relate to colleagues

On successful completion you will be able to:

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.

- Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.
- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.

Reflective Essay

Due: **20 April 2014, 5 pm**

Weighting: **35%**

A set topic based on Lectures 1-5 and related readings. The topic will be available on iLearn in the Assessment tab. Please note that this assessment is due after the on campus session. Bring a draft to the OCS for discussion and improvement.

The maximum word length is 1000 words. The tutors will stop reading an assignment after it exceeds this word limit.

Footnotes and Bibliography are not included in the word count.

Footnotes and Bibliography are required in AGLC style. Referencing that does not follow the AGLC style will be **penalised**.

All assignments should be submitted through the turnitin icon on the ilearn page of this unit.

Assessment Criteria

Your work will be assessed according the extent of your:

Excellent

= HD-D

Good

= Credit

Satisfactory

= Pass

Unsatisfactory

= Fail

Understanding of the law in this area

Thorough and accurate understanding of rules, concepts and processes of law. Uses this knowledge to abstract principles and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current law and theories about them.

Thorough and accurate understanding of rules, concepts and processes of law and can analyse and apply them in new situations.

Knows basic concepts and rules and can use them to solve problems and extend to new areas

Knows a few

rules and concepts.

· Focussed introduction Uses the introduction to formulate a clear argument, identify parts of the argument, relevant issues and theories that will be addressed. Recognises the limitations of current thinking and the need for new ways of thinking.

Can formulate an argument, and identify relevant issues and theories to be addressed.

Basic introduction with all the formal elements but stops short of giving clear picture of the essay.

Formal introduction with not clear articulation of the argument or structure.

· Coherent Structure and Written Expression – use of headings, systematic and coherent organization of ideas in paragraphs and sections

Meets all expectations and conventions. Distinctive personal style in the specific execution of the task. A unique but appropriate presentation of work.

Fulfils standard conventions with all expected attributes present. Some translation and interpretation of the conventions to suit personal style and the specific execution of the task.

Fulfils basic expectations regarding the formatting and presentation of work. E.g., titles name on work, introduction, conclusion. Spell checked & grammatically correct.

Lacks a coherent structure of argument, organization of ideas into different sections, fails to use spell checker, some sentences fail to use correct grammatical rules.

· Depth of Analysis - Students may be able to deepen their analysis of the materials by critiquing the ideas about the family that they will use to develop their argument

Uses principles to formulate a position or an argument about the literature. Can articulate the limited nature of their argument and can challenge to boundaries of disciplinary understanding.

Recognises competing explanations and can identify the relative merits and limitations of an argument. Can describe and defend their own view or position.

Mostly reports others' views without assessing them. Little interpretation or translation to a new

problem or issue.

Descriptive account of the available literature without any or very little analysis.

· Developed and Sustained Argument – synthesis of the ideas drawn from the unit materials in a systematic and coherent structure

Uses available ideas and theories accurately. Abstracts and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current thinking

Shows a thorough and accurate understanding of concepts and processes. Has the capacity to analyse and apply them in new situations

Knows basic concepts and rules. Requires more effort in synthesizing own arguments.

Knows some of the ideas and rules. Does not extend own analysis or argument.

· Consistent Conclusion – briefly sum up at the end main findings that may be drawn from the argument in your paper

Makes a major contribution to the essay by pulling together all strands of the argument. Makes a judicious use of the available space to reinforce the argument of the essay.

Makes a significant contribution to the structure of the essay. Can pull together various strands of the argument.

Competent summary of the main arguments with very little effort at reinforcing the argument.

Repetitious reiteration of points already discussed without any effort to reinforce the argument.

· Use of AGLC Style Guide for footnotes and bibliography

References and citations, including the bibliography use accurate, consistent and appropriate styles. Good effort at adapting the approach to different disciplinary conventions when using non-law literature.

References and citations, including the bibliography are accurate, consistent and appropriate.

References and citations are basically accurate in style. Occasional lack of consistency; reasonable acknowledgment of the sources of information

Absence or inaccurate use of referencing and citation conventions

On successful completion you will be able to:

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Critically evaluate legal mechanisms relating to the resolution of family disputes,

including alternative dispute resolution mechanisms.

- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.

Research Essay

Due: **13 June 2014, 5 pm**

Weighting: **50%**

Research Topic of your choice: You may formulate your own research topic on an issue arising from the broad scope of the materials covered in the unit. You are welcome and encouraged to discuss your research question with the Unit Convenor at any time, either in person, by e-mail (preferable), or over the phone. This is not a compulsory requirement.

OR

Set Topic: Available on iLearn in the Assessment tab.

Word length: Maximum of 2500 words **excluding** footnotes and bibliography. Tutors will stop reading an assignment after the specified word limit.

Footnotes and Bibliography are required in AGLC style. Referencing that does not follow the AGLC style will be **penalised**.

Research: Students may use the prescribed readings but are expected to research beyond these materials. Each person must determine for themselves how many additional references they need to support the development of their argument. The essay will not be assessed on how much research has been done, but on how well the research materials are used to advance the argument.

All assignments should be submitted through Turnitin link provided on the unit's iLearn page

Assessment Criteria

Your work will be assessed according to the extent of your:

Excellent

= HD-D

Good

= Credit

Satisfactory

= Pass

Unsatisfactory

= Fail

· Knowledge of the law and understanding of the issues arising in your area of research.

Thorough and accurate understanding of rules, concepts and processes of law. Uses this knowledge to abstract principles and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current law and theories about them.

Thorough and accurate understanding of rules, concepts and processes of law and can analyse and apply them in new situations.

Knows basic concepts and rules and can use them to solve problems and extend to new areas

Knows a few

Rules and concepts. Does not use any theoretical understanding of the issues.

- Introduction: uses to articulate an argumet, explain structure of essay, enumerate issues that will be discussed to substantite the argument

Uses the introduction to formulate a clear argument, identify parts of the argument, relevant issues and theories that will be addressed. Recognises the limitations of currentthinking and the need for new ways of thinking.

Can formulate an argument, and identify relevant issues and theories to be addressed.

Basic introduction that contains all the formal elements but stops short of giving a clear picture of the essay.

Formal introduction with not a clear articulation of the argument or structure of the essay.

- Depth of analysis: the depth of analysis as demonstrated by moving beyond descriptive analysis of the research materials and development of one's own argument

Uses principles to formulate a position or an argument about the literature. Can articulate the limited nature of their argument and can challenge to boundaries of disciplinary understanding.

Recognises competing explanations and can identify the relative merits and limitations of an argument. Can describe and defend their own view or position.

Mostly reports others' views without assessing them. Little interpretation or translation to a new problem or issue.

Descriptive account of the available literature without any or very little analysis.

· Argument: Ideas drawn from the research materials should be synthesized in a systematic and coherent structure

Uses available ideas and theories accurately. Abstracts and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current thinking.

Shows a thorough and accurate understanding of concepts and processes. Has the capacity to analyse and apply them in new situations.

Knows basic concepts and rules. Requires more effort in synthesizing own arguments.

Knows some of the ideas and rules. Does not extend own analysis or argument

- Coherent Structure: Systematic and coherent organisation of ideas in sentences/ paragraphs/sections
- Separate Introduction and Conclusion
- Use of sub-headings
- Written Expression: Clear written expression, ideas structured in sentences, correct grammar/spelling

Meets all expectations and conventions. Distinctive personal style in the specific execution of the task. A unique but appropriate presentation of work.

Fulfils standard conventions with all expected attributes present. Some translation and interpretation of the conventions to suit personal style and the specific execution of the task.

Fulfils basic expectations regarding the formatting and presentation of work. E.g., titles name on work, introduction, conclusion. Spell checked & grammatically correct.

Lacks a coherent structure of argument, organization of ideas into different sections, fails to use spell checker, some sentences fail to use correct grammatical rules.

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· Use of AGLC Style Guide for footnotes and bibliography

References and citations, including the bibliography use accurate, consistent and appropriate styles. Good effort at adapting the approach to different disciplinary conventions when using non-law literature.

References and citations, including the bibliography are accurate, consistent and appropriate.

References and citations are basically accurate in style. Occasional lack of consistency; reasonable acknowledgment of the sources of information.

Absence or inaccurate use of referencing and citation conventions.

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On successful completion you will be able to:

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.
- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.
- Conduct sophisticated independent research.

Delivery and Resources

Delivery:

The unit is structured around a two hour lecture each week and a COMPULSORY on campus session.

The dates for the on campus session are: 14th and 15th April 2014. Room information is available on the time tables site of the University and on the iLearn page of the Unit.

Lectures will be recorded and available from week one, through echo360 on iLearn.

Students will be required to use a computer to interact with online research databases and web

based research tools.

Students should check iLearn regularly for announcements and updates.

Resources:

The Unit is structured around selected and edited readings. These readings are available electronically through the the library. The iLearn page of the unit will providethe list of readings for each week.

Occasionally additional Readings will be available on iLearn.

Unit Schedule

Week 1	<i>HISTORY OF THE FAMILY AND INTERDISCIPLINARY VIEWS</i>
Week 2	<i>CONCEPT OF FAMILY AND THE CONSTITUTION</i>
Week 3	<i>FAMILY FORMATION - MARRIAGE; DOMESTIC RELATIONS</i>
Week 4	<i>DIVORCE</i>
Week 5	<i>FINANCIAL RELATIONS - PROPERTY RIGHTS</i>
Week 6	<i>FINANCIAL RELATIONS - SPOUSAL MAINTENANCE</i>
Week 7	<i>FINANCIAL RELATIONS - FINANCIAL AGREEMENTS</i>

Week 8	<i>DISPUTE RESOLUTION AND PRIVATE ORDERING</i>
Week 9	<i>FAMILY LAW AND SOCIAL WELFARE LAWS</i>
Week 10	<i>CHILD RELATED PROCEEDINGS - PARENTAL RESPONSIBILITIES & BIC</i>
Week 11	<i>CHILD RELATED PROCEEDINGS - CHILD SUPPORT</i>
Week 12	<i>CHILD AND FAMILY FORMATION - ADOPTION, SURROGACY, IVF</i>
Week 13	<i>CONSOLIDATING ALL ISSUES IN THE UNIT & REVISION</i>

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy http://mq.edu.au/policy/docs/grievance_management/policy.html

[t/policy.html](#)

Disruption to Studies Policy http://www.mq.edu.au/policy/docs/disruption_studies/policy.html *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/support/student_conduct/

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement.

They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

Learning outcomes

- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.
- Conduct sophisticated independent research.

Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

Learning outcome

- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcomes

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.
- Critically evaluate legal principles (statute and case law) and consider the role of law

reform in the area of Family Law in relation to inequality in society.

- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.
- Conduct sophisticated independent research.

Assessment tasks

- Class Participation
- Reflective Essay
- Research Essay

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

Learning outcomes

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.
- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.
- Conduct sophisticated independent research.

Assessment tasks

- Class Participation
- Reflective Essay
- Research Essay

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and

they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Learning outcomes

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.
- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.
- Conduct sophisticated independent research.

Assessment task

- Research Essay

Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

Learning outcomes

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.
- Conduct sophisticated independent research.

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication

technologies as appropriate.

This graduate capability is supported by:

Learning outcomes

- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.
- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.
- Conduct sophisticated independent research.

Assessment tasks

- Class Participation
- Reflective Essay
- Research Essay

Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

Learning outcomes

- Describe and explain links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family policy and law.
- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Critically evaluate legal mechanisms relating to the resolution of family disputes, including alternative dispute resolution mechanisms.
- Critically evaluate legal principles (statute and case law) and consider the role of law reform in the area of Family Law in relation to inequality in society.
- Communicate arguments related to the area of Family Law effectively in written and

verbal form appropriate to a range of audiences.

- Conduct sophisticated independent research.

Assessment tasks

- Class Participation
- Reflective Essay
- Research Essay

Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

Learning outcomes

- Describe and explain how multidisciplinary ideas about the family shape state family policies and laws and, in turn, how these policies and laws regulate family life.
- Conduct sophisticated independent research.