



# LAWS822

## Family Law

S1 Day 2016

*Dept of Law*

### Contents

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<a href="#"><u>General Information</u></a>	2
<a href="#"><u>Learning Outcomes</u></a>	2
<a href="#"><u>General Assessment Information</u></a>	3
<a href="#"><u>Assessment Tasks</u></a>	4
<a href="#"><u>Delivery and Resources</u></a>	13
<a href="#"><u>Unit Schedule</u></a>	13
<a href="#"><u>Policies and Procedures</u></a>	14
<a href="#"><u>Graduate Capabilities</u></a>	16

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Archana Parashar

[archana.parashar@mq.edu.au](mailto:archana.parashar@mq.edu.au)

Contact via [archana.parashar@mq.edu.au](mailto:archana.parashar@mq.edu.au)

W3A 618

Mondays 12-1 pm

Credit points

4

Prerequisites

16cp in LAW or LAWS units at 800 level or above

Corequisites

Co-badged status

Unit description

In this unit students undertake a detailed study of key Family Law provisions and cases and analyse the law within an interdisciplinary theoretical framework. This approach of developing doctrinal analysis within a theoretical framework challenges the conventional boundaries of family law as found in the main texts on family law in Australia. It will enable students to critically examine the understanding of familial relations and their place in society which underpin the law. In addition to understanding the laws related to different aspects of family this unit is designed to enable students to assess what is the function of family law and what changes, if any, are needed.

## 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:

Explain and evaluate links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family law.

Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.

Critically evaluate the conception of family law as a means of dispute resolution and judge the implications of the move towards alternative dispute resolution mechanisms. Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities 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 in theoretical and doctrinal knowledge relevant to family issues.

## General Assessment Information

### Internal Students

Task	Task Name	%	Due Date
1	Class Participation	10	Tutorials continuous
2	Research Essay (Submit through turnitin)	40	18th April 2016, 23.59
3	Take Home Assessment Task Issued at 9 am 9th June 2016 (Submit through turnitin)	50	12th June 2016, 23.59
	<b>Total:</b>	<b>100%</b>	

### Distance Students

Task	Task Name	%	Due Date
1	Class Participation	10	OCS

2	Research Essay (Submit through turnitin)	40	25th April 2016 23.59
3	Take Home Assessment Task Issued at 9 am 9th June 2016 (Submit through turnitin)	50	12th June 2016 23.59
	<b>Total:</b>	<b>100%</b>	

## Assessment Tasks

Name	Weighting	Due
<u>Class Participation</u>	10%	continuous, in tuts/OCS
<u>Research Essay</u>	40%	18th/25th April 2016
<u>Take Home Assessment Task</u>	50%	12th June 2016, 23.59 pm

### Class Participation

Due: **continuous, in tuts/OCS**

Weighting: **10%**

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

**Attendance** at 80% of tutorials for day students and at the OCS for distance students is compulsory. Class participation mark is an aggregate of attendance and participation.

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:

- Explain and evaluate links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family law.
- Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.
- Critically evaluate the conception of family law as a means of dispute resolution and judge the implications of the move towards alternative dispute resolution mechanisms.

- Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities 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: **18th/25th April 2016**

Weighting: **40%**

Formulate a research topic based on Lectures 1-6 and related readings.

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.

**The maximum word length is 2500 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 to 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:

- Explain and evaluate links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family law.
- Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.
- Critically evaluate the conception of family law as a means of dispute resolution and

judge the implications of the move towards alternative dispute resolution mechanisms.

- Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities 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 in theoretical and doctrinal knowledge relevant to family issues.

## Take Home Assessment Task

Due: **12th June 2016, 23.59 pm**

Weighting: **50%**

**Take Home Assessment Task: The question will be issued in iLearn page at 9 am 9th June 2016.**

Word length: Maximum of 3500 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**.

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 argument, explain structure of essay, enumerate issues that will be discussed to substantiate 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 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 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.

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:

- Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.
- Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities in society.
- Communicate arguments related to the area of Family Law effectively in written and verbal form appropriate to a range of audiences.

## Delivery and Resources

### Delivery:

The unit is structured around a two hour lecture each week and one hour tutorial for the day students. For the distance students 12 prerecorded lectures will be available through the iLearn page of the unit and students must attend a two day compulsory on campus session.

**Attendance** at 80% of tutorials for day students and at the OCS for distance students is compulsory.

Lectures and Tutorials commence in Week One of the semester. Lectures will be recorded and available 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 provide the list of readings for each week.

Occasionally additional Readings will be available on iLearn.

Students will need access to a computer that gives them access to the internet and they can use for word processing.

## Unit Schedule

Week 1	Studying Family Law - Concepts
Week 2	The Family Law and its Institutions - history and institutions

Week 3	Marriage and Marriage like Relationships
Week 4	Divorce & Violence
Week 5	Financial Relations
Week 6	Spousal Maintenance
Week 7	Private Ordering in Property Proceedings
Week 8	Dependency and the Law
Week 9	Child Related Disputes
Week 10	Children in Court Proceedings
Week 11	Child Maintenance and support
Week 12	Children and Family Formation - adoption, surrogacy, IVF
Week 13	Consolidation of all topics in the Unit

## 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](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

**New Assessment Policy in effect from Session 2 2016** [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html). For more information visit [http://students.mq.edu.au/events/2016/07/19/new\\_assessment\\_policy\\_in\\_place\\_from\\_session\\_2/](http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/)

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

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

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](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/](https://students.mq.edu.au/support/student_conduct/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au).

### Following is the Macquarie Law School policy on assessment details

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the [Disruption to Studies policy](#) for complete details of the policy and a description of the supporting documentation required.

Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## 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](http://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](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

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

## Graduate Capabilities

### PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

#### Learning outcomes

- Explain and evaluate links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family law.
- Critically evaluate the conception of family law as a means of dispute resolution and judge the implications of the move towards alternative dispute resolution mechanisms.
- 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 in theoretical and doctrinal knowledge relevant to family issues.

#### Assessment task

- Research Essay

### PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

#### Learning outcomes

- Explain and evaluate links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family law.
- Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.



- Critically evaluate the conception of family law as a means of dispute resolution and judge the implications of the move towards alternative dispute resolution mechanisms.
- Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities 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 in theoretical and doctrinal knowledge relevant to family issues.

## **Assessment tasks**

- Class Participation
- Research Essay
- Take Home Assessment Task

## **PG - Critical, Analytical and Integrative Thinking**

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

## **Learning outcomes**

- Explain and evaluate links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family law.
- Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.
- Critically evaluate the conception of family law as a means of dispute resolution and judge the implications of the move towards alternative dispute resolution mechanisms.
- Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities in society.
- Conduct sophisticated independent research in theoretical and doctrinal knowledge relevant to family issues.

## **Assessment tasks**

- Class Participation

- Research Essay
- Take Home Assessment Task

## PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

### Learning outcomes

- Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.
- Critically evaluate the conception of family law as a means of dispute resolution and judge the implications of the move towards alternative dispute resolution mechanisms.
- Conduct sophisticated independent research in theoretical and doctrinal knowledge relevant to family issues.

### Assessment tasks

- Research Essay
- Take Home Assessment Task

## PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

### Learning outcomes

- Reflect and analyse how multidisciplinary ideas about the family shape family laws and critically analyse how these policies and laws regulate family life.
- Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities 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 in theoretical and doctrinal knowledge relevant to family issues.

## Assessment tasks

- Class Participation
- Research Essay
- Take Home Assessment Task

## PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

## Learning outcomes

- Explain and evaluate links between sociological, historical, philosophical and political perspectives on the family and developments in areas of family law.
- Understand legal principles of Family Law (statute and case law) and critically evaluate the role of law reform in the area of Family Law in relation to gender and racial inequalities in society.
- Conduct sophisticated independent research in theoretical and doctrinal knowledge relevant to family issues.

## Assessment task

- Research Essay