

The response demonstrates a sound knowledge of family law and analysis of relationship breakdown. Some specific laws such as the Hague Convention and Family Law Act are referred to, although the analysis is not maintained throughout the response. Greater cohesion, the development of a consistent argument and the integration of a broader range of case law and legislation would enhance the response.

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To achieve justice for all parties involved in a relationship breakdown it is important that the law recognises ~~what~~ and defines what a relationship is. In Australia there are three types of relationships legally recognised, Marriage, de facto and gay, each with their own definition. Over time the law has been defined and amended to recognise each one and the entitlements owed to each. One common factor to all these relationships if they do breakdown is that if children are involved their rights and protection are absolutely paramount. Of course ~~communities~~ ^{the government} still see the importance of healthy and thriving marriages and encourage various services to work through, such as counselling.

Marriage has been around ~~in all~~ since mankind first began and has been celebrated and legally recognised in various forms. However the definition of marriage was never questioned until the case of Hyde v. Hyde and Woodmansee ~~1886~~. The Marriage Act 1961 legally defined a marriage to be for life, between man and woman, to be voluntary and to the exclusion of all others. However today the rate of divorce in Australia is up to 40% which has lessened since 2008. For a married couple to file for a divorce they must be separate for 12 months minimum. It is also required

that they seek counselling in order to repair their marriage. Although if the marriage is deemed beyond repairable, they may file for a divorce. This relationship breakdown must go through the courts and be accepted and legally recorded as the marriage to be finished.

The couple is encouraged to discuss assets and an equal split along with a parenting plan if children are involved. Though this in some cases may not be able to be achieved and therefore may go to court.

This is entirely discouraged and other remedies are available such as mediation and counselling. If needed the courts will hear cases and decide property asset divisions. It can be a long and lengthy process and often result in bitter argument. Under the Family Law Act (Property and maintenance disputes) 2008 the assets are split in half. When children are involved it is paramount that adequate care and protection are in place. The Convention of the rights of the child (CRC) is enforced. A parenting order is put in place and legally enforceable. This is in place to achieve justice for all parties involved.

In the case for de facto relationships they are defined as a couple living in a bona fide domestic relationship for at least two years. De facto relationships had the difficulty by not being legally recognised as a

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relationship such as a marriage under the Marriage Act (1961) as they were not 'legally' recognised. This was ~~was~~ a problem in achieving justice if the relationship broke down. As of 2007 this was changed under the Family Law Act and now includes de facto relationships. However De facto couples do not need to seek a divorce through the court system as they're not legally 'married'. They are encouraged to seek help and restore relationships, ~~stara~~ but without as much emphasis. De facto relationships if they break down and cannot resolve the issues themselves can also take it to court, although encouraged not too. Court can be a long and costly event that can also be an emotional drain. Courts also may decide what one party does not fully like but must follow by law. The children involved are still paramount and will be placed under the best care for them according to what the court decides.

Gay couples in Australia pushing for their rights to be recognised as a married couple this year have still been unsuccessful. It is argued they cannot be married if they do not fit the definition of a marriage, that is between, man and woman. The law will not be amended as of yet for a small

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minority group, but which is still open for change. Though under the Rudd government in 2009 gays in NSW were legally allowed to adopt. This of course began to change the effects of a gay relationship breakdown when children are involved. Gays also have the same legal recognition in property dispute when the relationship breaks down, as seen in the case of *Stevens v Stevens* 2009. The law has been effective in achieving justice for all parties involved as now gays have legal recognition as a couple but not as a marriage, much like a de facto relationship.

With the involvement of children it becomes a controversial issue as statistic research has shown that children are best in a marriage married home with both mother and father. Family Voice Australia lobbies for the upholding of marriages and the family and petitions against the ~~legislation~~ legal recognition of gays. They withhold the Christian values and petition to keep it that way. With gays now allowed to adopt the issue of with parent the child should live with ~~he~~ can be a difficult situation... ~~to~~ The courts role is to ensure the best interests of the child are accommodated for such as emotional, physical, ~~and~~ and mental state of the child. This contemporary

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issue is being faced today and law is still accommodatory for these changes. It is therefore difficult for the legal system to achieve justice for all parties involved in the relationship breakdown as no law effectively reflects the values for or against gay relationships.

The legal system in Australia aims to achieve justice for all parties involved in relationship breakdowns. By doing so the laws have been amended and created in order to reflect societies values and particularly look after the best interests of the child. It is therefore seen that the law is relatively effective in achieving justice for all ~~couple~~ parties involved in relationship breakdowns.

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