Morality, Ethics and Commitment to the Law

the extent to which law reflects moral and ethical standards

Morality is concerned with what is considered to be right or wrong and includes the notion of ethical behaviour; that is, behaviour that is seen to be good, right, honest, fair and proper. Moral and ethical standards of the community can change over time and will vary from one person to another. With these changes have come law reform.

Or society's idea of what constitutes a family; what the role of the family should be; and the importance of family, marriage and other relationships as social institutions have changed, in the past, behaviour such as adultery could be grounds for a divorce but this is not so today. Family law has been subject to review revision and reform to ensure it remains current and reflects the moral views of society.

Give examples of how the law reflects moral/ethical values:

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Area of Family law	Examples
Marriage	
Responsibilities of spouses	
Responsibilities of parents to children	
Alternate arrangements: De-facto couples Same-sex couples Single parents Blended families Polygamous marriages	
Children's rights • Al/IVF • Surrogacy	
Birth technology	
Adoption	

Domestic Violence			
Child abuse and neglect			
Dissolution of marriage			
commitment to the law – the issue of compliance and non-compliance			
The law will only be effective if the majority of society agrees to abide by it. However due to its personal and emotional nature, Family law is the area that has the most amount of non-compliance. Most of this non-compliance comes from people that would normally comply to almost all other area of law.			
Why is there such as issue of compliance and non-compliance in Family law?			

Effectiveness of the Law

- factors to be considered when evaluating the effectiveness of law in achieving justice:
 - for individuals:
 - A accessibility
 - P protection and recognition of individual rights
 - R resource efficiency
 - **E** equality
 - **E** enforceability
 - for society:
 - **C** law as a reflection of community standards and expectations
 - **R** resource efficiency
 - **A** appeals and review
 - **B** balance of individual rights and values and community rights and values
 - **E** opportunities for enforcement

Obstacles faced by women obtaining justice

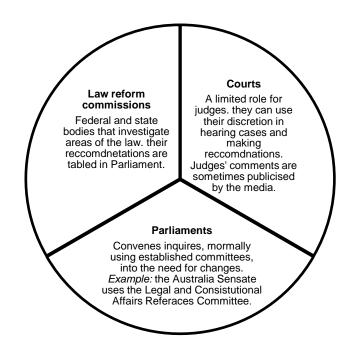
The Australian Law Reform Commission (ALRC) identifies the common significance obstacles faced by women in obtaining justice. These included:

- Lack of awareness of the law and legal services, due to the nature of domestic violence isolation
- Lack of confidence
- Lack of experience or knowledge about gaining information and negotiating systems
- Lack of child care services when receiving legal advice
- Inadequate information and poor advice
- Police/legal professionals being unaware of women's needs or experiences
- Services failing to provide accurate and appropriate assistance
- Prohibitive legal costs
- Inaccessibility of services
- Lack of appropriate safe waiting areas for women at the Local Court
- The overwhelming Court environment
- Undermining of a women's credibility and minimisation of the problem
- Failure to address the different needs of women

Law Reform

Law reform is the changing of the law to reflect contemporary attitudes and values so that it operates more effectively and efficiency.

- the agencies of reform
 - law reform commissions
 - parliament
 - courts



- the conditions which give rise to the need for reform
 - changing social values
 - changing composition of society
 - new concepts of justice
 - failure of existing law
 - International law
 - new technology

Conditions	Examples of Response		
Changing Social Values			
Sexual attitudes/values	Acceptance of single parents, de-facto couples		
Public perception	Expectation of 'no-fault' divorce		
Relationships	Domestic violence, rape in marriage no longer private issue but seen as crime		
	FLA 1995 reforms stress responsibility of parent and rights of child		
	New Relationships Centres to provide greater access to counselling		
	Acceptance of same-sex relationships		
Expectation of parental	Child Support Scheme		
responsibility	Shared parenting		
Recognition of Children's Rights	Intolerance of child abuse		
Changing composi	tion of society		
Sexual diversity	Acceptance of same-sex couples		
Indigenous peoples	Customary marriages treated as de-facto		
Ethnic diversity	Rejection of some cultural norms: polygamous marriages illegal arranged marriages cannot be forced on couples (duress) marriages age 18, illegal to marry younger although common in other cultures		

New concepts of Justice			
Relationships	FLA 1975 introduced 'no fault' divorce and Family Court		
Dispute resolution	Introduction of Family Court, mediation and counselling, consideration of non-financial contributions		
Agreements	 Parenting plans, pre-nuptial agreements give greater over relationships to individuals 		
Equality of sexes	 Recognition of women's rights – DV, non-financial contributions 		
Juvenile justice	 Increase use of community service orders, warmings and cautions emphasis on rehabilitation, protection by suppressing names, closed courts and closed records. 		
Compliance	 Amendments to law to allow Family Court to impose sanctions on those who breach court orders – extended powers to deal with DV 		
Need to protect Children	 Amendments to law to provide greater protection to children in areas of care by parents (FLA 1996) Changes to legal status of child Acknowledgement rights of child to know both biological and birth parents 		
	Stronger legislation and other measures to reduce child abuse		
Failure of existing			
Obsolete laws	 Repeal of Matrimonial Causes Act Amendments to Crimes Act re CV and rape in marriage Amendments to FLA 1975 		
Discrimination	Recognition of women's rights – non-financial contributions, splitting of superannuation, DV		
Court delays	Emphasis on alternate dispute resolution Introduction of Federal Magistrates Service		
Continuing domestic	Extension of BWS to include battered partners		
violence	 With issue of ADVO, party is required to surrender weapons to police 2004, police given power to arrest any person likely to commit DV. 		
Child support scheme	 Introduced to force parents to take financial responsibility for children 2006 reforms to balance the financial burden to be calculated on the salary of one party, both parents will be considered 		
International law			
Treaties	 CROC recognition in changes to FLA and emphasis on rights of the child added protection of children's rights CEDAW lead to greater recognition of the rights of women eg recognition of non-financial contributions, laws to provide greater protection from DV 		
International criticism	Australia has been criticised for its failure to protect the vulnerable, indigenous children and children of asylum seekers		
New technology	·		
Birth technology	Enactment of new laws		
Investigation	Advances in forensic science		