

LEGAL STUDIES

Media Article research for Family and World Order

“Register helps de factos access benefits” – SMH, 23/02/10

Themes:

1. *Continuity and change*

- The evolution of legal rules and institutions.
- The effects of social, political, economic and ideological factors and of community attitudes.

2. *Culture values and ethics*

- Extent to which the law reflects culture and values of different societies and groups within society.

The media article “de facto couples” introduces the new ‘Relationships Register’ scheme and reveals its implications for de facto couples, compared to previous legislation. The article represents the change and evolution of the legal system in response to the developing social, political and ideological factors of society, whilst also questioning the scheme’s ease of access, consistency and simplicity.

Compared to traditional conservative attitudes, de facto couples are now more accepted and recognised by society. The article illustrates the legal system’s response to society’s changing views of de facto couples as the scheme, which makes proving serious relationships easier, regards de facto couples on par with marriages. The scheme provides equality as committed couples can obtain easier access to remedies such as those benefits and protection under the Family Law Amendment (Financial Matters and Other Measures) Act 2008 because proving their relationships become more simplistic and easier. The new Register is a significant improvement from the failure of previous laws that made it difficult for de facto couples to prove the serious extent of their relationship, hindering their ability to access government services or entitlements, hence resulting in injustice in some occasions. The article also highlights the large extent of law’s reliance on political factors as the attorney general; Mr Hazistergos indicates that ‘[the register] ensures that NSW is aligned with Commonwealth Govt moves to remove discrimination against unmarried couples...’. NSW which recently handed its right to administer non-married couples to the Commonwealth asserts its support for the Commonwealth through the introduction of this scheme, outlining the integral role of politics in changes to the law. The scheme is also resource efficient, “sparing the frustration of... Supplying agencies with paperwork”, revealing economic factors in law reform.

The media article has little bias however the editor clearly favours this scheme, quoting Hazistergos’s disappointment at the NSW opposition for failing to back this legislation, proving their discrimination. The article does however question the effectiveness of the Register with its outline of requirements to be eligible to register, which highlights the possible difficulties in eligibility and access. It is also revealed that the ‘NSW govt is working to ensure.... other jurisdictions have registers in place’, questioning the consistency and predictability of this scheme.

“The moral quandary of sterilising a child” – George Williams; SMH

Themes:

1. *Continuity and change*

- The evolution of legal rules and institutions.
- The importance of precedent in establishing rules.

2. *Culture, values and ethics*

- The extent to which law reflects the culture and values of different societies and groups within society.
- The importance of ethics in the functioning of society.

3. *Effectiveness of the legal system*

- The extent to which an issue can be dealt with by the law.
- How well it is dealt with in terms of ease of access, simplicity, consistency, predictability and delivery of just outcomes.
- The capacity of a law to stop or change human behaviour.

The opinion article “the moral quandary of sterilising a child”, evaluates the case of ‘Angela’ by examining the laws concerning sterilisation, providing differing perspectives and providing a history of evolving attitudes towards sterilisation. Williams’ personal view is permeated throughout the article, presenting some bias as he challenges the effectiveness of the legal system in the extent to which sterilisation should be handled by the law and how accurately it reflects societal values.

The article outlines the basic facts of Angela’s case and mentions from the beginning that ‘the procedure was found to be in her best interests’. Williams however effectively manipulates the case forcing audiences to challenge the decision in the case of Angela but more so question the ‘moral quandary’ of sterilisation. Sterilisation is controversial within society and raises many issues, such as the need to preserve human rights but also the right to the quality of life. Sterilisation cases considered beyond parental responsibility because of the highly invasive and personal procedures it involves, questioning the extent to which sterilisation can be dealt with effectively and justly by the law. The article, biased against sterilisation, also compares sterilisation today with historical processes such as the eugenics movements and challenges the morality behind these. The range of perspectives such as the Women with Disability Australia, who believe that sterilisation of children with disabilities should be banned’ and medical perspectives stating that it is sometimes necessary, illustrates the divided values of society and hence suggests the difficulty for the law in dealing with sterilisation because of the values of different groups within society.

The issue of sterilisation also questions the effectiveness of the legal system to provide consistency, predictability and just outcomes. Williams states in the media article that “that the procedure will go ahead is regrettable, but in Angela’s case it has been shown to be necessary”, representing the inconsistency of the legal system in dealing with sterilisation due to the range of complex and unique cases. The importance of precedent is also questioned in the article because the same decision applied in Angela’s case may not be the ‘best interests of the child’ in another, suggesting the difficulty of achieving consistency in sterilisation matters. The ability of the law to achieve just outcomes in sterilisation cases is also questionable as ‘these special medical procedures are invasive and irreversible’ and is a violation of human rights but also does allow a quality of life.

Themes:

1. Culture, values and ethics

- The extent to which law reflects the culture and values of different societies and groups within society.

2. Legal process and institutions

- The nature of legal institutions such as parliaments, courts and the United Nations.
- The adjudication and settlement of disputes and enforcement of legal rules.

3. Conflict and cooperation

- The nature and extent of conflict in society.
- The place of law in resolving conflict and encouraging cooperation.

4. Effectiveness of the legal system

- The extent to which an issue can be dealt with by the law

The opinion article “Israel’s folly may be the catalyst the West needs”, is a response to Israel’s recent interception of a Gaza aid flotilla. The article criticises Israel’s actions, whilst also drawing our attention to the ‘bigger issue’ of the Israeli-Palestinian peace process. The role of the international community is also questioned in this article, which suggests a lack of effectiveness of legal measures.

The Israeli-Palestinian conflict has been occurring since 1949 as the Palestines have been seeking the independence and recognition of their own nation state. Recent outbreaks such as the flotilla incident have emphasised the Gaza blockade and continuous conflict that is ensuing. The conflict began due to ideological and religious differences, emphasising the extent to which society’s values and culture is reflected within politics and law. Israel’s refusal to acknowledge Palestine as a nation state has been a source of disorder and chaos within the Middle Eastern region, and has consequently involved the USA and the international community. This racially fuelled conflict between the Jewish Israeli’s and Muslim Hamas government has resulted in the displacement of many citizens and the starvation of many due to the blockade imposed on the Palestine’s. The article, biased against Israel, reinforces these issues, which Rodgers believes should be a ‘wake up call to the international community” however, criticises the international community for their ineffective measures and its lack of action, making a ‘joke of any renewal of the Israeli-Palestinian peace process”.

The article questions the role and effectiveness of international measures as Rodgers criticises the USA, Australia and the international community for “generally providing cover for Israel” and sees international negotiations as a failure as it hasn’t recognised the intricacy and complexity of the issue, only imposing conditions on Hamas that “may sound reasonable... but in effect asking it to commit political suicide”, hence suggesting the limited extent of the law in resolving conflict and encouraging cooperation within the middle east. The article also recognises the international community’s failure to stop the Gaza blockade, as a failure of legal measures. Rodgers mentions the politics behind the conflict – Israel’s non recognition and denial of true self determination to Palestine and questions the ability of the international community to settle this dispute and ponders whether “Obama will summon the courage to administer long overdue tough love to Israel. But don’t hold your breath”.

Bias is prevalent in this opinion article as Rodgers through his condemnation of Israel however he also ensures that he does not solely criticise Israel but he also focuses on Palestine and the wider causes of conflict within the region.

“Innocence lost as child recruitment continues” – Steven Freeland; SMH, 15/02/10

Themes:

1. Conflict and cooperation

- The place of law in resolving conflict and encouraging cooperation.

2. Effectiveness of the legal system

- The extent to which an issue can be dealt with by the law.
- How well the issue is dealt with in terms of ease of access, simplicity, consistency, predictability and delivery of just outcomes.
- The capacity of a law to stop or change human behaviour.

Steven Freeland’s opinion article “innocence lost as child recruitment continues”, introduces the international issue of the use and abuse of child soldiers and questions the ability of domestic and international measures to stop or change this behaviour. He challenges the effectiveness of the measures in place to deal with the 500000 children who are ‘conscripted’ into paramilitary organisations in over 85 countries.¹

The media article informs audiences of the extent of the use of child soldiers, stating that it is “not just an African problem”. The use of child soldiers in many military regimes is not only a human rights breach but it is ethically wrong as approximately “300000 children are acting as front-line troops in conflict worldwide”. Children are deployed in active combat, trained to become efficient soldiers due to intimidation, threats of violence or due to alcohol or drug abuse.

Steven Freeland questions the effectiveness of international legal measures in dealing with this global issue, examining the place of international courts in dealing with child soldiers. He states that current judicial proceedings such as the Special Court of Sierra Leone and the trials convicting the Democratic Republic of Congo, in the Hague, for using child soldiers in the civil war, which is still continuing today, only ‘scratch the surface’ of the problem challenging the issues of resource efficiency and ease of access and hence undermining the effectiveness of the law to deal with this issue. The article mentions the ‘highly sensitive and political nature of armed conflict’ questioning the ability of legal measures such as international courts to encourage cooperation due to the political barriers and considerations. Steven Freeland also, questions the capacity of a law to stop or change human behaviour by stating that the international law should ‘establish more stringent regulatory regimes to deter the recruitment and use of children’ in conflict and develop ‘more determined international action’. International law is proved to be limited in this area due to political implications and is also reflecting of the limits of international law in providing predictability and just outcomes. Other legal measures which also deal with child soldiers include the 1949 Geneva conventions and the Convention of the Rights of the Child set standards for the minimum age of 15years for child recruitment. Many nations don’t abide by these however Steven Freeland believes that the international community is able to change human behaviour by examples led by developed countries.

¹ ‘How International Law Deals with Child Soldiers’ - Steven Freeland, Legal Studies Lifeline 2010