

2.9 Module 14 Family Law

2.9.1 Headline information about the module

Module title	Family Law
Module NFQ level (only if an NFQ level can be demonstrated)	N/A
Module number/reference	Module 14
Parent programme(s) the plural arises if there are embedded programmes to be validated.	LLB (Hons)
Stage of parent programme	2
Semester (semester1/semester2 if applicable)	Semester 1 or 2
Module credit units (FET/HET/ECTS)	ECTS
Module credit number of units	5
List the teaching and learning modes	Full Time, Part Time,
Entry requirements (statement of knowledge, skill and competence)	Learners to have successfully completed Stage 1 of the Programme
Pre-requisite module titles	None
Co-requisite module titles	None
Is this a capstone module? (Yes or No)	No
Specification of the qualifications (academic, pedagogical and professional/occupational) and experience required of staff (staff includes workplace personnel who are responsible for learners such as apprentices, trainees and learners in clinical placements)	Lecturers expected to hold at least a level 8 legal qualification, preferably with a professional legal qualification. It is an advantage to have completed the Certificate in Training and Education provided by Griffith College.
Maximum number of learners per centre (or instance of the module)	60
Duration of the module	One Semester, 12 weeks
Average (over the duration of the module) of the contact hours per week	2
Module-specific physical resources and support required per centre (or instance of the module)	Lecture room with internet access and digital projector.

Analysis of required learning effort										
Effort while in contact with staff										
Classroom and demonstrations		Mentoring and small-group tutoring		Other (specify)		Directed e-learning (hours)	Independent learning (hours)	Other hours (specify)	Work-based learning hours of learning effort	Total effort (hours)
Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner					
24	1:60						101			125
Allocation of marks (within the module)										
				Continuous assessment	Supervised project	Proctored practical examination	Proctored written examination	Total		
Percentage contribution							100	100%		

2.9.2 Module aims and objectives

This Module introduces learners to the fundamental legal concepts governing the rights and obligations of family life in Ireland. The Modules examines Family Law having regard to both its constitutional foundation and statutory framework. Learners are also introduced to the historical development of Family Law as an important philosophical underpinning of the operation of the law today. Learners analyse the key elements of the law, including the fundamental rights and duties of the State, the family unit and the individuals within it. The Module also enables learners to understand and analyse, both in theory and practice, the regulation of marriage, nullity and dissolution of marriage as well as the theory and practice of Family Law in relation to children. Finally, the module enables learners to understand and apply important remedies and to apply the law to hypothetical, factual scenarios.

2.9.3 Minimum intended module learning outcomes

On successful completion of this module learners will be able to:

- (i) Analyse and discuss the family unit in Irish law;
- (ii) Investigate and appraise the rights and duties that flow from marriage;
- (iii) Critique the grounds for the dissolution of marriage, procedures for attaining a judicial separation or divorce, and attaching ancillary reliefs;
- (iv) Evaluate and discuss the key areas of child law, including guardianship, custody, access, and the exercise by the State of its powers to interfere with the family unit;
- (v) Research, interpret and apply the constitutional, statutory and international rules relating to the family unit.
- (vi) Apply the concepts of the law relating to the family and individuals within the family unit to provide an informed and reasoned opinion as to the current status of Irish family law and possible modes of reform.

2.9.4 Rationale for inclusion of the module in the programme and its contribution to the overall MIPLOs

Family Law is a specialised area of academic research as well as legal practice in Ireland. It touches upon some of the most fundamental and essential rights in society, including the rights of children. Learners taking this module will be afforded an opportunity to gain a firm foundation in an area of law that is not only relevant to legal practitioners and academics but applicable to a range of other public bodies and non-governmental organisations involved in formulating or influencing practices and policies in this area. This module serves to directly underpin programme learning outcomes 1, 6, 10.

2.9.5 Information provided to learners about the module

Learners will receive the following resources and materials in advance of commencement including:

- Learner Handbook;
- Module descriptor;
- Module learning outcomes;
- Assessment strategy;
- Reading materials;
- Class Notes (on a weekly basis).

Moodle is used to provide learners with ongoing access to module related information, from the handbooks and module outlines provided in advance of module commencement, to the lecture material and links to related resources provided on a scheduled basis in line with module delivery.

2.9.6 Module content, organisation and structure

This module is delivered in the form of twelve two hour lectures, and where student participation is actively encouraged. Learning Outcomes have been articulated using the *Quality and Qualifications Ireland (QQI) Awards Standards for Honours Bachelor of Laws and Master of Laws (July 2014)* and for *Generic Higher Education and Training (July 2014)*.

The module is divided into the following topics:

- Introduction:
 - The family in history and society
 - Definition of family
 - The Constitution and the family

- Marriage:
 - Formalities and capacity to marry
 - The legal implications of marriage
 - Proposals for reform

- Nullity:
 - Void and voidable grounds
 - Barriers to relief
 - Consequences of decree

- Separation and Divorce:
 - Historical background
 - Separation Agreements
 - Grounds for Judicial Separation
 - Consequences of a decree
 - Grounds for divorce
 - Effect of a decree

- Ancillary Relief:
 - Family Law Act 1995 and Family Law (Divorce) Act 1996
 - Statutory Factors
 - Judicial Discretion
 - Modes of Ancillary Relief
 - Variation

- Domestic Violence:
 - Orders available in domestic violence proceedings
 - Grounds for relief
 - Standing of applicants for different orders
 - Role of TUSLA
 - Enforcement of orders

- Child Law:
 - The Constitution and children's rights
 - The welfare principle
 - Guardianship, custody and access
 - Child protection
 - Adoption

2.9.7 Module teaching and learning (including formative assessment) strategy

The module uses participative lectures, which consist of tutorial-style discussions, group work sessions and exercises. The lectures are supplemented by structured on-line resources and directed reading. Formative assessment is provided in the form of interactive exercises such as directed class discussion topics which reference current affairs pertaining to Family Law at the time of instruction. Formative assessment is also provided through tutorial-style discussions, group work and exercises. These focus on specific case law and problem-based learning requiring learners to analyse the law and apply it to practical family law disputes or issues.

Learners also engage in collaborative work in pairs or small groups to brainstorm what learning has been achieved at the end of lectures. In order to support learners through the examination process, they engage in the answering of sample examination questions and correction of their own or peer's papers, thereby familiarising themselves with the marking criteria. Learners also engage in activities where they draft their own exam questions in order to recap and consolidate a particular topic.

Learners undertaking the course via blended learning benefit from varied and additional options for engagement to compensate their reduced attendance of campus. These include webinars, screencasts (recorded lectures), discussion fora, and increased use of the College's VLE (Virtual Learning Environment), Moodle.

In addition to what has been stated, classroom assessment and benchmarking techniques are deployed to encourage learners to develop more agency in terms of their own learning including in-class presentations, group work, peer-review exercises and reflective practice. The variety of teaching, learning and assessment techniques reflect an enhanced emphasis on skills acquisition to deepen practical knowledge. Finally, the attention of learners is drawn to current industry practice and technology used in the specific area of law to add a further dimension to learning, tracking the actual practice of legal professionals.

2.9.8 Work-based learning and practice-placement

Family Law is a class-based module and does not require work-based learning and practice placement.

2.9.9 E-learning

Moodle, the College Virtual Learning Environment, is used to disseminate notes, advice, and online resources to support the learners. Moodle can be accessed in the learner's home, various open labs on campus and in the library. The learners also have access to Lynda.com as a resource for reference.

2.9.10 Module physical resource requirements

Requirements are for a fully equipped classroom. The classroom is equipped with a PC and Microsoft Office; no other software is required for this module.

The College library has a dedicated law section and online legal research tools (Justice One, Westlaw, Hein Online).

2.9.11 Reading lists and other information resources

Primary Reading:

Crowley, L. (2013) Family Law. Dublin: Round Hall

Kilkelly, U. (2016) Children's Rights in Ireland: Law, Policy and Practice. Dublin: Bloomsbury

Nestor, (2011) An Introduction to Family Law. Dublin: Gill and MacMillan

Shannon, G. (2011) Family Law. Dublin: Round Hall

Secondary Reading:

Kennedy, D. & Maguire, E. (2016) Irish Family Law Handbook. Dublin: Bloomsbury

Shannon, G. (2016) Children and Family Relationships Law In Ireland Dublin: Clarus Press

Shannon, G. (2007) Divorce Law and Practice. Dublin: Round Hall

Shatter (1997) Shatter's Family Law. Dublin: Butterworths

2.9.12 Specifications for module staffing requirements

Lecturers are expected to hold at least a level 8 legal qualification, preferably with a professional legal qualification. It is an advantage to have completed the Certificate in Training and Education provided by Griffith College.

Learners also benefit from the support of the Programme Director, Programme Administrator, Lecturers, Learner Representative, Students' Union and Counselling Service.

2.9.13 Module summative assessment strategy

The Module is assessed by way of 100% examination. This will consist of both essay and problem style questions.

Essay style questions will place emphasis on the demonstration of understanding pertaining to Family Law. Problem Style questions will enable learners to apply the principles of Family Law to a factual scenario.

The assessed work breakdown can be seen in the table below.

No	Description	MIMLOs	Weighting
1	Exam	i, ii, iii, iv, v, vi	100%

2.9.14 Sample assessment materials

Sample Examination

Answer any **three** of the following questions.

All questions carry equal marks.

Question 1

In an application for Judicial Separation, the applicant spouse must bring him/herself within one or more of the six grounds set out in Section 2 of the *Judicial Separation and Family Law Reform Act 1989*.

With reference to relevant case law and statute, discuss any **two** of the grounds for a judicial separation **and** the consequences of successfully obtaining a decree of judicial separation.

Sample Answer 1

Grounds:

- *Judicial Separation and Family Law Reform Act 1989 s. 2(1) Adultery*
- *Applicant cannot rely on his/her own adultery*
- *Applicant can bring proceedings on hearing of adultery*
- *Adultery is usually inferred from circumstances rather than proven*
- *Woolf v Woolf (1931) = Adultery inferred from the fact that a couple spend the night together in the same bedroom*
- *PF v. G.O'M (1999) = Evidence from two neighbours of overnight parking. It was held to corroborative evidence which was "suggestive of an affair".*
- *Bar to Relief under Section 2(1)(a) = An Applicant cannot rely on the adultery of the Respondent if he/she has lived with the Respondent for a year or more since his/her knowledge of the adultery*

2(1)(b) Unreasonable Behaviour

Behaviour includes cruelty, both mental and physical.

Objective test

Court will decide whether or not an individual can 'reasonably be expected' to endure the behaviour of his or her spouse.

What is 'cruelty' depends on facts of each case.

The character of the evidence must be 'grave and weighty' and must have been such as to render the continued performance of the obligations of marriage impossible.

If a couple continue cohabiting for a period of six months or less after the 'last incident or violence or cruelty' and an application is made pursuant to section 2 (1)(b) 'such cohabitation shall be disregarded in reaching a decision as to whether or not a decree should be granted.

Gollins v Gollins [1964] AC 644 at 659

McA v McA [1981] ILRM 361 = "renders the cohabitation unsafe or makes it likely that the cohabitation will be attended by injury to the person or health of the party".

2(1)(c) Desertion

Desertion occurs without the consent of the other person. If the party consents, there is no desertion

Desertion must be continuous for one year. In considering whether or not the period is continuous no account is to be taken of one or more periods totalling six months when the parties have resumed living together.

Parties must be living apart at the date of institution of proceedings.

Desertion may be established where parties are living still under one roof

MMcA v XMCA (Divorce) [2000] 1 IR 457 = must be more than mere physical desertion, an intention to live apart

Construction desertion can also be raised in situations of Habitual drunkenness; Violence; Adultery; Constant threats; Abusing children; and Mental cruelty – all sufficient grounds for constructive desertion.

JC v JHC (unreported, August 1982, HC) = A wife was justified in leaving the family home because of the husband's 'occasional outbursts of violence'.

Counihan v Counihan (unreported, July 1973, HC) An intention to disrupt the marriage or bring the cohabitation to an end must be shown. The probable consequences of the conduct of a spouse can give rise to a presumption of such an intention.

2(1)(d) 1 Year Separate & Apart

1 year prior to date of issuing of proceedings.

Period of 1 year must be continuous.

No account taken of periods less than a total of six months in deciding whether or not the period is continuous.

Reasons for commencement of living apart irrelevant.

Issue of consent is only relevant to the granting of the decree and not to the fact of living apart.

H v H (2009) = Although matrimonial home was shared, 'the parties have been living separate and apart from each other for a number of years'

2(1)(e) 3 Years Separate & Apart

Onus of proof on Applicant.

No need to show fault for breakdown of marriage.

Section relevant where respondent spouse will not consent to the granting of a decree.

Rules relating to continuity of the period and the six-month period are the same as in earlier sections.

2(1)(f) No Normal Marital Relationship 1 Year or More

Most common ground for granting judicial separation

Least acrimonious

Not fault based

'Normal Marital Relationship' not defined by the Act

What one individual or what one judge thinks a normal marital relationship to be may well be considered by another individual or judge to be entirely the opposite

Court need not satisfy itself that the marriage has irretrievably broken down.

The court must simply satisfy itself that the marriage has in fact broken down. 'Fault' is not a pre-requisite for the granting of a decree under this subsection and there would appear to be nothing to prevent an applicant relying on his or her own actions such as adultery or cruelty in order to obtain a decree.

TF v Ireland [1995] 1 IR 321 = Authority for the fact that applicant can rely on his own behaviour if this contributed to the breakdown of the marriage

S. v. S (2009) Abbott J Held: = "A very fundamental aspect of a normal marriage is the consent of the parties to engage in cohabitation, characterized by continuous negotiation, co-existence and compromise, in their widest definitions"

Effect:

- *Ends the contractual obligation to cohabit;*
- *Court is permitted to make ancillary relief orders pursuant to Part II of the 1995 Act to regulate affairs of spouses*
- *Court may, where appropriate, make orders pertaining to Section 11, Guardianship of Infants Act 1964 (as amended) regarding the welfare, custody of, and right to access of an infant*
- *Succession Rights*
- *Parties remain husband and wife*
- *Succession rights remain intact*
- *Either party may apply to the Court under Section 14 of the 1995 Act for an order extinguishing the succession rights of the other*

Question 2

Nuala and Brendan were married in 1995, and have a 21-year-old daughter, Emma. Emma still lives at home, and is studying for a Master's Degree in Business in Griffith College. Brendan gave up his job when he married Nuala, and considers himself a homemaker. Nuala is employed full time as a chef, and works most nights. This has led to disagreements between the couple, and in 2011, Nuala started sleeping in the spare room so as not to disturb Brendan on getting home. This arrangement has meant that they have not had sexual relations in six years. Nuala and Brendan tend not to spend any real time together at all anymore, as Nuala sleeps during the day and works at night. Brendan tends to spend most of his time playing golf. Nuala admits that she has not missed Brendan's company. She hasn't disclosed her marital difficulties to their friends or family, and the couple still attend parties and social gatherings together. Recently, Brendan told Nuala that he misses spending time with her and would like to work on their relationship. Nuala feels that it is too late to rekindle their relationship.

Nuala seeks your advice as to whether a Judge will grant her a divorce. In your answer, refer to relevant legislation and case law.

Sample Answer 2

- *Section 5(1) Family Law Divorce Act 1996 mirrors the Constitutional provision under Art 41.3.2*

- *The grounds upon which a court will grant a decree of divorce, which are as follows:*
- *At the date of the institution of the proceedings, the spouses have lived apart from one another for a period of, or periods amounting to, at least four years during the previous five years;*
- *There is no reasonable prospect of reconciliation between the spouses; and*
- *Such provision as the court considers proper having regard to the circumstances exist or will be made for the spouses and any dependent members of the family.*
- *Further conditions prescribed by law complied with.*
- *Court will look at various factors in considering whether parties have lived apart,*
- *Use of the word 'household' instead of 'house' under S.2 of the Act, is most important. Court will have to satisfy itself that, although the spouses have continued to reside in the same home, they have led separate lives. (McA v McA [2000] 2 ILRM 48]*
- *Although Nuala has resided in the family home over the last five years, it is clear the parties were living separate lives, inc separate bedroom, limited contact*
- *There appears to be no reasonable prospect of reconciliation, however, pursuant to S.6 of the Act, Nuala's solicitor must discuss options in respect of reconciliation, and provide a list of marriage counsellors. EP v CP (1999 WJSC-HC 7018)*
- *The court will not grant a Decree of Divorce unless it is satisfied that proper provision has been made for the spouses and dependent members of the family, which would include children under 23 in full time education, pursuant to S.2 of the Act.*
- *Nuala will have to provide an Affidavit of Means, and an Affidavit of Welfare.*
- *Pursuant to S 39(1) of the 1996 Act - The Court may grant a decree of divorce if:*
- *Either of the spouses concerned is domiciled in the State on the date of the institution of the proceedings concerned*

Question 3

How effective is the Domestic Violence Act, 1996, (as amended) in its stated aim to protect 'persons in domestic relationships whose safety or welfare requires it because of the conduct of another person in the domestic relationship?' In your answer, refer to statute and relevant case-law.

Sample Answer 3

Persons who can seek relief under Act: -

Spouses and former spouses

Civil partners and former civil partners (2010 Act)

Cohabitants who have lived as husband and wife for six months in aggregate out of the previous nine months

A parent of an adult child who is not a 'dependent person' within the meaning of the Act

The HSE on behalf of an entitled 'aggrieved person' who may be an adult or a dependent person

Reliefs available

S 2 1996 Act – Safety Order

Prohibits the respondent from engaging in the following behaviour:

Using or threatening to use violence against, or molesting or putting in fear the applicant or a dependent person;

Inhibiting the respondent from watching or besetting the place where the applicant or dependent person resides (if parties reside separately).

Does not put respondent out of parties' home.

S3 1996 Act – Barring Order

An order directing the respondent, if residing at a place where the applicant or the dependent person resides, to leave such place until further order of the court or until such time as the court specifies.

Court must be of the opinion that there are reasonable grounds to believe that the safety or welfare of the applicant or any dependent person requires the making of the order

If the court thinks fit, it may also prohibit the respondent from:

Using or threatening to use violence against the applicant or any dependent person;

Molesting or putting in fear the applicant or any dependent person;

Attending at or in the vicinity of, or watching or besetting a place where the applicant or any dependent person resides

S4 – Interim Barring Order

Court must be satisfied that there is an immediate risk of significant harm to the applicant or any dependent person if the order is not made immediately; and that the granting of a protection order would not be sufficient to protect the applicant or any dependent person.

In exceptional cases the relief could be granted ex-parte.

K(D) v Crowley & Ors [2005] IEHC 375 (HC June 2000) (SC Nov 2002), followed by DV Amendment Act 2002

CC v Judge William Early & Ors [2006] IEHC 147

S 5 1996 Act – Protection Order

An Order which stops short of putting the respondent out of the family home but orders the respondent not to:

Use violence or threaten to use violence against, molest or put in fear the applicant or any dependent person.

Not watch or beset the place where the applicant or dependent person reside (if parties do not reside together).

Only lasts until the determination of barring or safety order proceedings.

Not as draconian as barring order; however, serious consequences for breach.

Available to entitled persons who have commenced proceedings for either a safety order or barring order.

Goold v Collins & Ors [2004] IESC 38

Criminal Offence

S.17 makes it a criminal offence to breach any of the orders available under this act, and is punishable by up to 12 months' imprisonment
S18 gives Gardai power of arrest following alleged breach

Question 4

Gemma and David are a married couple, with a five-year-old daughter, Vanessa. Vanessa failed to attend school for four weeks. When her teacher called to her home, to check if Vanessa was okay, she found that the child was alone in the house, which was full of rubbish and empty alcohol containers. Vanessa told her teacher that she was hungry, and hadn't eaten in days. She said that her parents had gone to the pub, and she didn't know when they would be back. Her teacher was alarmed, and immediately phoned TUSLA.

Advise TUSLA as to what steps might be taken to ensure Vanessa's safety. Refer in your answer to case law and legislation, where appropriate.

Sample Answer 4

- *Art.41.2.1 In exceptional cases, where the parents, regardless of their marital status, fail in their duty towards their children to such an extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.*
- *North Western Health Board v WH & WC [2001] 3 IR 635 = state should only intervene in exceptional cases where parents have failed in duty to child*
- *Art.41.4.2. = Vanessa's own views should be taken into account*
- *The Child and Family Agency have a duty to promote the welfare of children who are not receiving adequate care and protection. (S.3, 1991 Act)*
- *Welfare Principle, welfare of child paramount, generally in best interests of child to be brought up in her own family (S.3 1991 Act), should therefore determine whether it is feasible to set up support for family, rather than remove her into care straight away*
- *They may seek a Court Order in relation to Vanessa's care, and may consider applying for an Emergency Care Order, Interim Care Order, Care Order or Supervision Order*
- *Emergency Care Order, S.13 1991 Act, can only be granted if there is immediate and serious risk to health or welfare of child necessitating removal into care of Child and Family Agency. It lasts 8 days*
- *Interim Care Order, S17 1991 Act, will be made where there is an application in place for long-term care order, and reasonable cause to believe that child is subject to abuse or neglect, inc assault and ill treatment, and that it is necessary for child's health or welfare that she be placed in care. Lasts 28 days, and can be extended by 29 days.*
- *Care Order, S.18 1991 Act, will be made where the child has been or is being assaulted, ill-treated, neglected or sexually abused, or the child's health, development or welfare has been or is being avoidably impaired, or the child's health, development or welfare is likely to be avoidably impaired or neglected. Lasts until*

age 18, or such shorter period as Court may deem fit. This allows Child and Family Agency to act in place of parents, and place child in residential care, foster care, or with other relatives.

- If Court does not think Care Order is necessary, it may make Supervision Order instead, under S.19, and allows Child and Family Agency to visit the child, and advise parents. Lasts 12 months.

Question 5

James met John at a music festival in 2016, and the pair got on very well indeed. On the way home, they passed a wedding party at a hotel, and decided that it would be a good idea to get married. James had consumed magic mushrooms, and doesn't really remember the ceremony, but he believes that they asked the man who was solemnising the wedding to marry them. Both boys were 16 at the time. James instantly regretted getting married. He still lives with his parents, and hasn't even spent a night with John, let alone had intercourse with him. In fact, he is hardly in touch with John, who he later found out suffers from heroin addiction, and has been in rehabilitation for the last six months.

Advise James on the possibility of annulling the marriage. You should refer to relevant case law and legislation in your answer, where appropriate.

Sample Answer 5

Decree of nullity may be granted pursuant to an application under S.29 Family Law Act 1995

- *Griffith v Griffith [1944] IR 35 = nullity derives from law of contract*
- *The marriage be deemed void due to lack of capacity and lack of consent.*
- *The couple had not reached the age of majority and did not have capacity to marry pursuant to S31 Family Law Act 1995, therefore the marriage is void on those grounds*
- *Arguably his intoxicated state impacted his ability to understand the nature, purpose and consequences of marriage, and given full and free consent*
- *His immaturity may also affect his capacity to consent*
- *Marriage can be deemed null and void on grounds of fraud, which can arise in relation to concealment of mental illness (MOM v BOC), or voidable due to inability to sustain normal marital relations based on addiction (RSJ v JSJ)*
- *Marriage may be deemed voidable on failure to consummate, unilateral repudiation (S v S [1976 – 1977] ILRM 156)*
- *Arguably both men too immature to sustain normal marital relationship (PC v VC [1992] IR 91)*

Question 6

Article 41.1.1° of Bunreacht na hÉireann '*recognises the Family as the natural primary and fundamental unit group of society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law*'.

Critically analyse the definition of the 'family' in Irish law with reference to the argument for reform of same. You should refer to relevant case law and legislation in your answer.

Sample Answer 6

The State recognises the Family as the primary and fundamental group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

- *The State pledges itself to guard with special care the institution of marriage, on which the family is founded and to protect it against attack.*
- *The State(Nicolaou) v An Bord Uchtála & the Attorney General [1966] IR 576 = The 'family' as referred to in article 41, although not defined in the Constitution, was held to be the family based on marriage between a man and a women.*
- *The constitution does not provide a definition of "marriage" There has been judicial consideration of the issue*
- *Murray v Ireland [1985] IR 532 = Costello J considered the constitutional definition of marriage to be derived from the Christian view of marriage*
- *B v R [1995] 1 ILRM 491 = marriage was and is regarded as the voluntary and permanent union of one man and one woman to the exclusion of all others for life*
- *TF v Ireland [1995] 1 IR 321 = SC accepted Costello's definition of marriage, but also noted that "marriage is a civil contract which creates reciprocating rights and duties between the parties" (emphasis added). This would seem to emphasize the civil rather than the Christian nature of marriage as defined under our Constitution.*
- *T v T [2002] 3 IR 259=marriage itself remains a solemn contract of partnership entered into by a man and a woman with a special status recognised by the constitution. It is one which is entered into, in principle, for life*
- *O'B v S [1984] IR 316 = State may discriminate in favour of marital family*
- *WO'R v EH v An Bord Uachtála [1996] 2 I.R. 248 = de facto family not entitled to protection under Art 41*
- *JMcD v. PL and BM and Attorney General (Notice Party) [2010] 2 I.R. 199 = same sex couple who conceived through sperm donor were de facto family, no constitutional protection*
- *Re JH (an infant), Case E v An Bord Uchtala [1985] IR and N and N v Health Services Executive, G and G and An Board Uachtala [2006] 4 IR 374 ('baby Ann' case) = Rights of the child best served within the marital family unit and the rights of the child could not be assessed independently. Constitutional presumption in favour of the marital family.*
- *Constitutional amendments regarding divorce, and same sex marriage indicate development in public attitude towards institution of marriage and family*