

# **Chapter 6**

## **The Faculty of Law**

# Faculty of Law

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Dean: Professor M Coper

## The Law degrees

The Faculty of Law offers undergraduate programs for the pass degree of Bachelor of Laws and for the degree of Bachelor of Laws with honours. Postgraduate programs in the areas of environmental law, government and commercial law, intellectual property law, international law, and legal practice are also offered.

The Faculty offers supervision of candidates for the degrees of Master of Philosophy, Doctor of Juridical Science and Doctor of Philosophy.

The Legal Workshop, which is part of the Faculty of Law, offers a Graduate Diploma in Legal Practice program to students who have been admitted to, or who have successfully completed the program of study for, the degree of Bachelor of Laws or an equivalent degree at an Australian university or other approved tertiary institution.

### Application for enrolment

Applicants for enrolment in the Faculty of Law must first meet the University's admission requirements. There is a quota, determined from year to year, for new undergraduate enrolments in the Faculty. Admission to the University does not guarantee admission to the Faculty of Law.

Applicants will be advised towards the end of January 2004 whether they have been accepted for entry. Those selected will then be given a time limit in which to notify the University whether or not they wish to take up the offer of a place.

There are no prerequisite school subjects for law studies. An important skill of the intending law student is the ability to write clear, concise and correct English. For prerequisite subjects for combined programs please refer to the entry for the other discipline.

A student admitted to a combined program will be required to complete that study on a full time basis at least for the first year. A student admitted to the LLB or the LLB(G) may elect to undertake either full or part-time study.

### Normal Duration (in years)

	Full Time	Part Time	Max Time
LLB(G)	3	6	10
LLB	4	8	10
Combined	5	n/a	11

### LLB Handbook

More details on undergraduate courses, Faculty policies and procedures are contained in the LLB Handbook <<http://law.anu.edu.au>>.

## The degree of Bachelor of Laws

(Program code 4300)

Changes to the structure of the Bachelor of Laws single degree program were introduced in 2003 allowing more flexibility in course choices. Students may now include up to a year's worth of non-law courses in the degree program with a maximum of 18 units of level 1000 non-law courses. This will enable students to complete a non-law major or coherent sequence of courses.

The curriculum consists of compulsory and elective courses, each worth 6 units (with the exception of Research Paper, worth 12 units) and one semester in length, with 48 units per year being the standard load adopted by the University. The normal load in each semester is 24 units. The compulsory courses are designed to ensure that every student gains a sufficient grounding in the fundamental branches of the law, and the elective courses provide an opportunity to develop particular interests and to deepen understandings.

Students enrolled in a Bachelor of Laws program prior to 1999 should see the LLB Handbook for information about transition arrangements and if necessary consult a program adviser.

In summary, the Bachelor of Laws program consists of the following:

- 12 compulsory courses (named below), worth 72 units;
- 20 elective courses, worth 120 units, which may include the 3 law elective courses required for admission to practice, and may include up to a maximum of 48 units of non-law courses with no more than 18 units of non-law courses at 1000 level.

192 units in total.

Compulsory courses consist of:

Administrative Law LAWS2201  
 Australian Public Law LAWS1205  
 Commonwealth Constitutional Law LAWS2202  
 Contracts LAWS1204  
 Criminal Law and Procedure LAWS1206  
 Equity and Trusts LAWS2205  
 Foundations of Australian Law LAWS1201  
 International Law LAWS2250  
 Lawyers, Justice and Ethics LAWS1202  
 Legal Theory LAWS2249  
 Property LAWS2204  
 Torts LAWS1203

Elective courses required for admission to practice law:

Corporations Law LAWS2203  
 Evidence LAWS2207  
 Litigation and Dispute Management LAWS2244

Not all elective courses are offered each year and the list is subject to change from time to time. Law electives are not studied in the first year and there is no requirement for newly enrolling first-year students to specify the elective courses they intend to study in later years. By the time choice of law electives is required students are usually well informed of the factors which should guide their choices; in any case the Sub-Dean or Student Administration Manager are happy to assist those who need help in choosing electives.

**A full-time student may complete the program in four years. A suggested pattern for Bachelor of Laws students is as follows:**

	First Semester	Second Semester
Year 1 Total 48 units	LAWS1201 Foundations of Australian Law LAWS1203 Torts LAWS1204 Contracts 1 non-law elective course	LAWS1202 Lawyers, Justice and Ethics LAWS2250 International Law LAWS1205 Australian Public Law 1 non-law elective course
Year 2 Total 48 units	LAWS2201 Administrative Law LAWS2203 Corporations Law* LAWS1206 Criminal Law and Procedure 1 Law or non-law elective course	LAWS2202 Commonwealth Constitutional Law LAWS2249 Legal Theory 2 Law elective courses or 1 Law and 1 non-law elective courses
Year 3 Total 48 units	LAWS2204 Property 3 Law elective courses or 2 Law and 1 non-law elective courses	LAWS2205 Equity and Trusts 3 Law elective courses or 2 Law and 1 non-law elective courses
Year 4 Total 48 units	LAWS2244 Litigation and Dispute Management* 3 Law elective courses or 2 Law and 1 non-law elective courses	LAWS2207 Evidence* 3 Law elective courses or 2 Law and 1 non-law elective courses
Program Total 192 units		

\* Elective course required for admission to practice

### The degree of Bachelor of Laws for graduates of other disciplines

(Program code 4303)

Graduates of non-law disciplines may apply to undertake a shortened program referred to as the LLB(G) program. In summary the LLB(G) program consists of the following:

- 12 compulsory courses, worth 72 units;
  - 12 law elective courses, worth 72 units, which may include the 3 elective courses required for admission to practice.
- 144 units in total.

The LLB(G) program is intended to be completed in three years full-time or equivalent part-time.

The Faculty is conscious that students taking the law program for graduates of other disciplines have a more concentrated program of study than other law students. Part-time students in this program particularly face greater difficulties than other students. They have to undertake a workload of up to eight class hours a week. Students also need to devote a considerable amount of time to reading, private study and written exercises. Intending students are therefore urged to consider all their commitments very carefully before applying and, more especially, before accepting the offer of a place in the law program for graduates of other disciplines. See also the section on 'Workloads' below, including the timetabling of classes.

### The standard pattern of subjects for full-time students taking the LLB(G) program is:

	First Semester	Second Semester
Year 1 Total 48 units	LAWS1201 Foundations of Australian Law LAWS1203 Torts LAWS1204 Contracts LAWS1206 Criminal Law and Procedure	LAWS1202 Lawyers, Justice and Ethics LAWS1205 Australian Public Law LAWS2250 International Law LAWS2249 Legal Theory
Year 2 Total 48 units	LAWS2201 Administrative Law LAWS2203 Corporations Law* 2 Law elective courses	LAWS2202 Commonwealth Constitutional Law 3 Law elective courses
Year 3 Total 48 units	LAWS2204 Property LAWS2244 Litigation and Dispute Management* 2 Law elective courses	LAWS2205 Equity and Trusts LAWS2207 Evidence* 2 Law elective courses
Program Total 144 units		

\* Elective course required for admission to practice

This first year load is heavy, and full-time LLB(G) students may consider taking only six courses in first year. They should then seek course advice about how to complete within the standard time frame.

### Previous law studies

A student who enrolls in an ANU LLB degree after completing law studies at another university may only be granted status for up to half of the courses prescribed for the ANU degree. A student may not repeat in the LLB program a course the syllabus of which is substantially similar to that of a subject passed for the award of another degree or diploma.

With respect to combined degree programs, a newly enrolling graduate whose previous degree studies included law courses (eg a degree of Bachelor of Jurisprudence or a degree in Arts, Economics, Commerce or Science undertaken as part of a combined degree program with law) will not always be enrolled in the three-year LLB(G) program. Instead, enrolment may be in the four-year LLB program, with status for ANU law courses which the Faculty deems to be equivalent to law courses previously passed and, if necessary, with additional status for unspecified elective courses such that the graduate may, without an unduly heavy work load, complete the requirements of the LLB degree in the equivalent of a further two years of full-time study. The intention of this provision is to treat the graduate who has undertaken sufficient law studies in the previous degree in a manner similar to a student enrolled ab initio in an ANU five-year combined degree program.

## The degree of Bachelor of Laws with honours

What follows is a summary only. Detailed information is contained in the LLB Handbook and in the policy paper available on the web at <http://law.anu.edu.au/Undergraduate/Administration.html>. In particular, students who have completed part of their law studies at a university other than the ANU should consult these documents.

The length of the program of study for the degrees of Bachelor of Laws and Bachelor of Laws with honours is the same. The degree may be awarded at first class; second class, division A; or second class, division B level.

The final honours examination comprises two parts, Part A and Part B. Part A constitutes 70% of the final honours mark and consists of the law courses taken as part of the pass degree program. Part B constitutes 30% of the final honours and mark and consists of a research paper of between 9,000 and 11,000 words. Additional requirements include completion of LAWS3201 Research Methodology.

### Combined programs

The University offers combined programs in the Faculties of Arts and Law, Asian Studies and Law, Economics & Commerce and Law, Engineering & Information Technology and Law, Science and Law and NITA School of Music and Law. A student may gain two degrees in five years of full-time study by taking one of the following combinations:

Bachelor of Actuarial Studies and Bachelor of Laws;  
 Bachelor of Arts and Bachelor of Laws;  
 Bachelor of Asian Studies and Bachelor of Laws;  
 Bachelor of Commerce and Bachelor of Laws;  
 Bachelor of Economics and Bachelor of Laws;  
 Bachelor of Finance and Bachelor of Laws;  
 Bachelor of Information Technology and Bachelor of Laws;  
 Bachelor of Music and Bachelor of Laws;  
 Bachelor of Science and Bachelor of Laws;  
 Bachelor of Science (Resource and Environmental Management) and Bachelor of Laws  
 Bachelor of Science (Psychology) and Bachelor of Laws

or in a period of six years full-time study:

Bachelor of Asian Studies (Specialist) and Bachelor of Laws.

The Faculty of Law encourages students other than graduates to take one of these combined programs. One of the reasons is to widen the student's education and understanding by studying society from a viewpoint outside that of legal scholarship. Please refer to the Combined Programs section of this Handbook.

### Law Internship

The Faculty has approved a course that enables students in their ultimate or penultimate years of the law program to obtain an internship with a senior law professional. Students are placed in a professional workplace (for example a law firm, a court, a government agency or a non-government organisation) to complete a 6000-word research paper on an agreed topic under the supervision of a workplace lawyer. Internships may also be available to work with members of the Faculty on projects of an applied nature. Successful completion results in the credit of an elective course towards a law degree.

Students from universities other than the ANU, in Australia or overseas, are welcome to enrol, either as part of a broader

program or for the internship alone. Enquiries should be directed to the Faculty Office.

## General Information

### Workloads

The Faculty suggests the number and order of courses, compulsory or elective, which a student may take in any year. Generally a full-time student will have a contact workload of 16 hours a week and a part-time student 8 hours.

Lectures are usually timetabled within the period 8 am to 6 pm. Part-time students should, therefore, ascertain before they register their enrolment or apply to re-enrol whether they will be able to obtain leave of absence from their employment to attend lectures.

Students should be aware that varying their enrolment might have implications for their Austudy/Youth Allowance eligibility. It is the students' responsibility to ensure that their program load is full time in each semester.

### Summer and Graduate Employment

An interview scheme for summer and graduate employment is conducted during the year for students in their penultimate and final years of study. The participating employers include the major Sydney corporate law firms, a diverse range of middle-sized and smaller firms in Sydney, Canberra and other areas, and public authorities of the Commonwealth, New South Wales and the Australian Capital Territory. The Sydney part of the scheme involves cooperation with law schools in NSW.

The scheme provides a standard application form and period for interviews for which the Careers Centre in liaison with the Faculty acts as coordinator and conduit and encourages participating employers to provide information to students by way of written profiles and Careers Day presentations.

Information about participating employers, dates for employer presentations, and deadlines for student applications is available from the Careers Centre.

### The ANU Law Students' Society

The ANU Law Students' Society is a student organisation to which all law students are eligible to belong. Its program is directed by a committee elected by student vote in the third term of each year.

Throughout the year the Society sponsors a number of extra-curricular academic activities, such as talks by leading members of the profession, debates and career forums, and an extensive social program.

Perhaps the Society's most important function is its contribution to staff/student relations. Members of the Society sit on Faculty committees that meet regularly to discuss matters of mutual concern and to consider suggestions from the students.

The Law Society has an office on the Ground floor. Messages may be left in the letterbox.

### Undergraduate Studies Committee

The Undergraduate Studies Committee consists of nine staff members and five students. It considers and advises the Faculty of Law on educational and curriculum matters relating to law programs, including the means of assessment in each course.

## Faculty Officers

At the head of the Faculty is the Dean, assisted by Associate Deans (one of whom is designated the Sub-Dean) and the Faculty Executive Officer. Students should speak to the Student Administration Manager in the Faculty Office in the first instance on matters concerning degree rules, regulations, programs and general administration. Members of the teaching staff are always willing to advise students on problems arising from the programs in general or from particular subjects.

## Academic performance

Academic performance is monitored by the Director, Student and Academic Services. See the General Information section of this Handbook.

## Admission of ANU graduates to legal practice

The Bachelor of Laws degree of the University is recognised for admission in the ACT and NSW so long as students cover all the courses required under the Uniform Admission Rules. As well as the compulsory courses in the Bachelor of Laws degree, these Rules require Evidence, Litigation and Dispute Management, and Corporations Law for admission followed by a practical legal training program such as the Legal Workshop (see below). When graduates apply for admission to practice they will need to give evidence of having completed the courses prescribed by the Uniform Admission Rules. This evidence is usually in the form of a certificate by the Dean of Law. Inquiries concerning direct admission to practice in other jurisdictions should be directed to the Sub-Dean.

Once admitted to practice in any state or territory of Australia, graduates are entitled to be admitted in all other states and territories of Australia. They may also have their names entered on the High Court register, which entitles them to practice in all Federal jurisdictions.

For admission to some courts, but not others, it may be necessary to be an Australian citizen or a British subject. Students with any doubts on their eligibility for admission should consult the Secretary of the appropriate Admission Board as early as possible.

## Legal Practice Program

The Legal Workshop offers the Graduate Diploma in Legal Practice (GDLP). Students can choose from several formats for the GDLP:

- full-time attendance over five months
- a part-time option involving one, two or three week attendances over a period of up to three years
- a flexible option involving two-week attendances with a series of distance modules, usually over the period of one year
- a reduced, "In Practice" version of the program for approved placements of 80, 60 or 40 days.

Students who have graduated or qualified to graduate as Bachelor of Laws from an Australian university or diplomats of the Solicitors Admission Board of New South Wales are eligible to enrol. The GDLP can be credited towards an LLM (Legal Practice).

Details of the programs are in a separate brochure obtainable from <http://law.anu.edu.au/legalworkshop> or from the Legal Workshop, Faculty of Law.

The program provides common training for all practitioners, whether they ultimately propose to practice as barristers or

solicitors or both. It consists mainly of instruction in common legal office procedures and skills training followed by a work program of exercises and simulated legal transactions, for students to practice procedures and skills. The GDLP includes trust accounts and legal ethics courses that the Uniform Admission Rules require for admission.

## Law Library

The Law Library, as part of the ANU Library system, provides access to a wide range of legal material in both print and electronic form. The library houses a significant collection of cases, legislation, books and journals that is both supportive of academic research and relevant to the program curriculum offered by the Faculty of Law. In addition to the traditional print collection, legal resources are also available to ANU staff and students through legal databases such as LEXIS and via the internet.

Law library staff are pleased to provide assistance in using all aspects of the law collection and offer a variety of training sessions on accessing legal databases and undertaking legal research.

## Compulsory Courses and Courses Required for Admission to Practice

### Administrative Law (6 units)

LAWS2201

Later Year Course

First semester

Four hours per week

Coordinator: Robin Creyke

Prerequisites: Australian Public Law LAWS1205

Syllabus: This course examines the legal framework for controlling decision-making by Commonwealth, State and local government agencies in Australia. The focus of the course is upon the legal restraints upon government, and the way in which the principle of government accountability is maintained. Particular attention is paid to the role played by courts, tribunals, Ombudsman and other agencies in reviewing government decision-making, and to the opportunities available to the public to question government activity. Control of government information practices is another distinct theme. The course covers the core administrative law material required for admission purposes and for work in the area of law and government. The following topics will be covered:

- theories of administrative justice;
- accountability in an administrative state;
- the administrative law framework for review of government decision-making;
- concepts of administrative and judicial review;
- judicial review principles;
- administrative review principles;
- standing;
- remedies;
- other administrative law avenues including information access rights; ombudsman; human rights bodies.

Proposed Assessment: A 10% compulsory short answer examination, a 2500-word optional essay; and a two and a

quarter hour examination with three questions in the semester examination period

Preliminary Reading

The reading timetable will be announced in class

Prescribed Text

Reading materials issued by the Law Faculty

In a combined degree, this course will be taken in third year.

### Australian Public Law

**LAWS1205**  
**(6 units)**

First Year Course

First and Second Semester

Second Semester for LLB and LLB(G) students only (not available for students in combined degree programs)

Three hours per week

Coordinator: Amelia Simpson First Semester

Matthew Zagor Second Semester

Prerequisites: None

Syllabus: This course examines the structure and themes of Australian public law, and in that way provides a bridge to all other public law study in the curriculum. In essence, the course examines a prominent feature of the Australian legal system, namely how power is structured, distributed, and controlled in Australia. The distinctive roles played by the legislature, the executive and the judiciary receive special attention. Subsidiary themes in the course are protection of individual rights in the Australian legal system, and constitutional change and evolution in Australia. The following topics will be covered:

- the constitutional and legislative framework for Australian public law;
- major concepts and themes in Australian public law, including federalism, separation of powers, representative democracy, rule of law, and liberalism;
- the Legislature, including the structure of Australian legislatures, parliamentary supremacy, and express and implied constitutional limitations on legislative power;
- the Executive, including the structure of Executive government, executive power, and liability of the Crown;
- the Judiciary, including the constitutional separation of judicial power, and the administrative law implications of judicial separation;
- constitutional change and evolution, including constitutional amendment.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

- T Blackshield and G Williams Australian Constitutional Law & Theory: Commentary and Materials (3rd ed, 2002).

This course together with Commonwealth Constitutional Law, covers the essentials of Australian Constitutional Law. At the same time this course builds on Foundations of Australian Law, particularly the reception of law in Australia and the historical evolution of responsible and representative government, and also serves as an introduction to Administrative Law and to a number of the courses in the elective program. It must be taken early in a law degree.

### Commonwealth Constitutional Law

**LAWS2202**  
**(6 units)**

Later Year Course

Second semester

Four hours per week

Coordinator: Fiona Wheeler

Prerequisites: Australian Public Law LAWS1205

Syllabus: Building on previous public law studies, particularly Australian Public Law, this course aims to deepen student understanding of key aspects of the Commonwealth Constitution and its judicial interpretation by the High Court. Particular attention will be paid to the historical, social and institutional forces which have helped shape the Constitution and the High Court's reading of it. The course includes:

- the historical, social and institutional context of Australian constitutional law;
- the scope of Commonwealth legislative power, including a detailed examination of the trade and commerce power (s.51(i)), the corporations power (s.51(xx)) and the external affairs power (s.51(xxix)); the process of characterisation and the principle in the Communist Party Case;
- inconsistency between Commonwealth and State laws (s.109);
- federal financial powers and economic union;
- general principles and theories of interpretation; the Engineers Case and implied intergovernmental immunities;
- an introduction to implied constitutional 'rights';
- the nature of judicial review and the role of the High Court.

Proposed Assessment: It is anticipated that this course will be assessed by a compulsory end of semester exam and some form of mid-semester assessment.

Preliminary Reading

Not required

Prescribed Text

- Blackshield and Williams, Australian Constitutional Legal Theory - Commentary and Materials, (3rd ed, 2002).

Students should also note that Administrative Law is no longer a corequisite for this course. However it is desirable that, if possible, students take Administrative Law before, or at the same time as, this course.

### Contracts

**LAWS1204**  
**(6 units)**

First Year Course

First and Second Semester

First Semester for LLB and LLB(G) students only (not available for students in combined degrees)

Four hours per week

Coordinator: Anne McNaughton First Semester

Shae McCrystal Second Semester

Prerequisites: None

Syllabus: The Contracts course is one of the foundation subjects in the law course and examines a central aspect of the law of obligations. The evolution of contract, its central role in a market economy and the criteria for making legally enforceable promissory obligations are explored before embarking on the requirements for the formation of contract. The content of agreements and the associated rules and doctrines for ascertaining the meaning and scope of the obligations expressly or impliedly undertaken by the parties is discussed. The invasion of

contract by new rules, in particular estoppel and the prohibition on misleading or deceptive conduct, makes it clear that the commercial relationship is multi-faceted and that the study of contract law ranges more widely than the traditional rules. Equitable doctrines, such as duress, undue influence and unconscionability as excuse areas for escaping contractual commitment, are examined. The course finishes with breach and its consequences, including a discussion of the common law and equitable remedies.

Proposed Assessment: Tutorial participation, a written tutorial assignment and an exam at the end of the semester .

Prescribed Text

• A Heffey, J Paterson and P Hocker, *Contract: Commentary and Materials* (9th ed 2003) supplemented by materials prepared in the Faculty.

This course is taken in the second semester of first year for all combined degree students. Students undertaking LLB(G) or non-combined LLB will study Contracts in the first semester of first year.

### **Corporations Law**

**LAWS2203  
(6 units)**

Later Year Course

First semester

Four hours per week

Coordinator: Anthony Forsyth

Prerequisites: Contracts LAWS1204

Syllabus: This course imparts an understanding of Australian corporate law. The course is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories. The following topics will be covered:

- incorporation and the concept of separate legal personality;
- the corporate constitution;
- membership of the corporation and share capital;
- corporate contracting;
- duties and liabilities of directors and officers;
- basic features of the management of companies;
- shareholders' remedies;
- company credit and security arrangements; and
- winding up.

Proposed Assessment: Assessment will be a combination of written assignments and a final examination.

Preliminary Reading

None

Prescribed Text

• Tomasic, Bottomley and McQueen, *Corporations Law in Australia* 2nd ed, February 2002 (Federation Press). *Corporations Act* 2001.

This course is a prerequisite for Takeovers and Securities Industry Law. Corporations Law is normally taken in either 3rd or 4th year of a combined degree.

### **Criminal Law and Procedure**

**LAWS1206  
(6 units)**

First Year Course

First semester

Four hours per week

Coordinator: Simon Bronitt

Prerequisites: None

Syllabus: A student who successfully completes the course should have:

- a sound knowledge and critical understanding of the relevant legislation and case law;
- an ability to apply this knowledge and understanding in such a way as to identify the legal issues presented by a factual problem; and
- a familiarity with the important debates about the purpose of the criminal law and the fundamental concepts it embodies.

Topics will include: the nature and purposes of criminal law, theories of criminal culpability; elements of criminal offences; offences against the person (including homicide, assaults, sexual offences); offences against property; complicity; and the law of criminal procedure.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences..

Preliminary Reading

• S Bronitt and L B McSherry *Principles of Criminal Law* (2001), Chapters 1 and 2.

Prescribed Text

• S Bronitt and B McSherry, *Principles of Criminal Law* (2001), Chapters 1 and 2. A detailed course outline will be issued and brick of cases.

This is a foundation course in the Law degree.

### **Equity and Trusts**

**LAWS2205  
(6 units)**

Later Year Course

Second semester

Four hours per week

Coordinator: Pauline Ridge

Prerequisites: Property LAWS2204

Syllabus: The objective of the course is to provide students with an overall understanding of the law of equity with special emphasis on fiduciary obligations, trusts, equitable assignment of property and equitable remedies. The course will examine:

- the history of equity, basic principles which dominate its jurisprudence and the relevance of equity today;
- the nature of fiduciary obligations, recognised categories of fiduciaries and the extension of these categories in recent times, breach of fiduciary obligations, defences and remedies for the breach of fiduciary obligations;
- the nature and changing function of trusts, the creation of express trusts, the variation and termination of trusts, illegality, the duties, powers, rights and liabilities of trustees, the rights of beneficiaries;
- equitable proprietary and personal remedies including the liability of a third party to a breach of trust or fiduciary duty, resulting trusts, constructive trusts, tracing, specific performance, injunctions, equitable compensation and damages under Lord Cairns' Act;
- equitable assignment of property.

Proposed Assessment: An optional essay, an optional mid-semester exam and an end of semester exam.

Prescribed Text

- J D Heydon and P L Loughlan, *Cases and Materials on Equity and Trusts* (6th ed, Butterworths 2002).

Helpful texts are:

- R P Meagher, W M C Gummow and J R F Leane *Jacob's Law of Trusts in Australia* (6th ed, 1997), R P Meagher, D Heydon and M Leeming, *Equity, Doctrines and Remedies* (4th ed, 2002),
- P Parkinson, *The Principles of Equity* (2nd ed, 2002),
- R Radan, C Stewart and A Lynch, *Equity and Trusts Butterworths Tutorial Series* (2001), Michael Evans *Equity and Trusts* (2003).

This course assumes a knowledge of contract, property and legal history. The subject reinforces and deepens understanding of specific doctrines referred to in other courses such as Contracts, Property, Corporations Law and Family Law.

## Evidence

### LAWS2207 (6 units)

Later Year Course

Summer and Second Semester

Coordinator: Peter Bayne

Prerequisites: Torts LAWS1203 and Criminal Law and Procedure LAWS1206

Syllabus: Participants should gain a good understanding of the basics of the law of evidence as it is stated in the Evidence Act 1995 (Cth). The course is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories.

The course will begin with a consideration of the process of fact-finding, the concept of relevance (including tendency and co-incidence evidence), and the judicial discretions to exclude evidence. It will then turn to documentary evidence, opinion evidence and the hearsay rule and its exceptions. Topics relating to the course of the trial will be a major focus. Other topics will include the onus and standard of proof, the position of a defendant in a criminal trial, the question of illegally obtained evidence and the admissibility of admissions in criminal matters.

Proposed Assessment: Part way through the course there will be a redeemable exam. The mark awarded will count as 33% of the final mark. The mark awarded to a particular student will, however, be taken into account in the assessment of the final mark only if it would improve that final mark.

There will be an examination in the regular exam period at the end of the semester, and the mark awarded will count as 67% or 100% of the final mark.

Preliminary Reading

There are no simple introductory books on Evidence. I suggest you read accounts of trials if you want to get a feeling for the subject. There are dozens of such books - you can find them in the True Crime sections of bookshops. A good one (which is now out of print) is G Hawkins (ed) *Beyond Reasonable Doubt* (1977). The Law Library has the videos of the TV series to which this book relates. You could just watch the videos. Some crime fiction is very good. The books by John Grisham (and the films) are generally a good description of law practice and some focus on the trial. *Presumed Innocent*, the book by Scott Turow, is very faithful to the trial process, and although the process in the USA is a bit different to ours, it does not differ that much. The film is also very good.

Prescribed Text

- Peter Bayne, *Evidence Law under the Uniform Acts* (Federation Press, 2003).

The course is designed to be taken towards the end of the degree, when students are approaching the point where they may be entering professional practice.

## Foundations of Australian Law

### LAWS1201 (6 units)

First Year Course

First and Second Semester

In every week there will be a one-hour lecture and a two-hour seminar. In some weeks there will also be a one-hour library tutorial.

Coordinator: Fiona Wheeler First Semester

Liz Allen Second Semester

Prerequisites: None. This course must be completed at the beginning of the LLB.

Syllabus: This course is a foundational course and must be completed at the beginning of the degree. It is designed:

- to acquaint students with the various elements of the Australian legal system, including constitutions, case law, legislation and customary law;
- to consider the historical, social, economic and political context in which the Australian legal system has developed;
- to introduce students to various techniques and methods of legal analysis and legal research;
- to teach students to evaluate critically legal and contextual material; and
- to introduce students to the art of legal writing in its various forms.

The broad aim of this course is to provide students with an introduction to Australia's rich legal tradition, and to help them acquire the skills needed to succeed in the study of law. Stated another way, Foundations of Australian Law is intended to lay the groundwork for the remainder of one's legal studies. Topics to be covered include: legal history and the common law tradition; the modern-day elements of the legal system and their interplay; the concepts of responsible government and the rule of law; the role and powers of the legislature; federalism; case law and legislation; legal reasoning and problem solving; the position of Indigenous Peoples within the legal system. This course is informally "twinned" with LAWS1203 Torts in semester one and LAWS1204 Contracts in semester two. It is strongly recommended that students enrolled in Foundations of Australian Law simultaneously undertake the relevant companion course.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Preliminary Reading

- C Cook, R Creyke, R Geddes and I Holloway, *Laying Down the Law* (5th ed, 2001), Chapter 1.

Prescribed Text

- C Cook, R Creyke, R Geddes and I Holloway, *Laying Down the*

Law (5th ed, 2001). Second hand copies may be available, but students should check that they purchase the correct edition. A second textbook may also be prescribed. These books will be supplemented by materials prepared by the Faculty, and by information posted on the Faculty of Law website. Students should check the Faculty of Law website regularly. In particular, the Foundations of Australian Law webpage, available via the Faculty website, will be essential for students doing this course.

### **International Law**

**LAWS2250  
(6 units)**

Later Year Course  
Second semester  
Two to four hours per week  
Coordinator: Andrew Byrnes

Prerequisites: None

Syllabus: No major area of Australian law remains unaffected by international law, so an understanding of international law is essential for any legal practitioner in the twenty-first century. Given this vast scope, this course does not seek to cover all aspects of international law. Instead it aims to offer an introduction to the main principles and substantive elements of the international legal system, both for those students who will go on to study some of the many international law electives available in the Faculty and for those who intend to study and practise in other fields. The course seeks to achieve these objectives by clarifying the institutional framework, theoretical bases and processes of the international legal system and then applying them, in a practical way, both to Australian law and to some specific fields of international law.

Accordingly, the course is designed to enable students to:

- identify, locate and evaluate the principles of international law;
- appreciate how the international legal system operates in practice and its effect on the Australian legal system;
- understand the language and methodology of international law;
- analyse international legal issues;
- become familiar with the different theoretical bases of international law.

Proposed Assessment: The final assessment scheme will be settled after consultation with students. It is likely to involve a number of elements, including an end of year open-book examination/and a compulsory non-redeemable assignment (including some multiple-choice questions).

#### **Preliminary Reading**

Students are encouraged to read the first two chapters of Antonio Cassese, *International Law* (OUP, 2001). These will be made available on electronic reserve.

Prescribed Text  
To be advised

There are no prerequisites for studying International Law. It offers a significant foundational framework for the study of: International Criminal Law, Law of the Sea, International Dispute Resolution, International Environmental Law, International Human Rights Law, International Trade Law, and any other specialised international law unit, and provides the substantial grounding needed for participation in the Jessup Moot.

### **Lawyers, Justice and Ethics**

**LAWS1202  
(6 units)**

First Year Course  
Second semester  
Three hours per week  
Coordinator: Russell Hogg

Prerequisites: None

Incompatible: Law in Context

Syllabus: Whereas law is commonly studied as a body of doctrine or rules, Lawyers, Justice and Ethics makes a critical and contextual examination of legal process, legal practice, and the legal profession.

The course is designed:

- to impart an awareness of the social, political and economic contexts of legal practice, litigation and statutory law-making;
- to generate insight into the realities and diversity of legal practice;
- to examine the nature of legal processes and procedures and the limitations on access to the legal system;
- to investigate the structure and workings of the legal profession from a political and sociological, as well as functional, perspective;
- to explore the ethical dimension of legal practice and the various forms of regulation of professional conduct;
- to introduce students through simulations and role playing to skills required for working in a legal setting, particularly in relation to clients, including interviewing, legal writing, negotiation and advocacy.

Proposed Assessment: It is proposed that there be a component of the mark for seminar work, a mid-semester assignment, and an examination at the end of the course.

#### **Prescribed Text**

A detailed Course Outline and Reading Materials will be issued. There is a prescribed book for seminar skill exercises: R Hyams, S Campbell and A Evans, *Practical Legal Skills* (1998).

Practitioners will give guest lectures.

This course is taken in second semester of first year. Most students will have completed Foundations of Australian Law and Torts and will also be studying Contracts. Examples and case studies in Lawyers, Justice and Ethics will draw on both familiar and new material.

### **Legal Theory**

**LAWS2249  
(6 units)**

Later Year Course  
Second semester  
Three hours per week  
Coordinator: Leighton McDonald

Syllabus: This course explores a number of important theoretical issues concerning law. These issues include the nature and function of law in modern societies, the nature of citizens' obligations under law, the nature of legal reasoning and the interpretation of legal texts, the relationship between law, power, justice and democracy and the capacity of the law to provide for gender, cultural and other forms of difference. The course proceeds by way of a critical examination of the leading contemporary schools of thought about law and legal issues. In the course of this examination, specific attention may

be paid to the perspectives of these schools on such topical issues as civil disobedience, freedom of speech and indigenous sovereignty.

Its objectives are:

- to familiarise students with the main types of descriptive, justificatory and critical argumentation about law and legal systems;
- to develop students' ability to engage in reflective and critical thinking about the law;
- to enable students to appreciate the theoretical background of legal decisions and policy analyses;
- to enable students to read cases thoughtfully, critically and with an awareness of current interpretive practice and theory.

Proposed Assessment: Examination (closed book) two questions, two hours 60%. Essay (1200 words) based on seminar presentation 20%. Seminar presentation (10 Minutes) and discussion of presentation 10%. Seminar attendance and participation 10%.

Preliminary Reading

- J W Harris, *Legal Philosophies* (2nd ed), Butterworths 1997.

Prescribed Text

Required reading is contained and recommended reading is listed in the course materials.

This course builds on Foundations of Australian Law, and Lawyers, Justice and Ethics. It presupposes that students have some legal knowledge through the study of a central area of law, such as Torts or Constitutional Law.

## Litigation and Dispute Management LAWS2244 (6 units)

Later Year Course

First semester

Two to four hours per week and a one-day weekend workshop

Coordinator: Peta Spender

Prerequisites: Torts LAWS1203 and Contracts LAWS1204

Syllabus: This course is an introduction to the principles of dispute resolution focussing upon mediation and civil litigation. The coverage of litigation will reveal the principles underlying civil procedure in superior courts. There will be a consideration of the interlocutory steps in civil litigation as well as appropriate tactics and ethical considerations.

The course is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories. Students will be encouraged to develop practical skills through an intensive workshop in mediation and a litigation case study in tutorials.

Topics to be covered include:

- dispute resolution within the legal system;
- confidentiality and power imbalances in dispute resolution;
- mediation procedures;
- when and how to commence proceedings in court;
- urgent applications; and
- class actions and public interest litigation.

Proposed Assessment: The assessment will include an optional written assignment and a final exam.

Prescribed Text

Rules of the Supreme Court of the Australian Capital Territory.

Recommended text: S. Colbran et al, *Civil Procedure: Commentary and Materials*, 2nd Edition, Butterworths, 2002.

In the first 6 weeks of semester, lectures will be held 4 hours per week. From weeks 7 to 13, there will be 2 hours of lectures. In addition, from Weeks 8 to 13, students should attend a tutorial for 1 hour per week. Students are also obliged to attend a one-day (8 hours) dispute resolution workshop. The dispute resolution workshop is generally scheduled on a weekend, so students should take this commitment into account when enrolling in the course.

Provided the prerequisite subjects have been taken, students may enrol in this course at any time. However, because the course deals with many practical issues in litigation, students might enjoy the course more if it is undertaken late in their degree.

## Property

**LAWS2204  
(6 units)**

Later Year Course

First semester

Four hours per week

Coordinator: Phillipa Weeks

Prerequisites: Contracts LAWS1204

Syllabus: The course is designed

- to examine basic concepts and principles of property law relating to personal and real property, with greater attention to interests in land;
- to examine the role of property law in providing tools for commercial and private property dealings, including transfers, financing loans, leasing land, sharing ownership, and regulating land use;
- to examine the values and policy considerations in the legal regulation of such property transactions, including efficiency, security, certainty, equity and social justice;
- to acquire skills in problem solving in relation to property disputes.

This course provides an overview of the law governing personal and real property, emphasising the concepts of possession and title, the fragmentation of proprietary interests, and the various ways in which common law and legislation resolve disputes between competing interests. The greater part of the course is devoted to the creation, acquisition, attributes, and remedies for the protection, of interests in real property (land). The course covers legal and equitable interests in land, the acquisition and transfer of such interests by purchase and adverse possession, priority rules, leases, mortgages, easements, and concurrent ownership. Particular attention is paid to the Torrens system of registration of title.

Proposed Assessment: An optional examination mid-semester, worth 33.3% of the mark for the course, and an end-of-semester examination worth 66.6% or 100% of the mark. Exam preparation and revision sessions will be offered.

Preliminary Reading

- F H Lawson and B Rudden, *The Law of Property* (2nd ed 1982) is excellent.

Prescribed Text

A casebook is prescribed: M Neave, C Rossiter and M Stone, *Sackville and Neave Property Law Cases and Materials* (6th ed 1999). A detailed Course Outline will be issued.

Property assumes a sound grasp of contract principles and remedies. Equity and Trusts is a compulsory course which follows on from Property. Elective courses which deal further with personal property are Commercial Law and Intellectual Property, Succession, Environmental Law and Indigenous Australians and the Law build on principles established in Property.

Property is not a course in conveyancing, which is covered in Practical Legal Training courses.

## Torts

**LAWS1203  
(6 units)**

First Year Course  
First semester  
Four hours per week  
Coordinator: To be advised

Corequisites: Foundations of Australian Law LAWS1201

Syllabus:

- to provide knowledge and understanding of the tort of negligence and other related areas of the law of torts;
- to gain an insight, from the perspective of a particular branch of the law, into the way in which the law develops, and the advantages and disadvantages of judicial development of the law.

The tort of negligence is the principal means by which the law provides compensation for a loss caused by another's carelessness, whether that loss be physical injury, damage to property, or financial harm. This course focuses on personal injuries and examines the torts of negligence and trespass in this context. A study is made of the essential features of the tort of negligence, the way in which the tort is applied in particular situations, and the principles by which damages are assessed for one who has suffered personal injury by another's negligence. A further subject of study is the torts relating to trespass to the person - battery, assault and false imprisonment, as well as trespass to land.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

- H Luntz and D Hamblly, *Torts: Cases and Commentary* (5th ed 2002). Supplemented by materials prepared in the Faculty.

This course is taken in the first semester of first year.

## Elective Courses

### Banking and Finance

**LAWS2208  
(6 units)**

Later Year Course  
Not offered in 2004  
Prerequisites: Contracts LAWS1204

Syllabus: The course deals with the legal aspects of banking and finance transactions in a dynamic way which balances theoretical perspectives, business context and the principles contained in statutes, cases and commercial custom.

The course begins by discussing the role that banks play in the economy and the legal regulation of banking activity. It focuses on financing and payment facilities in a commercial setting. It covers conventional financing methods, such as bank term loans and bond issues, as well as modern methods such as loan syndication and participation. The specific topics covered include bill facilities, promissory note issues, commercial and standby letters of credit, and bank guarantees. The payment facilities covered include cheques and large-value electronic payments. Finally the course deals with selected topics on the banker-customer relationship which complement the study of financing and payment services.

This is a Commercial Law elective, which assumes knowledge of contract. Students will gain more from the course if it is undertaken after Commercial Law, but the only prerequisite is Contracts.

### Bankruptcy and Insolvency

**LAWS2209  
(6 units)**

Later Year Course  
First Semester  
Three hours per week  
Coordinator: Kent Anderson

Prerequisites: Corporations Law LAWS2203

Syllabus: This course deals with the law relating to personal and corporate insolvency. This will include examination of the Bankruptcy Act 1966 (Cth) and part of the Corporations Act 2001 (Cth).

With regard to personal insolvency (ie bankruptcy), the topics to be covered include the initiation and termination of the bankruptcy process; the functions and powers of the trustee in bankruptcy; the ascertainment of debts; the determination of the assets available for distribution to creditors, and alternatives to formal bankruptcy.

The topics to be covered in relation to corporate insolvency include voluntary administration; the initiation of the winding-up process; the effects of winding-up; the proof and ranking of creditors' claims; and the appointment, powers, and duties of liquidators.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

There is no textbook for this subject, however, you may wish to consult A Keay & M Murray, *Insolvency: Personal and Corporate*

Law and Practice. All required reading will be in the course material or accessible via the internet.

This is a commercial law elective course, therefore, Corporations Law, Commercial Law, Banking and Finance, and Property will all be helpful. However, the course will be taught with no assumption of having taken these courses other than Corporations Law.

### Commercial Law

### LAWS2210 (6 units)

Later Year Course

First Semester

Three hours per week

Coordinator: Shae McCrystal

Prerequisites: Contracts LAWS1204

Corequisites: Property LAWS2204

Syllabus: Commercial Law aims to provide students with a grounding in the law applicable to common commercial transactions. Commercial Law builds upon the principles studied in Contracts by examining the regulatory framework that impacts upon contracts entered into by parties in both a commercial and consumer context. Many common commercial and consumer contracts involve personal property and the course will also examine the framework for the regulation of interests in personal property.

The subject may also involve a selection of the following topic areas:

- Agency
- Sale of Goods
- Consumer Credit
- Insurance
- Property Security
- Bailment

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

• G Pearson and S Fisher Commercial Law: Commentary and Materials (1999). A short reading brick may also be issued during semester.

This course provides essential background for advanced commercial law courses.

### Comparative Legal History

### LAWS2211 (6 units)

Later Year Course

Second Semester

Three hours per week

Coordinator: Simon Bronitt

Prerequisites: None

Syllabus: This course has four objectives: to introduce students to the use of history as a tool for legal analysis; to introduce students to the comparative legal method; to increase students' depth of understanding of the legal system; and to increase students' proficiency at writing and research.

The course takes as its focus the experience of Australia and Canada, the two most similar of the settler colonies established by Great Britain in the latter half of the eighteenth century. After an introduction to historical comparative method, topics will include: patterns of reception of English law in the colonies; the development of colonial legal institutions; constitutional evolution and growth to nationhood; crime, punishment and policing; anti-discrimination law; gender, family and the law; Indigenous peoples and the law; and trade unionism and industrial relations.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Note: This course is jointly taught with the University of British Columbia and the University of Victoria (Canada).

Prescribed Text

None. A wide range of materials are available on line.

### Conflict of Laws

### LAWS2212 (6 units)

Later Year Course

Second semester

Two hours of lectures per week, and a one-hour tutorial every week for each student.

Coordinator: Jim Davis

Prerequisites: Torts LAWS1203 and Contracts LAWS1204

Syllabus: This course is concerned with the way in which the law deals with cases in which not all of the facts are referable to one State or Territory of the Commonwealth. Topics include:

- the law applicable to actions in contract, with particular emphasis on international business transactions;
- the law applicable to actions on torts committed outside the State or Territory in which the proceedings are heard;
- the grounds on which foreign laws and institutions will not be recognised in Australia;
- jurisdiction of Australian courts over defendants either outside Australia or elsewhere within the country;
- recognition and enforcement in Australia of judgments and arbitral awards delivered overseas.

Proposed Assessment: One redeemable exam, held in the middle of the semester, covering the material in the first half of the course, and a final exam at the end of the year, covering the remainder of the course.

Preliminary Reading

Students wishing to gain an understanding of the subject may wish to read the introductory chapter in either P E Nygh and M Davies, Conflict of Laws in Australia (7th ed, 2002) or Martin Davies, Sam Ricketson and Geoffrey Lindell, Conflict of Laws: Commentary and Materials (1997).

Prescribed Text

There is no suitable Casebook for this course. A full set of materials will be available from the Faculty Services Office prior to commencement of lectures.

In the discussion of the jurisdiction of Australian courts the course is closely related to Litigation and Dispute Management. Because of this relationship, some students may prefer to take

Conflict of Laws in hand, since the course looks at principles of the law of Torts and the law of Contract from a different perspective, students may wish to take Conflict of Laws soon after completing those two compulsory courses.

### **Consumer Protection and Product Liability Law**

**LAWS2259  
(6 units)**

Later Year Course  
First Semester  
Three hours per week  
Coordinator: Alex Bruce  
Prerequisites: None

Syllabus: The object of this special subject is to introduce students to the Consumer Protection and Product Liability provisions of the TPA. This will involve a consideration of:

- the role and function of consumer protection and product liability laws as part of Australia's National Competition Policy;
- misleading and deceptive conduct (s 52) and its most common forms including silence, comparative advertising, passing off, sale of businesses, breach of contract and franchising industry issues;
- the status of future representations including predictions, opinions and testimonials (s 51A)
- various forms of false conduct (s 53);
- "special" areas of consumer concern such as pyramid selling and false claims for payments (s 61 and s 64);
- country of Origin representations (Div 1AA);
- conditions and warranties implied into consumer contracts by the TPA (Div 2 and Div 2A) including the status of 'No Refund' policies;
- unconscionable conduct (Part IVA);
- industry Codes of Conduct with an examination of the franchising industry (Part IVB);
- product Liability (Part VA);
- preventing Price Exploitation under the GST (Part VB); The various remedies under the TPA including damages, injunctions and other orders;
- the various defences under the TPA;
- enforcement of the Consumer Protection and Product Liability provisions of the TPA by the Australian Competition and Consumer Commission, including the Commission's enforcement priorities and a consideration of recent enforcement activity.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

- Stephen Corones and Philip Clarke, Consumer Protection and Product Liability Law - Commentary and Materials (2nd ed, 2002).

### **Contemporary Issues in Constitutional Law**

**LAWS2213  
(6 units)**

Later Year Course  
First Semester  
Three hours per week  
Coordinator: James Stellios

Prerequisites: Commonwealth Constitutional Law LAWS2202  
Legal Theory LAWS2249 strongly recommended

Syllabus: This course builds upon concepts and doctrines introduced in the subjects Australian Public Law, Commonwealth Constitutional Law and Legal Theory.

Given the nature of the course, the syllabus may change from year to year. As an indication of the course content, in 2002, the course had two components. The first focused on constitutional theory and its implications for constitutional interpretation and the judicial review function of the High Court. In particular, this part of the course will look at the nature of liberty, the relationship between the judiciary and the legislature in a democracy and theories of federalism. The second focused on Chapter III of the Constitution and the contemporary issues that arise in that context, including consideration of federal jurisdiction and its exercise by federal and state courts, the meaning of 'matter', the implication of rights drawn from the Constitution, and standards of judicial review.

Proposed Assessment: It is anticipated that this course will be assessed by two essays.

### **Criminal Justice**

**LAWS2214  
(6 units)**

Later Year Course  
First Semester  
Three hours per week  
Coordinator: Simon Bronitt

Prerequisites: Criminal Law and Procedure LAWS1206

Syllabus: This course examines the process, institutions and contexts of criminal justice. It is designed to develop a critical understanding of the theoretical, legal and policy issues relating to crime, punishment and the criminal process, and to introduce students to interdisciplinary perspectives through an examination of contemporary topics in criminal justice.

The first part of the course will examine the role and place of punishment in the criminal justice system. Theoretical perspectives on criminology and criminal justice, both explanatory and normative, will be evaluated. The second part of the course will explore theoretical, legal and policy issues through an examination of a range of substantive topics, such as policing, the jury, diversionary conferences, criminal investigation, electronic surveillance, the fair trial, entrapment, mode of trial, prosecution, the impact of the criminal justice systems on indigenous peoples, miscarriages of justice, domestic violence, multiculturalism, sentencing and prisons.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

None. A wide range of materials are available on-line.

This course complements Criminal Law and Procedure, Selected Topics in Criminal Law, Lawyers, Justice and Ethics, and Evidence. It is essential for students contemplating work in any criminal justice context, for example, DPP, Legal Aid, Community Legal Services, Police.

### Current Issues in Administrative Law LAWS2262 (6 units)

Later Year Course  
First Semester  
Three hours per week  
Coordinator: Robin Creyke

Prerequisites: Administrative Law LAWS2201

Syllabus: This course is designed to familiarise students with some of the contemporary challenges facing the Australian system of Administrative Law, and to permit them to engage in a scholarly and reflective analysis of the issues involved in cases and issues which are coming before the courts. To best suit the needs of the student body, cases and issues will be examined both from a theoretical and practical dimension.

The nature of this course means that the course outline will generally not be fully settled before each semester, in order to leave some space for significant issues or cases which arise just prior to or during the teaching period. Nevertheless, certain topics will need to be covered to supplement the foundation course. Topics from which sessions will be selected include:

- jurisdictional error;
- administrative law theory;
- new trends in accountability in an administrative state;
- the role of privative clauses and other means of removing or limiting the jurisdiction of courts and tribunals;
- commercialisation, privatisation and outsourcing of government functions
- damages as an administrative law remedy;
- the status of international law principles and conventions in Australian administrative law;
- controlling administrative decision-making-alternatives to external review: internal review; codes of conduct; service charters;
- the interaction of administrative law and human rights and anti-discrimination principles;
- investigative bodies, including Ombudsman and Parliamentary Commissioners and their place in administrative law;
- protection of privacy in the public and private sector;
- executive Power and administrative law;
- e-Government and its impact on administrative law;
- issues in relation to tribunals such as evidence, modes of inquiry, structure of tribunal system, tribunal independence.

Proposed Assessment: The assessment for this course is designed to give students an opportunity to do a reflective essay on one of the major areas of the course, while encouraging engagement with other topics by requiring a short more practical piece on two other topics and a class presentation on a further topic. The class presentation will also foster the development of presentational skills.

The final assessment scheme will be settled after consultation with the class.

Prescribed Text  
Issued materials

### English in a Legal Context

LAWS1209  
(0 units)

First Year Course  
First and second semester  
Two hours per week  
Coordinator: Liz Allen

Prerequisites: None. This course is only available to first-year students whose first language is not English.

Syllabus: The aim of this course is to assist first year law students who have English as a second language to address and overcome any issues or problems they are experiencing with their legal studies as a result of their lack of English language background. The course takes material from subject areas to which students are exposed in their first year of law studies (Foundations of Australian Law, Torts, Lawyers Justice and Ethics and Contracts) and creates activities designed both to help students to develop a cultural context for their legal studies and to acquire the practical legal skills they will need for their future study and practice.

The following is an example of the kinds of issues that are addressed and skills that are practised:

- how to read cases;
- how to write case notes;
- techniques to simplify legal writing;
- how to speed up reading of cases and other material;
- preparing for tutorial problems; and
- participating effectively in discussion groups.

Proposed Assessment: This subject is not assessed

Preliminary Reading  
None

Prescribed Text  
The class will work with texts and materials from Torts, Foundations of Australian Law, Lawyers Justice and Ethics and Contracts. Students may find it useful to read John Carvan "Understanding the Australian Legal System".

This course runs in both first and second semesters. Students may enrol for two semesters.

### Environmental Law

LAWS2215  
(6 units)

Later Year Course  
First semester  
Three hours per week  
Coordinator: Matthew Zagor

Prerequisites: None

Syllabus: This course is concerned with the institutional arrangements and legal principles that underpin the practice of environment and planning law.

The course examines environmental law from theoretical and practical perspectives, taking a broad national and thematic approach. The course commences with an introduction to concepts relating to defining the 'environment', including philosophical/ethical bases for environmental protection and the notion of 'ecologically sustainable development'. It then considers environmental protection in a federal system. This is followed by consideration of the role of local and state/territory governments in the implementation of environmental protection objectives through statutory land-use planning and other measures (including consideration of techniques for develop-

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ment control such as environmental impact assessment). The final component of the course covers regulatory strategies and techniques for pollution control and the enforcement of environmental protection measures (including the topics of standing and access to justice).

Proposed Assessment: Mid-semester examination and research essay

Prescribed Text  
Issued materials

### Environmental Law Elective

**LAWS2216**  
**(6 units)**

Later Year Course

Not offered in 2004

Syllabus: This will vary from year to year. In any given semester the elective will provide intensive coverage of a topic or topics in a substantive area of law relating to the environment.

### Expert Legal Systems

**LAWS2251**  
**(6 units)**

Later Year Course

Second Semester

Three hour lecture/lab each week

Coordinator: To be advised

Prerequisites: Information Technology Law LAWS2245

Enrolment: This course is restricted to 20 students.

Syllabus: The theory component comprises a review of different styles of legal expert systems, and discussion of issues surrounding the application of computer assisted legal reasoning. This will be followed by discussion of the legal, governmental political and social implications of the widespread use of expert systems in public administration.

The practical component of the course educates students in the philosophy and methodology for expert system construction, with particular focus on legislation based systems. A significant proportion of the course will involve working in teams on the creation of legal expert systems in a domain of the students' choice. This exercise will give a very rich appreciation of the electronic commerce and intellectual property content covered elsewhere in the course.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

The course materials will be available online at <http://itlaw.anu.edu.au/>

### Family Law

**LAWS2217**  
**(6 units)**

Later Year Course

First Semester

Three hours per week

Coordinator: Marlene Le Brun

Prerequisites: None

Syllabus: The course is designed to consider a selection of law as it relates to 'the family' in Australia, to place the law in its political, economic, constitutional and other contexts, and to encourage evaluation of the law and proposals for its reform.

The course explores the nature of 'family' relationships and what happens when there is a separation of the adults within such relationships, both in terms of financial/property outcomes and decisions about parenting. The course commences with a discussion of 'the family', including the difficulties of defining 'family' and what the law's role in this is and should be. It then moves to place family law in various contexts, by examining theoretical perspectives, constitutional and jurisdictional issues and the Family Court and dispute resolution. The following topics are then covered:

- violence by men against women in the home;
- de facto/domestic relationships;
- nullity and dissolution of marriage;
- economic aspects of marriage breakdown (including child support, spousal maintenance and property distribution);
- parenting orders/agreements.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Preliminary Reading

Students should read the outline, including the class guides.

Prescribed Text

• S Parker, P Parkinson and J Behrens (3rd ed), Australian Family Law in Context: Commentary and Materials published by Law Book Company. The third edition will be available early in 2004. Reading will be prescribed for each class and classes will be conducted on the basis that students have done the reading.

This course can be taken at any stage in a degree. Students sometimes say that they find it easier to cope with if they have done Property. There is a lot of feminist writing on family law, and those who have an interest in feminist legal theory and women and the law will find this course enhances their study in those areas. The course is also particularly recommended for those who are interested in social welfare and social security issues. There are also strong practical and commercial aspects to the course, and links with Property, Equity and Trusts, Corporations Law and Dispute Resolution.

### Feminist and Critical Legal Theory

**LAWS2218**  
**(6 units)**

Later Year Course

Not offered in 2004

Prerequisites: None

Syllabus: This course introduces students to critical and transformative theories about law and legality. Students draw on these theories to analyse current legal problems. The course has three components. The first is the study of a variety of feminist challenges to the dominant legal orthodoxies. The different and intersecting approaches to theorising the law and the state taken by liberal feminists, radical feminists and postmodern feminist theory are addressed. Second, the course draws on scholarship both inside and outside the discipline of law in order to study legal practices and images of law and legality.

This may include law and literature, cultural studies, critical race theory and postcolonial theory.

Third, these theoretical approaches are used to interpret current legal debates in areas such as free speech, native title, sexual harassment, access to in vitro fertilisation and legal education.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

This course aims to provide students with critical skills which they can bring to bear in any area of law, complementing and building on skills attained in Lawyers, Justice and Ethics and Legal Theory.

### **Health Law, Ethics and Human Rights LAWS2219 (6 units)**

Later Year Course

First semester

Three hours per week

Coordinator: Tom Faunce

Prerequisites: None

Syllabus: The course examines the system for the regulation of health care in Australia, involves analysis and development of moral and ethical argument about the development of health law in Australia, and addresses the principal legal issues and human rights which arise in the practice of health care law.

The course begins with an overview of the Australian health system and its regulatory framework. Emphasis is placed on the concepts of medical ethics, patients' rights and efficiency and safety in health care. Particular topics which are covered include: confidentiality, consent, negligence, accountability, health records, expert evidence, research and experimentation, organ donation, emergency treatment, intensive care, abortion, reproductive medicine, and death and dying. Consideration is also given to the law relating to mental health and public health.

Proposed Assessment: Compulsory problem-based exam and optional essay/moot court participation.

Preliminary Reading

- I Freckleton and K Petersen, *Controversies in Health Law* (2001).

Prescribed Text

Issued materials

The course draws on almost every main area of law in so far as they have bearing on the health care system, particularly tort, contract, criminal, family, child, human rights and competition law. It raises matters discussed in Lawyers, Justice and Ethics, Legal Theory, Feminist and Critical Legal Theory, Australian Public Law and Human Rights Law in Australia.

### **Human Rights Law in Australia LAWS2220 (6 units)**

Later Year Course

Second semester

Three hours per week

Coordinator: Peter Bailey

Prerequisites: Commonwealth Constitutional Law LAWS2202

Syllabus: This course is concerned with the recognition and establishment in Australia of legal norms protective of human rights in constitutional, statutory and common law. It aims to provide students with an understanding of Australian human rights law and practice. A contextual approach to the teaching of the subject is adopted, drawing on human rights theory, constitutional theory and the perspectives of comparative and international law. Practical means and skills to protect human rights will be identified and their implications considered. As far as possible, the course will deal with current issues.

Topics to be covered include:

- theories of rights
- the constitutional framework for protection of human rights in Australia including express constitutional rights, implied constitutional rights, common law and statutory protections
- institutional mechanisms for the protection of rights, particularly the Human Rights and Equal Opportunity Commission
- discrimination law
- the comparative merits of constitutional, statutory and common law human rights protection; a Bill of Rights for the ACT or Australia?
- review of aspects of Australian law against human rights, eg to life, an adequate standard of living, indigenous rights

Proposed Assessment: A two-part assessment package is suggested to give a range of choices and to enable students to have some feedback on their progress. It will be settled after consultation with the class. Assessment options may include essays, take-home assignments, responses to a video presentation and class presentations.

Preliminary Reading

None

Prescribed Text

- P Bailey, *Human Rights: Australia in an International Context* (1990). This text will be useful for most of the classes.

The materials for the course will be available electronically, with a short (70 page) 'brick' for use in lectures.

Students may find it helpful to take International Law of Human Rights (LAWS2225) as well at some point in their degree, as the two courses together provide a comprehensive introduction to the law on human rights.

### **Income Tax LAWS2221 (6 units)**

Later Year Course

First semester

Three hours per week

Coordinator: Michael Kobetsky

Prerequisites: None

Syllabus: This course introduces students to the main principles of Australia's income tax system. In order to understand the critical function of taxation in the Australian community, the taxation system is studied in its legal, economic, social and political context. Given the speed with which changes are made to the technical details of tax law, this course seeks to provide students with an understanding of the principles of the income tax system rather than knowledge of a particular but limited set of technical rules.

Topics to be considered include:

- the concept of income;
- personal service income;
- business income;
- property income;
- the deductions that are available to taxpayers;
- the taxation of capital gains;
- the taxation of fringe benefits;
- residency, source and double tax agreements;
- the taxation of trusts, partnerships and companies;
- the anti-avoidance measures;
- tax administration.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

- M Kobetsky, et al, *Income Tax: Text, Materials and Essential Cases* (2003)
- R Deutsch, *Fundamental Tax Legislation* (2003). R Deutsch, *Fundamental Tax Legislation* (2004).

This course has been accredited by both the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants.

### **Indigenous Australians and the Law** LAWS2238 (6 units)

Later Year Course  
Not offered in 2004

Prerequisites: Australian Public Law LAWS2201, Criminal Law and Procedure LAWS1206

Corequisites: Property LAWS2204

Syllabus: This course aims to arm students with an understanding of, and a critical approach to, the law as it applies to Aboriginal people and Torres Strait Islanders. It presents that law in its historical and cultural context, highlighting problems which stem from that context for the definition of 'Aboriginality' itself and for the relationship between indigenous Australians and the state.

Proposed Assessment: To be settled after class discussion.

Preliminary Reading

- Richard Broome, *Aboriginal Australians* (2nd ed), 1994.

Prescribed Text

- McRae et al, *Indigenous Legal Issues* (2003).

This course is best undertaken by students later in their degree. In particular, students will benefit from an understanding of Property Law and Commonwealth Constitutional Law.

### **Information Technology Law** LAWS2245 (6 units)

Later Year Course

First Semester

Three hours per week

There will be a two-hour lecture and one hour tutorial each week

Coordinator: To be advised

Prerequisites: Intellectual Property LAWS2222

Syllabus: The course focuses on the cultivation of IT awareness, which is important for understanding the issues presented in the course:

- confidence with computers and IT in general;
- familiarity with a number of different software packages including Microsoft Word, Netscape Navigator and Eudora;
- the capacity for students to produce their own web pages;
- sufficient knowledge for students to be able to critically evaluate proposals for regulation of the web
- In the context of a reasonable level of computer literacy, the following legal issues will be examined:
  - proposals and models for regulation of "cyberspace", the current Internet and the "information superhighway";
  - computers and information technology as they impact on intellectual property rights;
  - electronic commerce;
  - computer crime and related issues.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Preliminary Reading

- Olujoke Akindemowo, *Information Technology Law in Australia*, LBC, 1999. S Dayal, *eLaw Research*, Butterworths, 1999.

Prescribed Text

The course materials will be made available online at <http://itlaw.anu.edu.au/>

This course is a prerequisite for the second semester course Expert Legal Systems LAWS2251.

### **Intellectual Property** LAWS2222 (6 units)

Later Year Course

Second semester

Three to four hours per week

Coordinator: Daniel Stewart

Prerequisites: None

Syllabus: The course provides an overview of the different areas of law that relate to the protection and exploitation of ideas, information and knowledge. It briefly covers the main aspects of copyright, design, confidential information, patents, trademarks and passing off.

For example, an idea may be kept secret and protected as confidential. It may be expressed in a tangible way and protected by copyright. If the idea is used to change the visual appearance of an article then that appearance may be registered as a design. If the idea is new and inventive, practical uses of it may be exclusively exploited under a patent. And if the idea behind some particular goods and services leads to a reputation being built up, then this may be protected through trademarks, or passing off.

Topics that will also be covered in the course and seminar program include the use of intellectual property to protect indigenous art, culture and knowledge, access and control of digital information, issues of patenting biotechnology and life forms, biodiversity and benefit sharing, access to medicines and the relationship between Intellectual Property and Competition laws.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

#### Prescribed Text

There will be extensive materials available on-line through the course web site.

All classes will be interactive and students are offered the opportunity to pursue inquiry-based learning. Students will work through electronic materials and attend a two-hour lecture discussing reform initiatives, international comparisons and recent cases. There will also be a two-hour problem-based tutorial each fortnight. Students will also have the choice of participating in a series of two-hour seminars including a small group presentation on emerging international and domestic issues.

This subject is generally taken in later years of the law degree. Intellectual Property is regarded as an important subject within a law degree that has a commercial law specialisation. However because it deals with property rights in information and creativity it has a broad utility and should be equally stimulating for students interested in the arts and cultural studies, and legal theory.

### International Criminal Law

**LAWS2252  
(6 units)**

Later Year Course

Second Semester

Three hours per week

Coordinator: Andrew Byrnes

Prerequisites: International Law LAWS2250

Syllabus: This course will examine the development of the concepts of international criminal law. The topics to be discussed are likely to include:

- the development of individual responsibility under international law for international crimes, including the availability of the defence of superior orders;
- the definition of war crimes, crimes against humanity and crimes against peace;
- the results of efforts to define the broader category of international crimes or crimes against international law (including the work of the International Law Commission and the International Law Association);
- specific international crimes, such as genocide and crimes against humanity;
- the mechanisms of enforcement of international criminal law, including the work of the Nuremberg and Tokyo war crime tribunals and the tribunals established by the United Nations in relation to former Yugoslavia and Rwanda;
- the work of the International Criminal Court;
- the implementation and enforcement of international criminal law at the national level.

The course will also consider the role of criminal law in societies in transition and other approaches to addressing systematic human rights violations under a former regime.

The course will seek to examine these matters from a political and historical, as well as a legal, perspective and will consider recent feminist critiques of developments in the area.

Proposed Assessment: The final assessment scheme will be settled after consultation with the class. Assessment options are likely to include: (a) 100% examination; (b) 50% examination/50% research essay; (c) 50% research essay/50% assignment; and (d) a 50% moot option. (All non-redeemable.)

#### Preliminary Reading

There is a vast amount of material available on the issues we will be looking at in books and periodicals as well as on the web. A good starting-point is the website of the American Society of International Law <http://www.asil.org/>, which has a special section on International Criminal Law.

#### Prescribed Text

There is no prescribed text for the course. There will be materials available from the Services Office. A guide to research in international criminal law and supplementary materials will be posted on the course website.

### International Dispute Resolution

**LAWS2223  
(6 units)**

Later Year Course

Not offered in 2004

Three hours per week

Prerequisites: International Law LAWS2250

Syllabus: The course examines the role of international law and, in particular, international organisations in restoring and maintaining peace and providing mechanisms for the peaceful settlement of disputes (eg arbitration, good offices).

Topics include: the development of legal doctrines, notably state responsibility for international harm and the regulation of the use of force in international law (self-defence, humanitarian intervention, war crimes); the evolution of the United Nations system and its work in the realm of collective security (Somalia, Haiti, Yugoslavia), with particular attention to the United Nations Security Council, and the International Court of Justice.

This course is an exercise in applied international law and politics. The objective of the course is to train students to use international legal materials in analysing inter-state disputes and the role of international organisations in resolving or exacerbating them.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

### International Environmental Law

**LAWS2253  
(6 units)**

Later Year Course

First semester

Three hours per week

Coordinator: Don Anton

Prerequisites: International Law LAWS2250

Syllabus: The course takes a thematic approach by using selected regimes to highlight current trends in the development of international environmental law. This thematic approach also facilitates an exploration of the political and economic factors which influence the development of legal instruments designed to tackle pressing global environmental problems.

The course will cover fundamentals such as the history and sources of international environmental law, and the tension between international environmental regulation and state sovereignty. It also examines specific regimes and institutions to illustrate the complex and dynamic nature of the discipline. Issues to be covered will include climate change, biological diversity, trade and the environment, trade in hazardous wastes and nuclear pollution. Key institutions such as the United Nations Environment Programme and the World Bank will also be examined.

Proposed Assessment: Mid-semester exam and research essay.

Prescribed Text

Hunter, et al, *International Environmental Law and Policy* (2nd ed. 2001).

### **International Law Elective: Law of the Sea**

**LAWS2224  
(6 units)**

Later Year Course

Second Semester

Three hours per week

Coordinator: Jean-Pierre Fonteyne

Prerequisites: International Law LAWS2250

Enrolment: This course is capped at 25 students.

Syllabus: The course will focus on the impact of the 1982 Montego Bay Convention on the Law of the Sea and more recent international instruments in the light of current State practice, seeking to identify, inter alia, the extent to which its provisions have become part of customary international law.

Topics will include the history of law of the sea, internal waters, territorial waters and the regime of innocent passage; the contiguous zone; transit passage through straits used for international navigation; islands, archipelagoes and the regime of archipelagic sea lanes passage; the high seas and the management of high seas fisheries; the Exclusive Economic Zone; and the Continental Shelf doctrine. Some of the following topics may also be included: deep-seabed mining and the International Area; dispute settlement mechanisms; delimitation issues between states with opposite or adjacent coasts.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Preliminary Reading

To be advised

Prescribed Text

To be advised

### **International Law of Human Rights**

**LAWS2225  
(6 units)**

Later Year Course

First Semester

There will be four contact hours per week but students will not generally have to attend for all four hours. The precise format will depend on class size, but it is likely that there will be a large group meeting for four hours one week and two smaller groups meeting for two hours every second week. The smaller

groups will be geared towards student presentations, structured debates and small group work. There will be significant student involvement during ALL classes.

Coordinator: Pene Mathew

Prerequisites: International Law LAWS2250

Syllabus: This course is concerned with the efforts at the international level to establish legal norms to protect human rights, as human rights are a vital aspect in the relationship between a State and persons within its jurisdiction. It aims to provide students with an in depth understanding of international human rights law and practice and to develop some of the relevant legal skills. As far as possible, the course deals with contemporary issues and there will be significant student involvement during class. A contextual approach to the area is taken, which involves an examination of theories of rights, relevant legal and structural frameworks and the political, social, economic and cultural environment in which human rights arise. Topics to be covered include:

- historical development of international human rights law
- theories of rights
- application of international human rights law in Australia
- structural limitations on international human rights law
- supervisory mechanisms
- refugee law and practice

Proposed Assessment: A three part assessment package is suggested, so as to enable students to have some feedback on their progress and to ensure that the final mark is not dependent on only one form of assessment. Assessment options may include essays, take-home assignments and class presentations. The final assessment scheme will be settled after consultation with the class in the first session and will then be available on the web at <http://law.anu.edu.au/Undergraduate/>

Preliminary Reading

Students must read the first chapter of the prescribed text prior to the commencement of the semester. Students must also follow the media relating to human rights issues before and during semester.

Prescribed Text

• H. Steiner and P Alston, *International Human Rights in Context: Law, Politics, Morals* (2nd ed Clarendon, 2000). The Faculty Services Office will issue supplementary Reading Materials.

Students may find it helpful to take the course *Human Rights Law in Australia* (LAWS2220) as well at some point in their degree, as the two courses together provide a comprehensive introduction to the law on human rights. This course is also a useful adjunct to *Indigenous Australians and the Law* in presenting the international context of such issues as indigenous claims to self-determination. This is an enjoyable, interesting and informative course that will challenge the way we look at other cultures and at law.

### **International Organisations (Geneva)**

**LAWS2258  
(6 units)**

Later Year Course

Summer in Geneva

Coordinator: Jean-Pierre Fonteyne

Prerequisites: International Law (or Principles of International Law). In addition, priority will be given to later year students

who have completed at least one additional international law elective. Subject to this priority, students will generally be selected on a first-come first-serve basis. Due to practical considerations enrolment numbers will be strictly limited to 20 students from all sources (a limited number of places may go to non-ANU summer school students and/or to postgraduate students).

**Syllabus:** Students will spend three weeks in Geneva. They will attend approximately 20 hours of formal academic instruction provided in part by the accompanying ANU staff member and in part by staff drawn from academic institutions in Geneva such as the Graduate Institute of Advanced Studies (HEI) and the Université de Genève. The classes will address legal aspects of the work of various international organisations and agencies, both governmental and non-governmental, with a specific focus on those located in Geneva. In addition the students will take part in over 20 hours of coordinated visits to a range of organisations in Geneva, each including presentations by legal specialists addressing the organisation's operations.

Please note that knowledge of French is not required. The entire course will be conducted in English.

**Proposed Assessment:** In addition to a mark for class participation, students will produce an essay on a topic approved by the convenor, to be completed in the course of the following semester.

#### Prescribed Text

There is no prescribed text. Materials may be provided as appropriate in relation to specific class sessions in Geneva. In addition, it is anticipated that students will have access to the considerable resources of the HEI library in Geneva for further directed reading where needed.

This unit is particularly suitable for later-year students who have completed at least one international law elective in addition to the basic international law course. Students interested in international trade law or international human rights in its various guises (including labour law, refugees, health, etc) might find the unit particularly useful, as these two aspects of international law will feature prominently in the course given the location in Geneva of WTO and of various UN and NGO human rights organisations (HCHR, UNHCR, ICRC, etc). International environmental law, international intellectual property and a number of other specialised areas (eg international telecommunications) are likely to be the subject of specific visits as well.

### International Trade Law

**LAWS2226  
(6 units)**

Later Year Course

First semester

Three hours per week

Coordinator: James Stellios

Prerequisites: International Law LAWS2250

**Syllabus:** The course introduces students to the fundamental principles of international trade law. The primary goal of the course is to acquaint and familiarise students with the main pillars in this arena of international law and their effect on domestic law and policy.

The course covers the key agreements and principles of international trade law and the jurisdiction, policies and processes of the WTO, the IMF and the World Bank. It also encompasses major critical analyses of international trade law together with

an in-depth review of relevant GATT/WTO panel and appellate body decisions.

Themes that will be addressed throughout the course will include the origins of international trade law, fundamental principles of the GATT/WTO regime, Intellectual Property (TRIPS), Services (GATS), the new WTO Dispute Settlement Understanding, the WTO Dumping and Subsidies regimes and the Sanitary and Phytosanitary Agreement.

The effects of trade and financial liberalisation in general on developing countries will also be the subject of review together with an analysis of the on-going conflict between the basic dictates of international trade agreements on the one hand and the need to enshrine and protect international environmental and labour standards on the other.

**Proposed Assessment:** It is anticipated that the course will be assessed by a mid-semester essay and a final examination.

#### Preliminary Reading

A perusal of the web sites of the WTO, IMF and the World Bank.

#### Prescribed Text

Materials will be issued. Students will be given a detailed reading guide and a guide to relevant web sites on trade and investment issues.

This course has close links with International Law in that it investigates a particular area of international law.

### Japanese Law and Society

**LAWS2227  
(6 units)**

Later Year Course

First semester

Three hours per week

Coordinator: Kent Anderson

Prerequisites: None

**Syllabus:** Law may arguably be described as the rules a society creates to govern how its members should interact with one another. Thus, in examining a country's laws and legal system we should be able to come to a better understanding of the dynamics and values of that society. The purpose of this course is to provide a foundation for understanding the place and use of law in modern Japan. The class will cover the history, structure, and fundamental substantive areas of Japanese law. Further, we will investigate and challenge some of the assumptions about the place of law in Japanese society. Topics covered in the first part of the course on Japanese legal structure include its legal history, judicial system, legal education, and legal profession. Topics covered in the second part of the course on Japanese legal society include Japan's views on litigation, foreigners, women, and minorities. Topics covered in the third part of the course on Japanese substantive law include the foundations and current topics in Japanese constitutional, criminal, contract, tort, and commercial law.

**Proposed Assessment:** The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

#### Prescribed Text

Milhaupt, Ramseyer Et Young, Japanese Law in Context (2001)

When to take this course: this course does not assume you have a knowledge of Japan or Japanese. However, if you have a background in Japanese or Asian Studies, you will be able to use this in your analysis of the topics covered in this unit.

### Jessup Moot

**LAWS3010**  
**(6 units)**

Later Year Course  
Summer Session  
Coordinator: Madelaine Chiam

Prerequisites: Only students selected by the examiners for the course, on the basis of criteria adopted by Faculty, to represent ANU in the Jessup Moot Competition will be eligible to enrol in the course. Familiarity with International Law and/or mooted and research experience are desirable, as well as a willingness to devote most of the summer period to the undertaking.

Syllabus: Participation in the Australian Round of the Philip C. Jessup International Law Moot Court Competition, consisting of (a) the joint preparation of written memorials in support of the claims of each of the two parties in the dispute; (b) the presentation by some or all of the team members of oral argument in a competition with teams representing other Australian Law Schools.

### Labour Law

**LAWS2228**  
**(6 units)**

Later Year Course  
Second Semester  
Three hours per week  
Coordinator: Anthony Forsyth

Prerequisites: Contracts LAWS1204

Syllabus: The course introduces students to the foundational principles of Australian labour law, focussing on the nature and attributes of work relationships, and the diverse and changing sources of rights and obligations in the work place.

The principal topics are:

- the shaping of Australian labour law, including the contractual basis of employment, the role of conciliation and arbitration, the evolution of the award system and the nature of modern awards, the contemporary shift towards decentralised and individualised bargaining;
- the constitutional framework and its impact on the federal industrial relations system;
- the nature and content of the employment relationship, as distinct from other work relationships, in particular independent contracting;
- termination of employment;
- regulation of industrial conflict.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

- M Pittard and R Naughton, *Australian Labour Law, Cases and Materials* (4th ed, 2003).

This course together with Work and Law - Selected Topics, makes up a specialisation in labour law. Discrimination law, studied in Human Rights Law in Australia, is also relevant.

Nowadays, labour law adds an important dimension to studies in commercial law and social welfare law.

### Law and Psychology

**LAWS2260**  
**(6 units)**

Later Year Course  
Second semester  
Three hours per week  
Coordinator: Mark Nolan

Prerequisites: None. The course is pitched at students who have never studied psychology and also aims to extend those who have studied psychology.

Syllabus: This course explores the interface of psychology and law. One focus is psychology and courts, specifically the issues of eyewitness testimony, expert testimony from psychologists, children in court, disposition of mentally ill offenders, judicial decision-making, juries, and persuasion in court. Another focus is on the psychological study of legal processes outside courts, including interview techniques, mental illness regulation, perceptions of justice, therapeutic jurisprudence, restorative justice and policing. Material discussed is primarily of relevance to the Australian legal system. The course offers a critical perspective on the developing discipline of legal psychology, and also provides an insight into careers in interdisciplinary professional and academic practice. Students are also shown how to research the interdisciplinary literature via relevant databases.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Preliminary Reading  
Chapter 1, Kapardis.

Prescribed Text

- A. Kapardis, *Psychology and Law: A Critical Introduction* (2nd ed, Cambridge, Cambridge University Press, 2003).

Students may enjoy this course more if it is undertaken later in their degree. Past assessment packages have interdisciplinary analysis of legal decisions and psycho-legal controversies via the writing of case notes and research essays. These tasks would require understanding of a legal problem, some legal analysis, and some analysis of relevant psychological literature. Short answer and/or multiple choice exams have also been used to test developing knowledge of psychological concepts and students' understanding of the law and psychology movement.

### Law and Sexualities

**LAWS2256**  
**(6 units)**

Later Year Course  
First semester  
Three hours per week  
Coordinator: Wayne Morgan

Prerequisites: None

Syllabus: This course is designed to explore the interactions between law and sexualities. It will:

- provide a theoretical framework which highlights the complexity and contradictions inherent in the construction of sexualities, from an interdisciplinary perspective;

- examine a range of legal controversies surrounding sexuality;
- consider the interaction of gender, class, race and sexuality issues;
- consider the relationship between "queer" theory, lesbian and gay theory and feminist theory;
- consider the relationship between activism and the legal process.

Proposed Assessment: A research essay of 5000 words worth 80% of the final assessment. Class participation worth 20% of the final assessment.

#### Preliminary Reading

No essential preliminary reading. A background knowledge of the history and theories of sexuality would, however, be useful. In this respect students may wish to read in advance Annamarie Jogose *Queer Theory* (MUP 1996) and/or Gayle Rubin, "Thinking Sex: Notes for a Radical theory of the Politics of Sexuality" in Vance (ed), *Pleasure and Danger: exploring female sexuality* -. The Rubin article is in the reading brick.

#### Prescribed Text

Course materials with required reading will be issued.

### Law and Society in Southeast Asia LAWS2229 (6 units)

Later Year Course

Second semester

Three hours per week

Coordinator: Barry Hooker

Prerequisites: None

Syllabus: This course introduces students to the legal cultures of Southeast Asia, an area of immediate importance to Australia. Legally speaking, the area is one of the most complex in the world. It comprises: Burmese, Thai, Khmer and Java-Bali laws (the so-called 'Indian group'), the Malay and cognate laws (the 'Islamic group'), the Vietnamese laws (the 'Chinese group'), and, on the European side, Spanish, Portuguese, French, Dutch and English laws. These laws exist today in varying combinations, occasionally in harmony and, not infrequently, in conflict.

Part 1 of the course provides an historical outline of these systems. In Part 2 topics are selected from among a number of contemporary issues which include: constitutional law, family law, women and religious law (Islam), laws applicable to the overseas Chinese, customary law of land, current law reforms in selected states, Islamic law in Southeast Asia, colonial law, and legal pluralism.

Proposed Assessment: two 50% essays, one due mid-semester, and one due end of examinations period or 100% examination.

#### Preliminary Reading

Students should read M B Hooker, *A Concise Legal History of South-East Asia* (1978)

#### Prescribed Text

Prescribed reading will be provided in course materials.

No knowledge of the area is assumed.

### Law Internship LAWS2230 (6 units)

Later Year Course

Summer, First and Second Semester

Coordinator: Tom Sherman

Prerequisites: A student must be in their penultimate or final year with a credit average.

Syllabus: The student serves as an intern with a lawyer in a workplace (eg law firm) to complete a research paper on a practical topic chosen by the workplace.

The workplace may be in the public or private sector. The project, which is settled by written agreement among the student, professional, and internship director, may be multidisciplinary but must have a strong law element.

Internships may also be available to work with members of the Faculty on projects of an applied nature. These projects may include submissions to inquiries and parliamentary committees, responses to discussion and issues papers, and projects of bodies with which members of the Faculty are involved (for example, advisory councils). A Faculty protocol governs these Faculty internships. Faculty staff will advise the internship coordinator when such projects are available.

The time to be spent at the work site is variable; it reflects factors such as availability of data, library resources, interviewing needs, and degree of professional supervision.

Proposed Assessment: A final paper of approximately 6,000 words

Internships are available during each semester, and during the summer vacation. To assist in placements, applications for an internship have to be made earlier than for other subjects - by end December in the preceding year for first semester, and by end May for second semester. For the summer internships, applications need to be in by mid-October. This is in addition to the normal course enrolment.

Further information (including application form) is available on the Faculty website.

### Parliament and the Executive LAWS2232 (6 units)

Later Year Course

Not offered in 2004

Prerequisites: Australian Public Law LAWS1205

Syllabus: This course builds on the prerequisite courses to examine in depth the institutions of Parliament and the Executive, with particular emphasis on accountability.

Topics covered include:

Parliament

- different perspectives on the role of Parliament;
- the relationship of the legislature to the executive, the judiciary, and the public;
- legislative autonomy and cooperative federalism;
- legislative procedure;
- parliamentary privilege;
- reform of the institution of Parliament.

The Executive

- the concept of accountability in a Westminster system;
- theories of accountability (including the impact of the public/private distinction);
- financial and parliamentary institutions to guard executive accountability;
- accountability in relation to information held by government;
- administrative law as accountability tool.

## Research Methodology

**LAWS3201**  
**(0 units)**

Later Year Course

First and second semester

Two hours per week for approximately 10 weeks

Coordinator: Pauline Ridge First Semester

Phillipa Weeks Second Semester

Prerequisites: None. The course is normally taken only in the second-last or third-last semester of law studies.

Syllabus: The objective of the course is for students to make substantial preparations for the Research Paper course.

Students will consider different approaches to legal scholarship and characterise their own research interests and scholarship.

Students have the opportunity to prepare a proposal for a major research topic of their own choice and to refresh or enhance their legal research skills. The course will also include consideration of the fundamentals of scholarly writing, organisational skills, and communication with research supervisors. There will be a range of guest speakers and there will be opportunity for students to workshop their research proposal and receive peer reviews.

The grade available for satisfactory completion of this course is Course Requirements Satisfied (CRS).

Proposed Assessment: Completion of a research proposal.

Prescribed Text

None

This course forms part of the honours requirement. It is a prerequisite for undertaking the Research Paper LAWS3202. Also refer to the honours policy in the LLB Handbook and on the web.

## Research Paper

**LAWS3202**  
**(12 units)**

Later Year Course

First and second semester

Coordinator: Robin Crekye First Semester

Pauline Ridge Second Semester

Prerequisites: Research Methodology LAWS3201

Enrolment in the Research Paper is restricted to students with the required grade point average. See section on degree of Bachelor of Laws with honours in the LLB Undergraduate Handbook.

Syllabus: The course serves as Part B of the final Honours Examination for students wishing to graduate with an honours degree. The course objectives are:

- to test the ability of a student to undertake a limited but systematic study of an issue in the law of the student's own choosing, and to present the results of that study in a written form which is accessible to an interested, but not necessarily informed, legal reader;
- to facilitate the development of legal research and writing skills; and
- to assist the student to educate himself or herself further in the law, its methods and limits.

The research paper is supervised by a member of the Faculty and assessed by two examiners.

Proposed Assessment: 9,000 - 11,000 word research paper

## Restitution

**LAWS2254**  
**(6 units)**

Later Year Course

Not offered in 2004

Prerequisites: Contracts LAWS1204

Syllabus: The course covers a variety of aspects of the law of restitution as it has developed and considers the inter-relationship between restitution, equity, and other categories of legal obligations. The course is divided into four unequal parts. The first section of the course considers:

- the history of restitution
- theories of restitution and the concept of unjust enrichment

The second part of the course examines various situations where restitutionary relief may be sought including:

- mistake
- compulsion
- ineffective contracts
- restitution after breach of contract
- restitution for wrongs
- other topical issues

The third part highlights various defences including:

- estoppel
- change of position

The fourth part of the course examines remedies for unjust enrichment such as:

- tracing
- constructive trusts and proprietary remedies

Prescribed Text

To be advised

## Restrictive Trade Practices

**LAWS2255**  
**(6 units)**

Later Year Course

Second Semester

Three hours per week

Coordinator: Alex Bruce

Prerequisites: Contracts LAWS1204

Syllabus: Fair, competitive and informed markets are essential ingredients contributing to high standards of living and international competitiveness. Australia's dynamic National Competition Policy is maintained by the Federal Trade Practices Act 1974 (Cth) ('the TPA'). The TPA aims to enhance the welfare of Australians through the promotion of competition and fair-trading and provision for consumer protection. The TPA is enforced by the Australian Competition and Consumer Commission.

The object of this course is to consider the National Competition Policy and the way the TPA seeks to promote fair and competitive markets for the benefit of Australians. This is principally involve a consideration of Part IV of the TPA in preventing conduct such as price-fixing, boycotts, misuse of market power, anti-competitive exclusive dealing, resale price maintenance and anti-competitive mergers. In addition the course will examine the Access and Telecommunications Regimes and will consider the enforcement agenda and powers of the ACCC.

The Course will conclude with a consideration of the consequences for a breach of the TPA including the penalties and remedies that can be sought by the ACCC and by private parties.

Proposed Assessment: It is anticipated that students will complete an assignment and an exam during the course.

Prescribed Text

- Stephen Corones, *Competition Law in Australia* (New edition to be published in 2004.)

### **Selected Topics in Australian–American Comparative Law** **LAWS2248** **(6 units)**

Later Year Course

Summer Session. Taught at the University of Alabama Law School in Tuscaloosa, Alabama in Jan–Feb.

Coordinator: Jennifer Clarke and University of Alabama academic

Prerequisites: Enrolment in this summer course is restricted to the students who have been accepted in the 5-week intensive ANU/US Joint Teaching Program. Priority will be given to later year students (12 or less semester courses left to complete). Subject to this priority, students will be selected on a first-come first-serve basis, as enrolment will be strictly limited (10 students in 2004).

A prerequisite may on occasion be introduced in respect of the specific subject area of the course in a particular year.

Syllabus: The course will be taught jointly by a visiting ANU academic and an academic from the University of Alabama Law School. While the specific subject area of the course will vary from year to year, depending on the particular field of interest of the ANU/UA visitors, it will involve a comparative study of Australian and US approaches to the particular subject matter. Assessment details, teaching methods and type of course materials will vary from year to year depending on the subject matter and personnel involved in each offering of the course, but will be specified prior to student enrolment in the course.

In 2004 the syllabus for this course focuses on critical race theory.

Proposed Assessment: To be advised.

Prescribed Text  
To be advised.

To derive maximum benefit from the course, it is suggested that students undertake it in the latter part of their studies, when they have achieved a reasonable degree of familiarity with law in general and with the particular subject area of the course in any given year.

### **Selected Topics in Australian–American Comparative Law** **LAWS2257** **(6 units)**

Later Year Course

Second semester (capped at 20)

The course will be taught on a semi-intensive basis over a period of 4–5 weeks in Canberra right at the start of the semester, in conjunction with the visiting University of Alabama students taking part in the ANU session of the ANU/UA Joint Teaching Program

Coordinator: Jennifer Clarke and University of Alabama academic

Prerequisites: None

Incompatible: Please note this course is a repeat of LAWS2248 taught in Jan–Feb of the same year at the University of Alabama and cannot be taken by students who have completed that course.

Syllabus: While the specific subject area of the course will vary from year to year, depending on the particular field of interest of the ANU/UA visitors, it will involve a comparative study of Australian and US approaches to the particular subject matter. Assessment details, teaching methods and type of course materials will vary from year to year depending on the subject matter and personnel involved in each offering of the course, but will be specified prior to student enrolment in the course.

In 2004 the syllabus for this course focuses on critical race theory.

To derive maximum benefit from the course, it is suggested that students undertake it in the latter part of their studies, when they have achieved a reasonable degree of familiarity with law in general and with the particular subject area of the course in any given year.

### **Selected Topics in Criminal Law** **LAWS2261** **(6 units)**

Later Year Course

Second Semester

Three hours per week

Coordinator: Miriam Gani

Prerequisites: Criminal Law and Procedure LAWS1206

Syllabus: The object of this course is to provide an opportunity for students:

- to undertake in-depth study of specific areas of the substantive criminal law;
- to engage with contemporary and emerging issues in the area; and
- to consider the purpose and role of the criminal law in our society.

The course will take a theoretical, doctrinal and comparative approach both to traditional areas such as attempt and corporate crime and to new offences against the Commonwealth Criminal Code and against the various State and Territory Acts. Topics will be selected from a range of areas which may include: theories of crime and punishment; attempted cybercrimes; drugs and prohibited commodities; corporate and industrial crimes; terrorism and political offences; necessity and duress; and future directions in the criminal law.

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

Issued materials and S Bronitt and B McSherry, *Principles of Criminal Law* (2000).

This course has Criminal Law and Procedure as a prerequisite. It complements the other criminal law related courses offered by the Faculty including Criminal Justice and International Criminal Law.

Prescribed Text

Teaching materials will be prepared especially for the course.

The course will be conducted, class size permitting, in an interactive seminar format. Students will be expected to play an active part in class discussions.

**Selected Topics in Torts**

**LAWS2233  
(6 units)**

Later Year Course

Summer Session

Coordinator: Jim Davis

Prerequisites: Torts LAWS1203

Syllabus: The course examines some contemporary issues in the law of torts, in order to evaluate the law's response to social change and to provide students with a sound preparation for legal practice.

Topics include a detailed treatment of defamation and privacy, and the torts relating to the intentional and negligent infliction of purely economic loss. Other topics deal with contemporary issues in the law of negligence (eg, actions for 'wrongful birth' and 'wrongful life') and new applications of the law of trespass, with implications for civil liberties and privacy, for regulating non-consensual medical procedures, and for intervening in abusive domestic relationships.

Proposed Assessment: A take-home exam on defamation. An examination on the other topics in the examination period.

Preliminary Reading

- Balkin and Davis, Law of Torts (2nd ed, 1996 or 3rd ed, 2003);
- Trindade and Cane, The Law of Torts (3rd ed, 1999).

Multiple copies of these books are kept on the Short Loan desk in the Law Library.

Prescribed Text

There is no suitable casebook for this course. The only materials that students are encouraged to buy are those issued by the Faculty.

Aspects of this course obviously follow on from Torts, and students may find it advantageous to take this course early in their degree. But since the course aims to equip students for the practice of the law, other students may prefer to undertake it nearer to the completion of their studies.

**Special Law Elective 1: Issues in Contemporary Asian Law**

**LAWS2234  
(6 units)**

Later Year Course

Summer Session

Coordinator: Barry Hooker

Prerequisites: None

Syllabus: This course introduces students to contemporary issues in the law for East and Southeast Asia. The states in this region - China, Japan, Korea, Malaysia, Singapore, Brunei, Indonesia, Philippines, Thailand, Cambodia, Laos and Vietnam-present complex issues for Australia in a number of fields. This

course is designed both for law students and also for those studying Asian histories, cultures and language. It does not require prior knowledge of the area. The course is structured in four parts: Asian law, the view from Australia; the state, law and religion; law and ideology; and selected themes (including minorities, human rights and the environment).

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

Prescribed Text

Basic reference texts

- V Taylor (ed), Asian Law Through Australian Eyes, (1996)
- P L Tan (ed), Asian Legal Systems, (1997)
- M B Hooker, A Concise Legal History of South-East Asia, (1986).

No knowledge of the area is required, but the course Law and Society in South-East Asia is complementary.

**Special Law Elective 2**

**LAWS2235  
(6 units)**

Later Year Course

Not offered in 2004

**Special Law Elective 3**

**LAWS2239  
(6 units)**

Later Year Course

Not offered in 2004

**Special Law Elective 4**

**LAWS2240  
(6 units)**

Later Year Course

Not offered in 2004

**Special Law Elective 5:  
Migration Law**

**LAWS2241  
(6 units)**

Later Year Course

Summer Session

Coordinator: Sue Tongue

Prerequisites: Australian Public Law LAWS1205, Administrative Law LAWS2201

Syllabus: The course studies the law relating to regulation of entry into Australia. The Migration Act and Regulations and relevant court decisions are examined, developing skills in statutory interpretation and legal analysis. The role of administrative review, the relationships between executive governments and the courts and the relationship between multiculturalism and the law are discussed. The links relationship between Migration Law, Administrative Law, International Law and Constitutional Law are considered. Students will be enabled to provide migration clients with practical advice on the law.

Proposed Assessment: Two assignments

Prescribed Text

- Mary Crock, Immigration and Refugee Law in Australia (1998).

**Special Law Elective 6**

Later Year Course  
Not offered in 2004

**LAWS2246  
(6 units)**

- the concept of an estate - what is the governing law, and what is included;
- wills, including the nature of wills, capacity, fraud, undue influence, formalities of making a will, revocation, revival, and construction;
- intestacy rules;
- family provision;
- personal representatives;
- administration of estates.

**Special Topics in Intellectual Property LAWS2263  
(6 units)**

Later Year Course  
Not offered in 2004

Prerequisites: Intellectual Property LAWS2222

Syllabus: The course is intended to be a more advanced and specialised consideration of intellectual property issues. The topics to be covered will depend on the interest of students and the development of emerging areas of concern. They will be finalised after consultation with the class, but could potentially include:

- protection of Indigenous custom and folklore;
- digital access and distribution of information, including issues arising out of on-line media distribution and impact of technological protection measures;
- databases and ownership of compilations of factual information;
- biotechnology and art 27b, including positive and normative issues;
- biodiversity and benefit sharing;
- access to medicines, in particular but not limited to developing countries;
- geographical indications and domain names;
- IP and competition.

The course will also include consideration of further materials that often underlie the issues that would be considered in the presentations. This might include:

- examining the institutional structures that influence IP policy development, both in Australia and internationally, including the role of different non-government organisations such as the WTO and WIPO, domestic policy making arrangements etc;
- a more comprehensive examination of some of the theoretical aspects of IP that are only briefly touched upon in the Intellectual Property course;
- how IP is commercialised, including looking at the process of product development, licensing, marketing etc.

Proposed Assessment: It is proposed that the assessment scheme will involve two elements, a group presentation and essay. Each type of activity will be assessed out of 100, but their contribution to the final grade will vary between 40% or 60%, depending on which gives the highest overall grade.

**Succession**

Later Year Course  
Summer Session  
Coordinator: Liz Allen

**LAWS2236  
(6 units)**

Prerequisites: None

Syllabus: The course examines the law governing succession to property after the death of the owner. Major topics include:

- the historical, social and economic context of succession law;

Proposed Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, including one piece during the semester. More detail will be provided on the Faculty's website in the last week before the relevant semester commences.

It is preferable to take Succession after, or at least with, Property.

**Survey of US Law****LAWS2247  
(6 units)**

Later Year Course  
Summer Session. Taught at the University of Alabama Law School in Tuscaloosa, Alabama in Jan-Feb  
Applications must be submitted in early August of the preceding year.  
Coordinator: Bill Andreen (University of Alabama)

Prerequisites: Enrolment in the summer course is restricted to the students who have been accepted in the 5-week intensive ANU/UA Joint Teaching Program. Priority will be given to later year students (12 or less semester courses left to complete). Subject to this priority, students will be selected on a first-come first-serve basis, as enrolment will be strictly limited (10 students in 2004).

Syllabus: The course will consist of a series of introductory lectures by various University of Alabama Law School staff members on various aspects of American Law, supplemented by field trips to, e.g., the Civil Rights Museum in Birmingham, the Alabama Supreme Court in Montgomery, the Southern Poverty Law Center, and a large American law firm (forming an integral part of the course's class work and included in the contact hours). It will concentrate on non-common law subjects (e.g., Constitutional Law, Administrative Law, Labor Law, Limited Liability Corporations, Bankruptcy, Consumer Protection, Environmental Law, Federalism, etc.).

Proposed Assessment: Examination at the end of the Alabama Program.

To derive maximum benefit from the course, it is suggested that students undertake it in the latter part of their studies, when they have achieved a reasonable degree of familiarity with law in general and with the particular subject area of the course in any given year.

**Takeovers and Securities Industry Law LAWS2237  
(6 units)**

Later Year Course  
Second semester  
Three hours per week  
Coordinator: Peta Spender

Prerequisites: Corporations Law LAWS2203

Syllabus: This course examines important facets of the regulation of corporations. It investigates the law and policy issues relating to the acquisition of control of corporations, particularly by takeover and the regulation of the stock market generally.

The following topics will be covered:

- issues prompting, and theories shaping, the regulation of takeovers and the securities industry generally;
- the regulation of securities and derivative transactions;
- the powers of the Australian Securities and Investment Commission and the Australian Stock Exchange over listed companies and other participants in the industry;
- the obligations of listed companies, brokers and dealers;
- controls upon market manipulation and insider trading;
- the legal requirements for prospectuses
- directors' responsibilities in a takeover situation;
- controls upon the acquisition of shares under Part 6 of the Corporations Law;
- compulsory acquisition powers;
- controls of merger activity.

Proposed Assessment: The assessment will include a written assignment and a final exam.

Prescribed Text

Students must purchase an up to date copy of the Corporations Act 2001 (Cth). Recommended text: To be advised

The course builds upon knowledge acquired by students in Corporations Law as well as pursuing specialised legal applications in the area of public company regulation. Students seeking a strong corporate law specialisation in their degree would also enrol in Bankruptcy and Insolvency.

## Work and Law: Selected Topics

**LAWS2231  
(6 units)**

Later Year Course

Not offered in 2004

Prerequisites: None

Syllabus: The workplace is the site for extensive legal regulation over and above the mechanisms of contract, awards and workplace agreements (which are explored in Labour Law) - in areas such as occupational health and safety, equal employment opportunity, and relations between trade unions and their members. There are also distinctive regulatory issues thrown up by the role of international norms and by changing conceptions of public sector work. The course is designed to examine contemporary issues in workplace regulation. The content will vary in emphasis from time to time. Topics will usually be drawn from the following:

- the regulation of the internal affairs of trade unions; in particular size, structure, rules, elections, finances, and members' rights;
- the operation of anti-discrimination and equal opportunity laws in addressing issues of equity and diversity in the workplace;
- the status and influence of international labour law;
- regulation of public sector employment, and processes of privatisation and outsourcing;
- occupational health and safety law.

Prescribed Text

Reading materials will be issued.