

# Chapter 6

## Faculty of Law

ANU College of Law

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# 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, 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 practical legal training program, Graduate Diploma in Legal Practice, 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 2006 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 and present a logical argument. 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	9	11

### LLB Handbook

More details on undergraduate courses, Faculty policies and procedures are contained in the LLB Handbook, which is available under "Quick Links" at <http://law.anu.edu.au>.

## Bachelor of Laws

(Academic Program: 4300 | Academic Plan: 4300XLLB)

Duration: 4 years full-time

Minimum: 192 units

CRICOS Code: 002292M

The program is offered for full-time and part-time study. A full-time student may complete the program in four years, or less time if summer courses are taken.

The curriculum consists of compulsory and elective courses, each worth 6 units (with the exception of Honours Thesis, 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.

### Program Requirements

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 elective courses for admission to practice, and may include up to a maximum of 48 units of non-law elective courses, with no more than 18 units of non-law courses at 1000 level.

192 units in total.

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 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.

### Compulsory law courses

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

### Elective courses required for admission to practise law:

LAWS2203 Corporations Law  
 LAWS2207 Evidence  
 LAWS2244 Litigation and Dispute Management

## Degree Structure

Law – a standard full-time program pattern

(Courses in *italics* are not compulsory, but are required by admitting authorities for admission to practise as a lawyer)

	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 elective 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 course	LAWS2207 Evidence 3 Law elective courses or 2 Law and 1 non-law elective courses
Program Total 192 units		

## The Degree with Honours

This is a summary only: the Faculty's Honours policy is set out in full at [http://law.anu.edu.au/Undergraduate/Policies\\_Guidelines.asp](http://law.anu.edu.au/Undergraduate/Policies_Guidelines.asp).

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 levels.

The result for the final honours exam consists of two parts:

Part A, which consists of a mark derived by applying the Honours scale to the eligible law courses undertaken by a student. The mark for Part A shall constitute 70% of the final honours mark.

Part B, which consists of a mark derived by applying the Honours scale to the candidate's result in Honours Thesis. The mark for Part B shall constitute 30% of the final honours mark.

A candidate shall not qualify for the degree with honours unless the candidate has completed 14 or more eligible law courses and Honours Thesis.

## Previous studies

A student who enrolls in the LLB degree program after completing studies at another university may only be granted status for up to half the courses prescribed for the degree including no more than 72 units of LAWS courses.

## Bachelor of Laws (Graduate)

(Academic Program: 4303 | Academic Plan: 4303XLLBG)

Duration: 3 years full-time

Minimum: 144 units

CRICOS Code: 002293K

Graduates of non-law disciplines (or non-Australian law degrees) may apply to undertake a shortened program referred to as the LLB(G).

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 work load of up to eight lecture hours a week. There are regular tutorials in most courses. 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.

## Program Requirements

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 for admission to practice.

144 units in total.

The first year load is heavy, and full-time 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.

## Compulsory law courses

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

## Elective courses required for admission to practise law

LAWS2203 Corporations Law  
LAWS2207 Evidence  
LAWS2244 Litigation and Dispute Management

## Degree Structure

LLB(G)-- a typical pattern for a full-time student (courses in italics are not compulsory, but are required by admitting authorities for admission to practice)

	First Semester	Second Semester
Year 1	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	LAWS2201 Administrative Law LAWS2203 Corporations Law 2 Law elective courses	LAWS2202 Commonwealth Constitutional Law 1 Law elective course 2 Law elective courses
Year 3	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		

The first year load is heavy, and full-time 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.

## The Degree with Honours

This is a summary only: the Faculty's Honours policy is set out in full at [http://law.anu.edu.au/Undergraduate/Policies\\_Guidelines.asp](http://law.anu.edu.au/Undergraduate/Policies_Guidelines.asp).

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

The result for the final honours exam consists of two parts:

Part A, which consists of a mark derived by applying the Honours scale to the eligible law courses undertaken by a student. The mark for Part A shall constitute 70% of the final honours mark.

Part B, which consists of a mark derived by applying the Honours scale to the candidate's result in Honours Thesis. The mark for Part B shall constitute 30% of the final honours mark.

A candidate shall not qualify for the degree with honours unless the candidate has completed 14 or more eligible law courses and Honours Thesis.

## 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 normally be enrolled in the three-year LLB(G) program. Instead, enrolment will usually 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 in an ANU five-year combined degree program.

## 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, and Science 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.

## General Information

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More information and advice to students is available in the LLB Handbook under "Quick Links" at <http://law.anu.edu.au>.

### 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 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.

### 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.

### 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 twelve 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. The University has a policy on Academic Progress in Undergraduate Awards, available at <http://info.anu.edu.au/policies/Policies/index.asp>.

### 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.

### Practical Legal Training 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 is 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.

## Course Descriptions

### Foundations of Australian Law LAWS1201 (6 units)

First Year Course  
Semester 1, Semester 2

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: First Semester Judith Jones, Second Semester Miriam Gani

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

Syllabus: Foundations of Australian Law is designed to introduce students to the Australian legal system and the study of law. In particular, the course aims to assist students to develop a range of essential legal skills. These include skills in legal reading, writing and research. Skills in legal reasoning and analysis are also covered. The course also seeks to familiarise students with some of the basic features of our legal system and the history underlying that system. In this way, Foundations of Australian Law lays the groundwork for the remainder of students' legal studies.

The specific objectives of the course are:

- to introduce students to the various sources of law in Australia, including case law, legislation, the Australian Constitution, customary law and international law; also certain other fundamental features of the Australian legal system such as federalism, separation of powers and the doctrine of precedent;
- to encourage students to consider the historical and social forces which have shaped (and continue to shape) our legal system via, eg, an examination of the Mabo decision, the history of the common law etc;
- to assist students to develop skills in legal reading, writing and analysis. These skills include reading and analysing a case, reading and analysing legislation as well as more general legal reasoning and problem solving skills;
- to assist students to develop legal research skills;
- to encourage students to critically evaluate legal and contextual material;
- to encourage students to critically reflect on their own developing legal skills and understanding through active participation in class, especially seminars and library tutorials.

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 assessment for the course will be decided after consultation with the class.

Preliminary Reading: None.

Prescribed Text: To be advised.

### Lawyers Justice and Ethics LAWS1202 (6 units)

First Year Course  
Semester 2

Three hours per week plus four additional hours spread over the course devoted to instruction in "skills".

Coordinator: Glenda Bloomfield

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. Other materials to be advised.

Guest lectures will be given by practitioners.

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.

## **Torts LAWS1203 (6 units)**

First Year Course

Semester 1

Four hours per week

Coordinator: Juliet Behrens

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;
- to apply and interpret relevant legislation.

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: To be advised.

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

## **Contracts LAWS1204 (6 units)**

First Year Course

Semester 1, Semester 2

First semester for LLB and LLB(G) students only (not available for students in combined degrees). Four hours per week

Coordinator: First Semester Anne McNaughton, Second Semester Daniel Fitzpatrick

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, that can provide grounds for avoiding contractual commitment, are examined. The course finishes with breach and its consequences, including a discussion of the common law and equitable remedies.

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

Prescribed Text: To be advised

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.

## **Australian Public Law LAWS1205 (6 units)**

First Year Course

Semester 1, Semester 2

Second semester for LLB and LLB(G) students only (not available for students in combined degrees). Three hours per week.

Coordinator: First Semester Tony Connolly, Second Semester Amelia Simpson

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: To be advised

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.

### **Criminal Law and Procedure LAWS1206 (6 units)**

First Year Course

Semester 1

Four hours per week

Coordinator: Mark Nolan

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;
- 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 method of assessment will be settled after discussion with students.

Prescribed Text: S Bronitt and L B McSherry Principles of Criminal Law (2nd ed, 2005) if available. Chapters 1 and 2. A detailed course outline will be issued, together with extracts from cases not included in the prescribed textbook.

This is a foundation course in the Law degree.

### **English in a Legal Context LAWS1209 (0 unit)**

First Year Course

Semester 1, Semester 2

Two hours per week

Coordinator: Miriam Gani

Prerequisites: None. This is only available to first-year students whose first language is not English, or who identify themselves as indigenous students.

Syllabus: The aim 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.

This course runs in both first and second semester. Students may enrol for two semesters and are encouraged to do so.

Satisfactory participation in this course is a Faculty requirement for consideration for extra time in examinations under the University's Policy on Assessment.

### **Administrative Law LAWS2201 (6 units)**

Later Year Course

Semester 1

Four hours per week

Coordinator: Daniel Stewart

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;

## Faculty of Law

- administrative review principles;
- standing;
- remedies; and
- other administrative law avenues including information access rights; ombudsman; human rights bodies.

Proposed Assessment: A 10% compulsory short answer examination, a 2400-word optional essay; and a two and a quarter hour examination in the semester examination period.

Preliminary Reading: The reading timetable will be announced in the first class.

Prescribed Text: Creyke, R. and McMillan, J. *Control of Government Action: Text, Cases and Commentary*, LexisNexis Australia, 2005.

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

### **Commonwealth Constitutional Law LAWS2202 (6 units)**

Later Year Course  
Semester 2  
Four hours per week

Coordinator: James Stellios

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: None

Prescribed Text: To be advised

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.

### **Corporations Law LAWS2203 (6 units)**

Later Year Course  
Semester 1  
Four hours per week

Coordinator: Stephen Bottomley

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: An up to date copy of the Corporations Act 2001 (Cth).

Recommended Text: To be advised.

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

### **Property LAWS2204 (6 units)**

Later Year Course  
Semester 1  
Four hours per week

Coordinator: Wayne Morgan

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;
- 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:** 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:** Helpful texts are: R P Meagher, W M C Gummow and J R F Lehane *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* (2nd ed, 2005), M Evans *Equity and Trusts* 2003).

**Prescribed Text:** Text to be advised. (Students are advised to confirm the text by going to the Law website.)

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.

### **Equity and Trusts LAWS2205 (6 units)**

Later Year Course  
Semester 2  
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 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.

**Preliminary Reading:** Helpful texts are: R P Meagher, W M C Gummow and J R F Lehane *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* (2nd ed, 2005), M Evans *Equity and Trusts* (2003).

**Prescribed Text:** Text to be advised. (Students are advised to confirm the text by going to the Law website.)

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  
Semester 2

Two hours of lectures and a one-hour seminar per week, plus tutorials.

Coordinator: Gregor Urbas

Prerequisites: Torts LAWS1203 and Criminal Law and Procedure LAWS1206.

**Syllabus:** This course covers important aspects of fact-finding and the adducing and admissibility of evidence in legal proceedings. The course is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories. Particular topics include:

- investigation and organisation of factual material;
- adducing evidence in court;
- testimonial, real and documentary evidence;
- examination, cross-examination and re-examination of witnesses;
- burden and standard of proof;
- relevance of evidence to facts in issue; and
- admissibility rules (e.g. credibility, hearsay, opinion, tendency and coincidence, identification and character evidence, and privileges; judicial discretions and conduct of proceedings).

The course will be based on the "Uniform Evidence Law" – comprising the Evidence Act 1995 (Cth), which applies in proceedings in all Federal and ACT courts, along with counterpart legislation in New South Wales, Tasmania and Norfolk Island.

**Proposed Assessment:** To be advised, after consultation with class.

**Preliminary Reading:** None, but students will benefit from re-reading cases with which they are already familiar from earlier law courses, such as Torts and Criminal Law and Procedure – though now focusing on the factual bases of these cases and considering how 'the facts' are actually established in legal proceedings, rather than concentrating on the principles of substantive law which are applied to the facts to reach a decision. Some aspects of criminal investigation and trial procedures are also portrayed (though not always realistically) in various 'real crime' literature and 'courtroom drama'.

**Prescribed Text:** To be advised.

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Students are required to obtain and bring to classes a copy of the Evidence Act 1995 (Cth). This may be in the form of an annotated text such as Odgers (2004).

Recommended texts: Annotated commentaries and texts on the Act are particularly useful and include: S Odgers, *Uniform Evidence Law* (6th ed) Thomson Lawbook Co (2004); J Anderson, J Hunter and N Williams, *The New Evidence Law: Annotations and Commentary on the Uniform Evidence Acts*, LexisNexis Butterworths (2002)

The companion book to Odgers is also useful: S Odgers, E Pedden and M Kumar, *Companion to Uniform Evidence Law*, Thomson Lawbook Co (2004)

Other recent textbooks on evidence include: A Palmer, *Proof and the Preparation of Trials*, Lawbook Co (2003); K Arenson and M Bagaric, *Understanding Evidence*, LexisNexis Butterworths (2002); P Bayne, *Uniform Evidence Law, Text and Essential Cases*, Federation Press (2003); J Gans and A Palmer, *Australian Principles of Evidence* (2nd ed), Cavendish (2004); A Ligertwood, *Australian Evidence* (4th ed), LexisNexis Butterworths (2004); C Ying, *Essential Evidence* (3rd ed), Cavendish (2005)

In 2005, the Australian Law Reform Commission (ALRC) is conducting an inquiry into the Uniform Evidence Acts and has released the following: Issues Paper 28: Review of the Evidence Act 1995 (20 December 2004); Discussion Paper 69: Review of the Uniform Evidence Acts 4 July 2005)

The course is designed to be taken towards the end of the degree. The study of evidence is required for admission to legal practice.

### **Bankruptcy and Insolvency LAWS2209 (6 units)**

Later Year Course

Semester 1

Three hours per week

Coordinator: Kent Anderson

Prerequisites: Corporations Law LAWS2203

Syllabus: This course introduces the foundations of debtor-creditor law, including the law of personal bankruptcy under the Bankruptcy Act 1966 and corporate insolvency under chapter 5 of the Corporations Act 2001. The course covers pre-insolvency debtor-creditor practice, liquidation of insolvent entities, and rehabilitation of distressed debtors. The course will follow a systems-approach to the material. This means that the course emphasises the broad purposes and mechanisms at each stage of an insolvency from a practical standpoint. The largest amount of time in this course will be spent on liquidations, and particularly individual bankruptcy. This course will also look at pre-insolvency debtor-creditor relations to insolvency proceedings, and reorganisation alternatives to liquidation. Students completing this course should be fluent in the special terminology of debtor-creditor law and familiar with the conceptual building-blocks of insolvency. The course will be very useful for a variety of students including those seeking to go into commercial business or law practice, people planning on operating a small business at some time, future consumer and family lawyers, and anyone with an over-extended credit car. Because insolvency law incorporates a huge variety of other substantive law areas within its gamut (including property law, contracts, torts, commercial law, corporate law, consumer

protection law and family law), policy concerns in these areas will also be discussed.

Proposed Assessment: To be settled after consultation with the class.

Prescribed Text: The Bankruptcy Act 1966 and chapter 5 of the Corporations Act 2001 are the prescribed texts. Background reading materials will be accessible via the course web page. For reference, some students purchase M Murray, Keay's *Insolvency: Personal and Corporate Law and Practice* (LBC 5th ed, 2005).

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

Semester 1

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: Pearson, Fisher and Ali, *Commercial Law: Commentary and Materials* (2nd ed, 2004).

This course provides essential background for advanced commercial law courses.

### **Comparative Legal History LAWS2211 (6 units)**

Later Year Course

Not offered in 2006

Three hours per week

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.

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

**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 is available on line.

### **Conflict of Laws LAWS2212 (6 units)**

Later Year Course  
Not offered in 2006

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

**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:** An optional redeemable exam half-way through the semester and a further exam in the November examination period.

**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:** None. A set of materials will be available from the Services Office before the course starts.

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 the final or penultimate year of the degree. On the other 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.

### **Contemporary Issues in Constitutional Law LAWS2213 (6 units)**

Later Year Course  
Semester 1

**Coordinator:** James Stellios

**Prerequisites:** Commonwealth Constitutional Law LAWS2202

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

It is anticipated that significant components of the course in 2006 will focus on Chapter III of the Constitution, including consideration of federal jurisdiction and its exercise by federal courts (particularly the High Court) and state courts. The course will also focus on the law and practice of constitutional litigation.

**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.

### **Criminal Justice LAWS2214 (6 units)**

Later Year Course  
Not offered in 2006  
Three hours per week

**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.

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Prescribed Text: None. A wide range of materials is 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.

### **Environmental Law LAWS2215 (6 units)**

Later Year Course  
Semester 1  
Three hours per week

Coordinator: James Prest

Prerequisites: None

Syllabus: This course is concerned with the institutional arrangements and legal principles that underpin the practice of environmental 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 development control such as environmental impact assessment). The course also covers regulatory strategies and techniques for pollution control, the enforcement of environmental protection measures (including the topics of standing and access to justice), and the intersection between Indigenous land use and environmental regulation.

Proposed Assessment: Mid-semester examination and research essay

Prescribed Text: To be advised

### **Environmental Law Elective LAWS2216 (6 units)**

Later Year Course  
Not offered in 2006

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.

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.

### **Family Law LAWS2217 (6 units)**

Later Year Course  
Semester 2  
Three hours per week

Coordinator: Juliet Behrens

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: P Parkinson and J Behrens (3rd ed), Australian Family Law in Context: Commentary and Materials published by Thomson Law Book Company. 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 2006  
Three hours per week

Coordinator: Pene Mathew

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 post-modern 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.

**Prescribed Text:** Reading materials will be issued from the Faculty Services Office.

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, Bioethics and Human Rights LAWS2219 (6 units)**

Later Year Course

Semester 1

Three hours per week

Coordinator: Tom Faunce

Prerequisites: None

**Syllabus:** The course examines 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 human rights issues which arise in the practice of health care law.

The course begins with an overview of the Australian health system and its constitutional and legislative framework. Emphasis is placed on the concepts of medical ethics, patients' rights and efficiency and safety in health care including healthcare whistleblowing. Particular topics which are covered include: confidentiality, consent, negligence, accountability, health records, expert evidence, research and experimentation, organ donation, emergency treatment, intensive care, abortion, new reproductive technologies, and death and dying. Consideration is also given to the law relating to mental health and public health, as well as the impact of international trade agreements on access to essential medicines and Australia's Pharmaceutical Benefits Scheme.

**Proposed Assessment:** Optional essay (2000 words) or participation in a medico-legal moot in the ACT Supreme Court with medical students from the Canberra Hospital - 40%. End of course examination.

**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

Semester 2

Three hours per week

Coordinator: Peter Bailey

**Corequisites:** Commonwealth Constitutional Law LAWS2202

**Syllabus:** The 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 human 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 protecting human rights by constitutional, statutory and common law means; the ACT Human Rights Act 2004 - what about Australia?; and
- review of aspects of Australian law against human rights, eg to life, an adequate standard of living, terrorist and refugee legislation, 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:** See outline on the web.

**Prescribed Text:** P Bailey, *Human Rights: Australia in an International Context* (1990). This text will be useful for most of the classes. It is available as remainders in some shops, but possession of a copy is not required. Multiple copies are available in the library.

The materials for the course will be available electronically, with a short (70 page) 'brick' for use in lectures and a primary materials section also used in class that brings the total brick to approximately 240 pages.

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

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

Later Year Course

Semester 1

Three class 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 and partnerships;
- the anti-avoidance measures;
- tax administration.

**Proposed Assessment:** The proposed means of assessment for this course is two take-home exams. 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* (2005)

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

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

Later Year Course

Semester 2

Three 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, trade marks and passing off. The course concentrates on the relationship between the different forms of Intellectual Property and the process of reform to provide students with an understanding of the underlying principles behind such forms of protection.

**Proposed Assessment:** The proposed means of assessment for this course is likely to include a substantial comment on a recent case or legislative proposal, and an exam. Students may be given a choice as to the respective weights to be given to

these pieces of assessment. 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 and a number of possible recommended texts.

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 problem-based tutorial each week.

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

## **International Dispute Resolution LAWS2223 (6 units)**

Later Year Course

Not offered in 2006

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 Law Elective: Law of the Sea LAWS2224 (6 units)**

Later Year Course

Semester 2

Three hours per week

Coordinator: Jean-Pierre Fonteyne

Prerequisites: International Law LAWS2250. (This course is capped at 25.)

Syllabus: The syllabus of this course varies from year to year. In 2006 it will be devoted to Law of the Sea and will be taught in conjunction with the equivalent postgraduate course.

A participant who has successfully completed this course should:

- have a clear understanding of the evolution, and current status of the various jurisdictional zones and regimes that currently govern the utilisation of the world's oceans, and of the underlying policy considerations that led to the adoption of the compromises reflected in the contemporary Law of the Sea
- be capable of applying the relevant legal norms to practical situations.

The course will focus on the impact of the 1982 Convention on the Law of the Sea and more recent supplementary agreements in the light of current State practice, seeking to identify, in particular, the extent to which its provisions have become part of customary international law in that area.

Addressed will be the history of Law of the Sea concepts; 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 sealanes passage; the Exclusive Economic Zone; the Continental Shelf; recent developments in delimitation of maritime zones; the high seas and the management of High Seas fisheries; deep-seabed mining and the International Area.

Proposed Assessment: A mid-term take-home assignment (50%) plus an end-of-semester examination (50%).

### **International Law of Human Rights LAWS2225 (6 units)**

Later Year Course  
Semester 1

There will be an average of three contact hours per week, made up of large group lectures and smaller seminars. There will be significant student involvement during all classes.

Coordinator: Kevin Boreham

Prerequisites: International Law LAWS2250

Syllabus: This course is concerned with the efforts at the international level to establish legal norms to protect human rights. 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. The course deals with contemporary issues. 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;
- structural limitations on international human rights law;
- supervisory mechanisms;
- refugee law and practice; and
- application of international human rights law in Australia.

Proposed Assessment: A varied assessment package will be proposed, 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 should 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, 2000).  
Supplementary Reading Materials will be made available online.

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.

### **International Trade Law LAWS2226 (6 units)**

Later Year Course

Semester 1

Three class 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, Services (GATS), the WTO Dispute Settlement Understanding, the WTO Dumping and Subsidies regimes and the Sanitary and Phytosanitary Agreement.

The effects of trade 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: 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: A perusal of the web sites of the WTO, IMF and the World Bank would be useful.

Prescribed Text: To be advised

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

Semester 1

Three class 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 & 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 course.

### **Labour Law LAWS2228 (6 units)**

Later Year Course

Semester 2

Three hours per week

Coordinator: Shae McCrystal

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 Society in South East Asia LAWS2229 (6 units)**

Later Year Course

Semester 2

Coordinator: Daniel Fitzpatrick

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: 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

### **Law Internship LAWS2230 (6 units)**

Later Year Course

Semester 1, Semester 2, Summer Session

Coordinator: Tom Sherman, Summer Session and Semester 1, TBA, Semester 2

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.

### **Work and Law – Selected Topics LAWS2231 (6 units)**

Later Year Course  
Not offered in 2006

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.

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.

Additional information: This course, together with Labour Law, 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.

Prescribed Text: Reading materials will be issued or made available electronically.

### **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 in the week beginning Monday 16 January 2006. An examination on the other topics in the examination period of 9 or 10 February 2006.

Preliminary Reading: R Balkin and J Davis, *Law of Torts* (3rd ed, 2004). Multiple copies of this book is 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: Insurance Law LAWS2234 (6 units)**

Later Year Course  
Semester 1  
Three hours per week

Coordinator: Brendan Pentony

Prerequisites: LAWS1204 Contracts

Syllabus: This course is designed to:

- Introduce students to the law relating to the institution of insurance as an important feature of the Australian financial services sector and as a socially and commercially significant transaction;
- distinguish life insurance, general insurance and marine insurance;
- familiarise students with the relevant legislation affecting the prudential regulation of the insurance industry and the statutory intervention in the insurance transaction;
- introduce the concepts that are synonymous with insurance law;
- examine in detail the Insurance Contracts Act 1984;
- expose students to the process of settling an insurance dispute and thereby develop the skills necessary to practise in this discipline.

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Proposed Assessment: Precise scheme to be determined, but will comprise a combination of written assignments 30% and a final examination 70%.

Prescribed Text: To be advised

### Special Law Elective 2: Clinical Youth Law Program LAWS2235 (6 units)

Later Year Course

Semester 1, Semester 2

Six hours per week. Two groups in each semester capped at 10 students per group.

Coordinator: Judy Harrison

Prerequisites: Completion of 48 units of law courses.

Syllabus: This is a clinical program enabling students to participate in FirstStop a non-profit legal service for the youth of the ACT. Students will commit to on-site participation for four hours a week for nine weeks and participate in seminars and on-line discussion groups for twelve weeks. The course objectives are:

- To contextualise the study of law and student learning in a wide range of other law courses
- To guide and support students in identifying, developing and applying ethical legal practice skills
- To develop students' critical understanding of legal practice approaches, the roles of lawyers in relation to individual clients and social justice issues
- To encourage, promote and validate student aspirations to promote access to justice and equality before the law.

The following are some of the issues presented in the course:

- The concept of 'reflective practice'
- The legal framework in which legal services of all kinds are provided
- The links between the legal framework and operating routines that apply to provision of all legal services (duties to client, confidentiality, conflict of interest)
- Legal and non-legal problems - implications for practice/ service provision of an appreciation of the relevant services and the meshing of non-legal issues
- Interviewing routine - difference between legal information and legal advice
- Legal practice approaches - 'reactive', 'proactive', 'preventative', 'activist'
- Debriefing/reflection - enhancing on client issues/dealing with clients

Proposed Assessment: It is proposed that the assessment scheme will involve 4 compulsory elements, on-site participation, learning and performance, 30% seminar participation and contribution to on-line discussion in WebCT, 20%; Reflective journal, 25% and Research project of 1,500 words, 25%.

### Succession LAWS2236 (6 units)

Later Year Course

Summer Session

Coordinator: Charles Rowland

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;
- 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;
- construction;
- the drafting of wills;
- capacity to benefit under a will;
- intestacy rules; and
- family provision.

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 course. More detail will be provided on the Faculty's website in the last week before the relevant session commences.

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

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

Later Year Course

Semester 2

Three hours per week

Coordinator: Stephen Bottomley

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;
- 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.

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

Later Year Course  
Not offered in 2006  
Three hours per week

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

Corequisite: 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

Prescribed Text: Materials to be issued by the Faculty

This course touches on a wide range of legal areas and concepts and therefore is best undertaken by students later in their degree.

### **Special Law Elective 3: Law Reform LAWS2239 (6 units)**

Later Year Course  
Not offered in 2006

Prerequisites: Contracts LAWS1204, Administrative Law LAWS2201

Syllabus: The course will examine the law relating to the governance and regulation of sport, and aims generally to provide a critical perspective of this developing area of the law. It will begin with a general introduction to the legal nature of sport. The course will then review this area of the law under a number of broadly defined headings, namely: the application of contract law to sports relationships, including a review of standard form contracts in sports; the doctrine of restraint of trade; the application of competition law as applied to sports; judicial review and scrutiny of sports associations; internal regulation of sports, including topics such as discipline, natural justice and rights of athletes; civil and criminal liability arising from participation in and management of sport; the internationalisation of sports law; and finally, dispute resolution in sport.

Material will be drawn mainly from the Australian, New Zealand, Irish, United Kingdom United States and Canadian legal systems. The course will also provide an insight into careers in specialised professional practice e.g., sports agents.

### **Special Law Elective 4: Community Law Clinical Program LAWS2240 (12 units)**

Later Year Course  
Semester 2

Two days (15 hours) per week onsite, plus two hours per week seminar. The courses run continuously for twelve weeks without a mid-semester break.

Course is capped at 8 students.

Coordinator: Judy Harrison

Prerequisites: Completion of 48 units of law courses including LAWS2201 Administrative Law and LAWS2204 Property.

Syllabus: This course offers students the opportunity to work onsite at the Welfare Rights and Legal Centre where they will provide legal information and undertake casework under the supervision of the Supervising Solicitor/Clinical Legal Educator. In addition to the onsite component, a series of weekly seminars will be held. Seminar topics may include:

- Professional responsibilities
- Legal writing and drafting
- Interviewing clients, taking instructions, working with interpreters and dealing with difficult clients
- Negotiation
- Introduction to Public Interest Law
- Law Reform
- Substantive law in Welfare Rights and Legal Centre's areas of practice; tenancy, Social Security and Disability Discrimination

Proposed Assessment: There will be a minimum attendance requirement. It is proposed that the assessment scheme will involve three other compulsory elements, quality of client assistance including casework; seminar participation and presentation.

### **Special Law Elective 5: Migration Law LAWS2241 (6 units)**

Later Year Course  
Summer Session

Coordinator: Sue Tongue

Prerequisites: Australian Public Law LAWS1205. Students will benefit from having completed 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 and 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: John Vrachnas et al Migration and Refugee Law: Principles and Practice in Australia (2005)

### **Litigation and Dispute Management LAWS2244 (6 units)**

Later Year Course  
Semester 1

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

Coordinator: Alex Bruce

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

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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 and outside the legal system;
- confidentiality and power imbalances in dispute resolution;
- mediation procedures;
- when and how to commence proceedings in court;
- gathering evidence;
- urgent applications; and
- class actions.

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

Prescribed Text: Rules of the Supreme Court of the Australian Capital Territory. S. Colbran et al, Civil Procedure: Commentary and Materials, (2nd Edition, 2002) Butterworths.

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

### Information Technology Law LAWS2245 (6 units)

Later Year Course

Semester 1

Three hours per week. (This course is restricted to 80 students.)

Coordinator: Sasha Agafonoff from RuleBurst

Prerequisites: None.

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

- 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 super highway";
- computers and information technology as they impact on intellectual property rights;
- electronic commerce; and
- computer crime and related issues.

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

Preliminary Reading: Olujoke Akindemowo, Information Technology Law in Australia, (1999), S Dayal, eLaw Research, (1999).

Prescribed Text: The course materials will be available from the Faculty website.

### Special Law Elective 6: Race and the Law LAWS2246 (6 units)

Later Year Course

Semester 2

Three hours per week

Coordinator: Jennifer Clarke and Bryan Fair

Prerequisites: None

Recommended: Materials will be provided through the Faculty Services Office.

Syllabus: This course aims to equip students to think critically about ways in which the laws of Australia and the United States are built around pre-existing 'racial' categories, or promote 'raced' outcomes or objectives. It aims to stimulate students to consider:

- What 'races' are, and how 'colour lines' are drawn;
- The extent to which the present era of 'racial non-discrimination' represents a break from national pasts in which racial classifications were explicitly used as tools for achieving different economic, political, civic and private outcomes for different people;
- Ways in which the law has contributed to the creation of these categories and to the privilege of 'whites', and what remedies law now offers to 'non-whites';
- Ways in which the law has expressed relationships between nationhood, territorial expansion, economic development and race, and allowed the monopolisation of resources by some 'racial' groups.

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.

### Survey of United States 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 generally be selected on a first-come first-serve basis, as enrolment will be strictly limited (10 students in 2006). Where appropriate, academic merit may be taken into account.

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, Labour 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.

### **Selected Topics in Australian–United States Comparative Law (Alabama)** **LAWS2248 (6 units)**

Later Year Course

Summer Session

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

Coordinator: Matthew Zagor

Prerequisites: None.

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 generally 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 2006). Where appropriate, academic merit may be taken into account.

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

In 2006 the topic for this course focuses on comparative environmental law.

**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.

**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:** 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.

### **Legal Theory** **LAWS2249 (6 units)**

Later Year Course

Semester 2

Three hours per week

Coordinator: Tony Connolly

Prerequisites: None

**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 key thinkers and 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 and legal reasoning;
- to enable students to appreciate the theoretical background of legal decisions and contemporary legal issues.

**Proposed Assessment:** Examination (closed book) two questions, two hours 60%. Essay (1200 words) based on seminar presentation 20%. Seminar presentation (5–10 minutes) and discussion of presentation – 10%. Seminar attendance and participation – 10%.

**Preliminary Reading:** Brian Bix, *Jurisprudence: Theory and Context* (3rd ed, 2003).

**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.

### **International Law** **LAWS2250 (6 units)**

Later Year Course

Semester 2

Second semester

Two to four hours per week

Coordinator: Pene Mathew

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:

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- 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. See course outline on web.

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 LAWS1202.

### **Legislation and Expert Systems LAWS2251 (6 units)**

Later Year Course  
Semester 2

Three hour lecture/lab each week.

**Coordinator:** Sasha Agafonoff from RuleBurst

**Prerequisites:** None. Students should be familiar with Microsoft Word and have basic computer literacy.

**Syllabus:** The aim of this course is to give students an appreciation of issues involved in administering legislative rules and to teach students ways of preventing these issues during the legislative drafting phase. Students will be introduced to a methodology which emphasises the importance of precise and structured legal expression, and it offers many options to analyse and represent the structure of complex legal material. The course contains both theoretical and practical components through which students will be required to demonstrate their understanding of the material.

There are two parts to the course:

- **Rule drafting** - The rule drafting component of this course will give students an awareness of legislative drafting styles and common drafting structures, practice in discerning the meaning of legislation and an understanding of both the importance and ingredients of good drafting technique.
- **Service Delivery:** Applying rules using Expert Legal Systems as a case study -This part of the course will demonstrate one method that an increasing number of government agencies are using to interpret complex law (particularly in administrative areas), and expose students to a toolset for the analysis and visualization of legal rules. There is growing interest in this type of toolkit to assist analysis and delivery of the law, particularly in government, due to the assistance

it can provide in navigating complex webs of tightly integrated statutes, regulations and policy determinations.

**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 details 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 from the Faculty website.

This course is restricted to 20 students.

### **International Criminal Law LAWS2252 (6 units)**

Later Year Course  
Not offered in 2006

**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 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:** 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 [www.asil.org/](http://www.asil.org/), which has a special section on International Criminal Law.

**Prescribed Text:** To be advised

## International Environmental Law LAWS2253 (6 units)

Later Year Course  
Semester 2  
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: Simulated climate change negotiation and research essay.

Prescribed Text: D Anton, et al, International Environmental Law: Cases, Materials, Problems (2005).

## Restitution LAWS2254 (6 units)

Later Year Course  
Not offered in 2006

Prerequisites: Contracts LAWS1204

Syllabus: The course covers aspects of the law of restitution as it has developed in Australia, England and (to a lesser extent) Canada, and considers the inter-relationship between restitution, contract, 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 situation 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 personal and proprietary remedies for unjust enrichment.

Proposed Assessment: Research Essay of 3000 words, worth 50%, and end of semester exam worth 50%.

Prescribed Text: To be advised

## Restrictive Trade Practices LAWS2255 (6 units)

Later Year Course  
Not offered in 2006  
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. There will also be compulsory tutorial exercises.

Prescribed Text: Stephen Corones, Competition Law in Australia (New edition to be published in 2004.)

## Law and Sexualities LAWS2256 (6 units)

Later Year Course  
Semester 2

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: 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: 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: To be advised

### **Selected Topics in Australian–United States Comparative Law (ANU)** **LAWS2257 (6 units)**

Later Year Course  
Semester 2

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. (Capped at 20)

Coordinator: Matthew Zagor

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 2006, the topic for this course focuses on comparative environmental 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.

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.

### **International Organisations (Geneva)** **LAWS2258 (6 units)**

Later Year Course  
Summer Session

Intensive delivery over 3 weeks in Geneva (late January to early February).

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. Where appropriate, academic merit may also be taken in account. 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: This course will be taught in conjunction with the equivalent postgraduate course. Enrolment will be strictly limited (20 students in total). Priority will be given to later year LLB students and to students who have completed at least one additional international law elective. Subject to this priority, students will be selected on academic merit. Enrolment is subject to the payment of the applicable administrative fees and accommodation costs.

The purpose of the course is to provide participants with a substantive overview of the activities of international organizations (governmental and non-governmental) located in Geneva, focusing on the legal issues arising in their operations or area of concern.

Students will spend three weeks in Geneva. 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. The participants 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 local academic institutions. NGOs, etc. In addition they will take part in coordinated visits to a range of governmental and non-governmental organisations in Geneva, including up to 30 hours of presentations by legal specialists addressing the organisation's operations. The first week will be devoted to general aspects of the operation of international organizations, the second week will focus on human rights and related issues, the third week will mainly address trade and environmental questions.

The precise composition of the program will vary to some extent from year to year. A copy of the day-by-day schedule of the last course is available on the Faculty webpage as an indicator of the likely content of the next course.

The classes will be given at the HEI and in various international organizations in Geneva. All classes and visits will be conducted in English and knowledge of French is not required.

Proposed Assessment: 20% for class participation and 80% for completion of a 4,000 to 4,500 word essay on a topic approved by the convenor, to be completed in the early part of the following semester.

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 especially 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 are likely to be the subject of specific visits as well.

### **Consumer Protection and Product Liability Law LAWS2259 (6 units)**

Later Year Course  
Semester 1  
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;
- 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);
- the criminal regime (Part VC);
- the various remedies under 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).

### **Law and Psychology LAWS2260 (6 units)**

Later Year Course  
Semester 2  
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 criminal law. One focus is psychology and courts, specifically the issues of eyewitnesses, psychologists as experts, witnesses, mental illness and the law, judicial decision making, children in court, persuasion and advocacy, language used in the courtroom, and jury research. Another focus is on the psychological study of legal processes outside courts, including policing, interviewing, detecting deception, restorative justice, and therapeutic jurisprudence. Material discussed is primarily of relevance to the Australian legal system. The course offers a critical perspective on the developing discipline of legal psychology. Students are also shown how to research the interdisciplinary literature via relevant databases.

Proposed Assessment: The proposed means of assessment will provide students with the option of undertaking at least two pieces of assessment, usually a casenote and essay. 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).

Some understanding of criminal law and process is beneficial.

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

Later Year Course  
Semester 2  
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 consolidate and build upon the skills and knowledge gained during their study of Criminal Law and Procedure;
- 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 of the criminal law 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; attempt, cyber crimes; drugs and prohibited commodities; corporate and industrial crimes;

terrorism and political offences; defences and future directions in the criminal law.

Proposed Assessment: The assessment will be settled after discussion with students.

Prescribed Text: To be advised

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.

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

Later Year Course

Semester 2

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: 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.

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

Later Year Course

Not offered in 2006

Three hours per week

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 2 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.

### **Advanced International Law LAWS2264 (6 units)**

Later Year Course

Semester 2

Three hours per week

Coordinator: Jean-Pierre Fonteyne

Prerequisites: International Law LAWS2250

**Syllabus:** The primary objective of the course is to provide undergraduate students wanting to specialise in international law with an opportunity to study those parts of general international law not addressed in the compulsory course. This elective will address three or four major topics:

- Jurisdiction
- Sovereign and other immunities
- State responsibility;
- Unspecified fourth topic (to be determined each year in light of current issues and staff availability).

**Proposed Assessment:** A mid-semester compulsory assignment, and a final exam.

**Prescribed Text:** D J Harris, *Cases and Materials on International Law* (5th ed, Sweet and Maxwell 1998), Jean-Pierre Fonteyne, A McNaughton, J Stellios, Harris, *Cases and Materials on International Law - An Australian Supplement* (Lawbook Co 2003).

### **Jessup Moot LAWS3010 (6 units)**

Later Year Course  
Summer Session

Coordinator: Don Anton

**Prerequisites:** Only students selected by the Coordinator 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 mooting 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:

- the joint preparation of written memorials in support of the claims of each of the two parties in the dispute;
- the presentation by some or all of the team members of oral argument in a competition with teams representing other Australian Law Schools.

**Proposed Assessment:** Members of the Jessup team are expected to prepare the written memorials and participate in the internal ANU practice moots. Assessment is based on the performance of each student through the entire Jessup period. The mark awarded to each Jessup team member will be based on their individual performance.

### **Law and the Environment LAWS3103 (6 units) E**

Later Year Course  
Semester 2  
Three hours of lectures per week

Coordinator: Judith Jones

**Prerequisites:** Not available to Law students

**Syllabus:** This is a 6 unit Group E course offered by the Faculty of Law to students interested in environmental issues, and may be credited towards any single undergraduate program of the Faculty of Science. This course may not count towards the Bachelor of Science (Psychology), Bachelor of Science (Resource and Environmental Management) or Bachelor of Science (Forestry) component of combined programs. Science students can take this course however it will not be classed as a

science course ie it will not count towards the Group C science requirement of your degree. Instead it will be classed as an out of Faculty course.

It should be understood that this course is Not offered in 2006 to law students; it is rather a specially designed course for non-law students, especially students in environmental or environmentally-related disciplines.

The course seeks to examine Environmental Law from theoretical and practical perspectives, taking a broad national and thematic approach rather than simply annotating the law of one jurisdiction. The course will examine the sources of Environmental Law, looking at the roles of the common law, of statutes and the growing importance of International Law. It will then move to look at environmental regulation, including economic approaches to land use control, planning and licensing systems; environmental decision-making, including environmental impact assessment processes and exceptions to the usual decision-making process; enforcement of environmental controls through criminal and civil means and alternative sanctions; and environmental litigation, in particular, rights of standing and legal aid in public interest litigation. The course will also look at philosophical and ethical bases for environmental protection, as well as a detailed examination of the role of scientific evidence in environmental decision making.

**Proposed Assessment:** The proposed assessment is an in-class test and final examination.

### **Principles of Intellectual Property LAWS3104 (6 units)**

Later Year Course  
Semester 1  
Three hours per week

Coordinator: Matthew Rimmer

**Prerequisites:** Not available to Law students

**Syllabus:** This is a six unit Group E course offered by the Faculty of Law for students with no prior law knowledge, as awareness, establishment and protection of intellectual property has become a fundamental attribute of scientific research, particularly biotechnology. Awareness of intellectual property is crucial in guiding directions for research as well as providing information on research already conducted. The establishment and protection of intellectual property is influenced by procedures adopted at the earliest stages of research and development, and a lack of understanding may significantly affect future research as well as preventing the fruits of any research being successfully commercialised.

This course will not count towards the Bachelor of Science (Psychology) or Bachelor of Science (Forestry) component of combined programs. The course is Not offered in 2006 to law students; it is specially designed for non-law students. This is a compulsory course in the Bachelor of Biotechnology and other science students can take this course however it will not be classed as a science course ie it will not count towards the Group C science requirement of your degree. Instead it will be classed as an out of Faculty course.

This course will cover the fundamental principles relating to the development and commercialisation of intellectual property including confidential information, copyright, patents, designs and trademarks. Students will be able to:

Identify, apply and assess issues relating to each of these areas of intellectual property;  
Take steps to prevent the protection of intellectual property being undermined by action inconsistent with that protection; and be able to demonstrate a capacity to identify, apply and assess ownership rights and marketing protection under intellectual property law as applicable to information, ideas, new products and product marketing.

The principles of intellectual property will then be applied to the development and protection of biotechnology.

Proposed Assessment: 50% essay, 50% take-home exam

## **Honours Thesis LAWS3202 (12 units)**

Later Year Course  
Semester 1, Semester 2

Coordinator: First Semester Robin Creyke, Second Semester Pauline Ridge

Prerequisites: Enrolment in Honours Thesis is restricted to students who satisfy the following requirements:

1. the candidate, at the time of completion of his or her studies in the Law Faculty, will have completed 14 or more eligible law courses;
2. the candidate has, by the end of the first week of the semester in which they will undertake Honours Thesis, submitted to the Faculty Office a form signed by their supervisor indicating that the supervisor has read and approved a detailed research proposal prepared in accordance with issued guidelines, and has agreed to supervise the student;
3. the candidate is in a position to complete the requirements for admission to the degree in a period of one year or less as a full-time student; and
4. at the time that the candidate qualifies under paragraph 3, the candidate has an Honours mark of 4.5 in the eligible law courses completed by the candidate, after disregarding the three courses (or less, if the Policy on Award of Honours in the Law Faculty otherwise requires) in which the candidate has scored the lowest marks.
5. Please note that it is no longer a requirement that students take another law course or courses alongside Honours Thesis (although most students will continue to do so).

In relation to paragraph 2, guidelines for the detailed research proposal will be available in the course outline for Honours Thesis (which can be accessed via the Faculty web page) or by request from the course convenor.

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 honours thesis (9,000 - 11,000 words, but this word length may be changed in 2006) is supervised by a member of the Faculty or other approved supervisor and assessed by two examiners. A group of examiners coordinates the grading of the theses.

Proposed Assessment: 9,000 - 11,000 word honours thesis (the word length may change in 2006).

To assist students to prepare their detailed research proposal and to undertake Honours Thesis, the Faculty offers Honours Thesis Workshops each year. Attendance is voluntary. Dates for 2006 will be advised. It is strongly recommended that students attend a Workshop at least three months before the semester in which they enrol in Honours Thesis. Students may attend more than one Workshop. See also the brochure 'Changes to Honours from 2005: Important Information to Students' available on the noticeboard at the student's login page. The word count rules for Honours Thesis are likely to change in 2006. Consult the course outline for details.

## **Exchange Program for Law Students LAWS5920 (6 - 24 units)**

Later Year Course  
Semester 1, Semester 2

Students enrol in this course when they have been approved to participate in a formal Law exchange with one of the Australian National University's overseas exchange partners.

For information regarding Law exchanges, selection criteria, etc, please go to the following website: <http://law.anu.edu.au/Exchanges/index.asp>. For further information on academic aspects of exchanges and the necessary approvals, please contact Dr Jean-Pierre Fonteyne, Assistant Sub-Dean (International Exchanges, Law): [jp.fonteyne@anu.edu.au](mailto:jp.fonteyne@anu.edu.au). Please note that all law students in combined degrees require Law Faculty approval prior to applying, even if they do not intend to study law while on exchange.

All administrative functions are handled by the ANU International Education Office. For details on how to apply, application forms, cost estimates, and other questions of an administrative nature, please go to the following website: [www.anu.edu.au/ieo/admissions/admission\\_howtoapply.html](http://www.anu.edu.au/ieo/admissions/admission_howtoapply.html). Further information may be obtained by contacting the IEO directly.