

Chapter 6

ANU College of Law

ANU College of Law

Contents

The Law degrees	515
Bachelor of Laws	515
The Bachelor of Laws degree with Honours	516
Combined programs	516
Juris Doctor	516
Bachelor of Laws (Graduate)	517

General information	518
----------------------------	------------

Course descriptions	518
----------------------------	------------

The Law degrees

The ANU College of Law offers undergraduate programs for the pass degree of Bachelor of Laws (LLB) and for the degree of Bachelor of Laws with honours, and graduate programs for the degrees of Juris Doctor (JD) and Juris Doctor with honours. The College also offers a postgraduate Masters program with possible specialisation in the areas of environmental law, government and commercial law, international law, migration law, and legal practice.

The College offers supervision of candidates for the degrees of Master of Philosophy (MPhil), Doctor of Juridical Science (SJD) and Doctor of Philosophy (PhD).

The Legal Workshop, which is part of the ANU College of Law, offers a practical legal training program, the Graduate Diploma in Legal Practice (GDLP), to students who have been admitted to, or who have successfully completed the program of study for, the degree of Bachelor of Laws, Juris Doctor or an equivalent degree at an Australian university or other approved tertiary institution.

Application for enrolment

Applicants for enrolment in the Law School of the ANU College 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 Law School. Admission to the University does not guarantee admission to the Law School.

There are no prerequisite school subjects for law studies. An important skill of intending law students 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.

Applicants for enrolment in the Juris Doctor are selected on the basis of both secondary and tertiary results with greater weighting on the latter.

All applicants will be advised towards the end of January 2010 as to whether they have been accepted for entry. Those selected will then be given a time limit in which to notify the University as to whether or not they wish to take up the offer of a place.

A student admitted to a combined program will be required to complete that study on a full time basis for at least the first year. A student admitted to the Bachelor of Laws or the Juris Doctor may elect to undertake either full or part-time study.

Normal duration (in years)

	Full Time	Part Time	Max Time
JD	3	6	10
LLB	4	8	10
Combined	5	9	11

LLB & JD Handbook

More details on undergraduate courses, College policies and procedures are contained in the LLB & JD 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; most courses are worth 6 units and are 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 understanding.

Program requirements

The Bachelor of Laws program consists of 192 units in total, divided up as follows:

- 15 compulsory courses (named below), worth 90 units
- 17 elective courses, worth 102 units, which may include up to a maximum of 48 units of non-law courses, with no more than 18 units of non-law courses at 1000 level.

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 LLB/JD and the 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
- LAWS2203 Corporations Law
- LAWS2204 Property
- LAWS2205 Equity and Trusts
- LAWS2207 Evidence
- LAWS2244 Litigation and Dispute Management
- LAWS2249 Legal Theory
- LAWS2250 International Law

Students are only permitted to take courses that form part of the degree requirements. Students seeking to enrol in courses over and above those required for the degree should seek advice from the Sub-Dean LLB/JD or Student Administration Manager. Additional courses will normally require non-award enrolment and the payment of up-front fees. Courses taken in this way will not normally count towards honours.

Degree structure

LLB – standard full-time program pattern

	Semester 1	Semester 2
Year 1 Total 48 units	LAWS1201 Foundations of Australian Law LAWS1203 Torts LAWS1204 Contracts 1 non-law elective course	LAWS1202 Lawyers, Justice & 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 & Procedure 1 Law or non-law elective course	LAWS2202 Commonwealth Constitutional Law LAWS2249 Legal Theory 2 Law elective courses or 1 Law elective & 1 non-law elective courses
Year 3 Total 48 units	LAWS2204 Property 3 Law elective courses or 2 Law & 1 non-law elective courses	LAWS2205 Equity & Trusts 3 Law elective courses or 2 Law & 1 non-law elective courses
Year 4 Total 48 units	LAWS2244 Litigation & Dispute Management 3 Law elective courses or 2 Law & 1 non-law elective course	LAWS2207 Evidence 3 Law elective courses or 2 Law & 1 non-law elective courses
Program Total 192 units		

The Bachelor of Laws degree with Honours

This is a summary only: the Law School's honours policy is set out in full at 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 the student. The mark for Part A shall constitute 70 per cent of the final honours mark.

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

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

Previous studies

A student who enrolls in the single 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 law courses.

Combined programs

The University offers many combined programs with 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 Asia-Pacific 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

The Law School encourages all 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.

Previous law studies

A student who enrolls in an ANU combined LLB program after completing law studies at another university may only be granted status for up to half of the courses prescribed for the ANU LLB 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.

Juris Doctor

(Academic Program: 7330 | Academic Plan: 7330XJD)

Duration: 3 years full-time

Minimum: 144 units

CRICOS Code : 061559M

Graduates of non-law disciplines may apply to undertake the postgraduate program Juris Doctor (JD).

The College is conscious that students taking the Juris Doctor program 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 many 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 JD.

Program requirements

The JD program consists of 144 units in total divided up as follows:

- 15 compulsory courses, worth 90 units
- 9 law elective courses worth 54 units, including at least two postgraduate courses (12 units in total)

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

LAWS2203 Corporations Law

LAWS2204 Property

LAWS2205 Equity and Trusts

LAWS2207 Evidence

LAWS2244 Litigation and Dispute Management

LAWS2249 Legal Theory

LAWS2250 International Law

Students are only permitted to take courses that form part of the degree requirements. Students seeking to enrol in courses over and above those required for the degree should seek advice from the Sub-Dean LLB/JD or Student Administration Manager. Additional courses will normally require non-award enrolment and the payment of up-front fees. Courses taken in this way will not normally count towards honours.

The degree with Honours

This is a summary only: the Law School's honours policy is set out in full at http://law.anu.edu.au/Undergraduate/Policies_Guidelines.asp

The length of the program of study for the degrees Juris Doctor and Juris Doctor 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 the student. The mark for Part A shall constitute 70 per cent of the final honours mark.

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

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

Previous Law studies

A student who enrolls in the JD program after completing law studies at another university may only be granted status for up to half of the courses prescribed for the ANU degree. Where a student was recently enrolled in a combined program with

law, whether at ANU or at another institution, no status will be given for law courses that were included in the completion of the other award. A student may not repeat in the JD program a course the syllabus of which is substantially similar to that of a subject passed for the award of another degree or diploma; where a course is a compulsory part of the ANU JD program, an exemption from that course will normally be granted.

Bachelor of Laws (Graduate)

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

Duration: 3 years full-time

Minimum: 144 units

CRICOS Code: 002293K

This program is no longer open to new students. It has been replaced by the postgraduate Juris Doctor (JD) program, see above

Program requirements

The LLB(G) program consists of 144 units in total divided up as follows:

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

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

Students are only permitted to take courses that form part of the degree requirements. Students seeking to enrol in courses over and above those required for the degree should seek advice from the Sub-Dean LLB/JD or Student Administration Manager. Additional courses will normally require non-award enrolment and the payment of up-front fees. Courses taken in this way will not normally count towards honours.

General information

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

Workloads

The Law School suggests the number and order of courses, compulsory or elective, which a student may take in any semester. 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. Postgraduate electives taken in the JD program are usually taught intensively and attendance is compulsory.

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.

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_REG/Procedures/Academic_Progress.asp

Admission of ANU graduates to legal practice

The Bachelor of Laws and the Juris Doctor degrees of the University are recognised for admission in the ACT and NSW so long as students cover all the courses required under the Uniform Admission Rules, 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 Graduate Diploma in Legal Practice (GDLP) provides common training for all practitioners, whether they ultimately intend 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, enabling students to practice procedures and skills. The GDLP includes trust accounts and legal ethics courses required for admission by the Uniform Admission Rules.

Students undertake a one-week prerequisite 'Becoming a Practitioner' intensive course through a series of online modules, usually over a period of nine to twelve months. There is a

reduced coursework version of the program for students with approved placements of 80, 60 or 40 days.

Students who have graduated, or have qualified to graduate, as Bachelor of Laws or Juris Doctor from an Australian university and diplomates of the Solicitors Admission Board of New South Wales are eligible to enrol. Status for part of the GDLP can be granted towards an LLM. Further details of the programs can be found at <http://law.anu.edu.au/legalworkshop> or from the Legal Workshop, ANU College of Law.

Course descriptions

Foundations of Australian Law LAWS1201 (6 units)

First Year Course

First Semester, 2010 and Second Semester, 2010

Workload: A two-hour seminar each week, four one-hour research skills tutorials and a mixture of lecture and other learning activities delivered live and/or in a variety of flexible formats (equivalent to a further hour per week).

Academic Contact: Judith Jones, Semester 1, Miriam Gani, Semester 2

Prerequisites: None.

Course Description: This course must be taken in the commencing semester of a student's LLB or JD enrolment. Students commencing their legal studies in Semester One are expected to undertake Foundations of Australian Law with LAWS1203 Torts. Students commencing their legal studies in Semester Two are expected to undertake Foundations of Australian Law with LAWS1204 Contracts. This is because the content in the relevant companion course is utilised in various ways in Foundations of Australian Law.

Foundations of Australian Law is designed to lay the groundwork for the remainder of students' legal studies. In particular, the course aims to assist students to develop a range of legal skills that are essential for successful legal studies and for professional practice. Students learn the essential skills that enable them to engage with and utilise our principal sources of law - case law and legislation. In addition to teaching students how to analyse case law and legislation in order to formulate legal arguments the course also covers the legal principles of statutory interpretation and the role of the courts in interpreting statutes.

To set the context for these sources of Australian law, the course also seeks to familiarise students with (1) some of the fundamental features of the legal institutions that generate laws (the courts and the parliament) (2) sources of Australian law in addition to case law and legislation (including the Australian Constitution, customary law and international law), and (3) the historical and social forces that have shaped and continue to shape the law-making process and the legal system.

Indicative Assessment: The assessment for this course will include skills-based exercises and assignments during semester followed by a final examination. Details of the final assessment will be provided on the course home page by the first week of semester.

Preliminary Reading: None.

Prescribed Text: Please refer to LAWS1201 course home page.

Lawyers Justice & Ethics LAWS1202 (6 units)

First Year Course

Second Semester, 2010

Workload: The course is taught for three hours each week over a semester, in a mixture of lectures, seminars and tutorials. There is a minimum attendance requirement for seminars and tutorials, and marks are deducted for failure to attend.

Academic Contact: Simon Rice

Prerequisites: None

Recommended: Students may find it easier to comprehend the concepts discussed in this course if they have successfully completed LAWS1201 Foundations of Law. Examples and case studies in LJE will draw on material from Foundations of Law and Torts, and new material.

Incompatibility: Law in Context

Course Description: This course ('LJE') is designed to build on the learning outcomes of LAWS1201 Foundations of Law in two significant ways. First, within the framework of the Australian legal system studied in LAWS1201, LJE examines:

- the role of lawyers (who they are, what they do, how they do it)
- how people have access to lawyers – especially for court proceedings
- the ethical duties that lawyers are subject to.

Secondly, building on the skills component of LAWS1201, Lawyers, Justice and Ethics teaches further skills necessary for effective legal study such as personal reflection, critical analysis, writing and presentation.

Indicative Assessment: The assessment for LJE will include class participation, an assignment during semester, and a final short examination.

Preliminary Reading: Please refer to LAWS1202 course home page shortly before semester begins.

Prescribed Text: Please refer to LAWS1202 course home page shortly before semester begins.

Torts LAWS1203 (6 units)

First Year Course

First Semester, 2010

Workload: In the first two weeks of the semester there will be four hours of large group classes per week. From the third week of semester there will be three hours of large group classes and one hour-long tutorial per week. In addition, students will be expected to read in advance of classes, to prepare any tasks indicated during class, and to prepare preliminary answers to tutorial questions. Students are generally expected to devote approximately 10 hours overall per week to this course, with additional hours needed in the lead-up to assessment tasks. Students often report that reading takes them longer than this at the beginning of semester, as they are just developing their skills.

Academic Contact: Cameron Roles/Emma Armson

Assumed Knowledge and Required Skills: Teachers in this course do NOT assume that you have done a Legal Studies course at school, and you will NOT be at a disadvantage if you have

not done such a course. As with all your law courses, it will be important that you have good written communication skills in English. Students who have not done language-rich courses in English in years 11 and 12, must expect to do some extra work to bring their skills up to the required standard. The ANU Academic Skills and Learning Centre provides courses to help you.

Corequisites: Foundations of Australian Law LAWS1201

Course Description: When a person has been harmed by the conduct of another it is the law of torts which determines who has to bear the loss. This is an important aspect of the civil law (in contrast to criminal law). It derives largely from judicial decisions, and hence is largely what we call common law (although legislation is of increasing significance). The law of torts protects people against, and compensates them for, unreasonable interferences with a wide range of interests, including their bodily integrity, property, reputation, and financial interests. It does this through a range of different torts, including trespass, negligence, nuisance and defamation. In this basic and introductory course we will focus on the use of the torts of trespass and negligence in contexts where people suffer personal injuries. We will also look at the tort of trespass to land. We will focus on the common law and relevant ACT legislation (in particular the *Civil Law (Wrongs) Act 2002* (ACT)).

As this is generally the first substantive law course that students encounter in their law program, we will also begin to teach students some of the basic skills which you will need - in particular, to read, understand and apply case law and legislation. We will also explore in a basic way the interaction between case law and legislation.

Indicative Assessment: The assessment for this course is yet to be finalised but will involve at least two compulsory pieces of assessment: one around mid-semester and one at the end of semester. Attendance at tutorials will be compulsory, with 5 per cent of marks deducted for failure to attend at least eight out of ten tutorials. Details of final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS1203 course home page. It is likely that the prescribed text for 2010 will be Luntz, Hamby, Burns, Dietrich, Foster, *Torts Cases and Commentary* (6th ed, 2009) (which was the prescribed text in 2009).

Contracts LAWS1204 (6 units)

First Year Course

First Semester, 2010 and Second Semester, 2010

Workload: The Workload for this course will be 4 hours each week. There will be 2 two-hour lectures for the first 2 weeks of the semester. From week 3, 1 of the two-hour lectures will be replaced with a 1 hour lecture and a 1 hour tutorial. Students are expected to devote approximately 10 hours per week, including class time, to this subject.

Academic Contact: Daniel Fitzpatrick, Semester 1. Alex Bruce, Semester 2.

Course Description: The Contracts course is one of the foundation subjects in the law program 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 course deals with breach and its consequences, including a discussion of the common law and equitable remedies. 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 also examined. By the end of the course students should have an understanding of contract law as a building block for many other subsequent courses in the law degree.

Indicative Assessment: The assessment for this course will involve a compulsory piece of written assessment during the semester, a final exam in the examination period and continuous assessment for class participation in tutorials. Tutorial attendance is compulsory and marks will be deducted for failing to attend more than two tutorials during the semester. More information about the means of assessment and the relationship of the assessment to the learning outcomes of the course will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least 1 week prior to the commencement of the course.

Prescribed Text: Please refer to LAWS1204 course home page.

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

Australian Public Law LAWS1205 (6 units)

First Year Course

First Semester, 2010 and Second Semester, 2010

Workload: For the first six weeks, there will be one two-hour and one one-hour lecture. Tutorials will begin in the seventh week, taking the place of the one-hour lecture for the next six weeks. Students are generally expected to devote at least 10 hours overall per week to this course.

Academic Contact: Matthew Zagor, Semester 1. Dominique Dalla-Pozza, Semester 2.

Prerequisites: None.

Assumed Knowledge and Required Skills: It will be useful for students to follow domestic political developments during the course, such as where there is an election or change in leadership of a major party, a high profile parliamentary inquiry or debate (eg around proposed legislation, the behaviour of members, or the scrutiny of the executive) or a controversial matter before the courts.

Course Description: This course examines the structure and themes of Australian public law, providing a bridge to all other public law study in the curriculum. In essence, the course examines how public 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, constitutionalism, 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.

Indicative Assessment: The *provisional* scheme of assessment involves a compulsory examination at the end of the semester worth 60 per cent or 100 per cent of the final mark; and a optional, redeemable, research essay (2,000 words) worth 40 per cent of the final mark.

The proposed assessment aims to develop and test the full range of skills upon which the course is intended to draw. Assessment by formal examination tests the breadth of students' knowledge of the course content and develops skills in problem-solving, critical analysis, and persuasion. The optional essay provides an opportunity for students to hone research skills and engage in deeper thinking about themes and issues encountered in the course.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

This course is taken in the first semester of second year for all combined degree students. Students undertaking single degree (LLB or JD) will study Australian Public Law in the second semester of first year (or later for part-time students).

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 the law degree.

Criminal Law & Procedure LAWS1206 (6 units)

First Year Course

First Semester, 2010

Workload: There will be 3 hours of lecture time per week supplemented by a 1 hour compulsory tutorial which will run in 10 of the 13 weeks of the course. A further 6 plus hours of private study is expected per week in order to review required reading and to prepare for tutorials.

Academic Contact: Miriam Gani

Prerequisites: None.

Assumed Knowledge and Required Skills: None.

Course Description: This course introduces students both to the sources of law which define general principles of criminal responsibility, and to a selection of substantive criminal offences and criminal defences as well as to criminal procedure. The substantive offences include assault, sexual assault, murder, manslaughter, and property offences, whilst the criminal defences include provocation and self-defence. Students will be exposed to both common law sources as well as legislation and criminal codes where relevant. Basic legal theories of the criminal law will also be introduced. The lecture program will be supported by problem-solving tutorials aimed at enabling students to give legal advice as to criminal liability and the resolution of procedural problems.

Indicative Assessment: A mid-semester problem-based assignment and an exam at the end of the course.

Preliminary Reading: None. Consult course outline for Week 1 reading.

Prescribed Text: Currently S Bronitt and B McSherry, *Principles of Criminal Law* (2nd edition, LawBookCo, 2005). Students should note that a new edition may become available before Semester 1 2010.

English in a Legal Context LAWS1209 (0 units)

First Year Course

First Semester, 2010 and Second Semester, 2010

Workload: Week by week content is negotiated between the convenor and the students and is designed to address the immediate concerns of students in relation to their other first year law subjects. Typical preparation for students would involve preparing a brief case note or an answer to a tutorial problem.

Academic Contact: Semester 1, Miriam Gani. Semester 2, Asmi Wood

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

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

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

- participating effectively in discussion groups.

Indicative Assessment: This subject is not assessed.

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 College requirement for consideration for extra time in examinations under the University's Policy on Assessment.

Administrative Law LAWS2201 (6 units)

Later Year Course

First Semester, 2010

Workload: Administrative Law is a compulsory course generally involving four hours of contact time per week over the semester. Tutorials will be offered in some classes. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Leighton McDonald

Prerequisites: Australian Public Law LAWS1205. Completed or completing five LAWS courses at 1000 level.

Course Description: Administrative Law examines the legal framework for controlling decision-making by Commonwealth, State and local government decision-makers in Australia. It focuses on the legal restraints upon government, and the role those restraints play in maintaining government accountability. 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 is examined. 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:

- what accountability means in the context of the 'administrative state'
- changing patterns of 'governance' in contemporary Australia
- the historical and constitutional context of Australian administrative law
- the administrative law framework for review of government decision-making
- concepts and principles of merits and judicial review
- jurisdiction and remedies available from courts and tribunals, and the principles of standing
- other administrative law avenues including information access rights and ombudsmen
- the impact of human rights legislation on Australian administrative law.

Indicative Assessment: Assessment in Administrative Law includes a final examination in the end of semester examination period and usually an optional (and redeemable) essay. Students should check the course outline for further information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course.

Preliminary Reading: Any preliminary reading will be set out in the course outline for each class.

Prescribed Text: Each class will have its own prescribed text and additional reading materials. Peter Cane and Leighton

McDonald, *Principles of Administrative Law: Legal Regulation of Governance* (Oxford University Press, 2008) and Peter Cane and Leighton McDonald, *Cases and Materials for Principles of Administrative Law* (Oxford University Press, 2009) (available as a 'pack' ISBN: 9780195566390).

Commonwealth Constitutional Law LAWS2202 (6 units)

Later Year Course

Second Semester, 2010

Workload: There will generally be four hours of lectures per week. In some weeks, there will also be a one hour tutorial. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Heather Roberts

Prerequisites: Australian Public Law LAWS1205. Completed or completing five LAWS courses at 1000 level.

Course Description: 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', focusing on implications from representative government
- the nature of judicial review and the role of the High Court

Indicative Assessment: It is anticipated that this course will be assessed by a compulsory end of semester exam and some form of mid-semester assessment. Details of the final assessment, including the relationship between assessment and the learning outcomes for the course, will be provided on the course home page by the first week of semester.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course homepage.

This course is normally taken in the third year of a combined degree.

Corporations Law LAWS2203 (6 units)

Later Year Course

First Semester, 2010

Workload: This course involves two two-hour lectures per week for the first seven weeks of the course. From week eight until week thirteen, students will also need to attend a one hour

tutorial. However, during this time lectures shall reduce to one two-hour and one one-hour lecture per week.

Academic Contact: Kath Hall

Prerequisites: Contracts LAWS1204. Completed or completing five LAWS courses at 1000 level

Course Description: 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
- winding up.

Indicative Assessment: The assessment for this course will comprise an optional mid-semester assessment (either a case analysis or research essay) and a compulsory end of semester exam. More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available on the course home page at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

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

Property LAWS2204 (6 units)

Later Year Course

First Semester, 2010

Workload: For the first seven weeks of the course, there will be 4 hours of lectures per week. From weeks 8 to 13, there will be 3 hours of lectures and 1 hour of tutorials. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Wayne Morgan

Prerequisites: Contracts LAWS1204. Completed or completing five LAWS courses at 1000 level

Course Description: 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.

Indicative 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 information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

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 & Trusts LAWS2205 (6 units)

Later Year Course

Second Semester, 2010

Workload: There will be three hours of lectures each week. There will be weekly tutorials; students should check the course homepage for the commencement date of tutorials. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Pauline Ridge

Prerequisites: Property LAWS2204. Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: Property LAWS2204 is a pre-requisite for this course.

Course Description: 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 consider 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 requirements for express trusts, the duties, powers, rights and liabilities of trustees and beneficiaries and how express trusts are administered; resulting trusts, constructive trusts, the liability of a third party to a breach of trust or fiduciary duty, and the equitable proprietary and personal remedies for breach of trust and fiduciary duty, including tracing. The course then shifts its focus to equity more generally by considering the equitable rules for assignment of property and the remedies of specific performance, injunctions, and damages under Lord Cairns' Act.

Indicative Assessment: The assessment for this course will include two compulsory examinations: one mid-semester and one at the end of semester. In addition, there will be an optional essay. There will also be a tutorial assessment component.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

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

Evidence LAWS2207 (6 units)

Later Year Course

Summer Session, 2010 and Second Semester, 2010

Workload: The standard course in Semester 2 involves 3 hours of lectures per week plus 1 tutorial per week for 10 weeks.

The Summer Semester version delivers the same number of lectures over a period of 3-4 weeks with 1 tutorial per week during this period.

Academic Contact: Gregor Urbas

Prerequisites: Torts LAWS1203 and Criminal Law and Procedure LAWS1206. Completed or completing five LAWS courses at 1000 level.

Course Description: 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 reexamination of witnesses
- burden and standard of proof
- relevance of evidence to facts in issue
- admissibility rules (e.g. credibility, hearsay, opinion, tendency and coincidence, identification and character evidence), and exceptions
- privileges
- judicial discretions and conduct of proceedings.

The course will be based on the Evidence Law; comprising the Evidence Act 1995 (Cth), which applies in proceedings in Federal and ACT courts, along with counterpart legislation in New South Wales, Tasmania and Norfolk Island. The course also makes reference to law reform perspectives such as the recent Australian Law Reform Commission report on Uniform Evidence Law (ALRC 102).

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

Indicative Assessment: The assessment for this course will involve two compulsory examinations: one at mid-semester and one at the end of semester.

More information about the means of assessment, including the relationship between the assessment and the learning outcomes

of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: None, but students will benefit from rereading 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 terms of accuracy and analysis) in various 'real crime' literature and courtroom drama.

Prescribed Text: The most recent edition of the following text will be used in the course:

S Odgers, *Uniform Evidence Law*, Thomson Reuters.

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 & Insolvency LAWS2209 (6 units)

Later Year Course

Second Semester, 2010

Workload: Three hours per week.

Academic Contact: Craig Collins

Prerequisites: Corporations Law LAWS2203.
Completed or completing five LAWS courses at 1000 level.

Course Description: This course introduces students to the law of personal bankruptcy in Australia and further develops the law of corporate insolvency - as broadly introduced in the prerequisite course, Corporations Law. While understanding legal terminology, concepts, doctrine and processes are all vital to grasping and applying bankruptcy and insolvency laws, the course also seeks to frame those aspects in a wider historical, social, economic and policy context.

The course begins with an overview of debtor-creditor relations and the pre-insolvency context. Beyond this introductory phase, the course is broadly divided into two blocks, focusing initially upon personal bankruptcy - with attention directed to the Bankruptcy Act 1966 (Cth) - and then corporate insolvency - focusing upon Part 5 of the Corporations Act 2001 (Cth).

The course will be of interest to a variety of students. The Global Financial Crisis has generated tremendous activity and many opportunities in this field of law, as well as public pressure for reforming the law. Bankruptcy and Insolvency is a key area of specialised or general legal practice in firms of all sizes and locations. Many issues within this field overlap with a range of other fields such as: contracts, torts, property, equity and trusts, succession, constitutional, criminal, litigation and dispute management, evidence, commercial law, corporate law, banking and finance, taxation, administrative law, consumer protection, employment and family law. The course may also be of particular interest to students undertaking combined degrees or having experience or employment aspirations in business, commerce, public policy or the community law sector - and, indeed, to anyone else with an over-extended credit card.

Indicative Assessment: Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2209 course home page.

This is a commercial law elective course, therefore, 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.

Commercial Law LAWS2210 (6 units)

Later Year Course

First Semester, 2010

Workload: The contact hours for this course will be 3 hours each week. There will be a 2 hour lecture and a 1 hour lecture for the first 2 weeks of the semester. From week 3, the 1 hour lecture will be replaced with a 1 hour tutorial. Students are expected to devote approximately 10 hours per week, including class time, to this subject.

Academic Contact: Keturah Whitford

Prerequisites: Contracts LAWS1204. Completed or completing five LAWS courses at 1000 level.

Corequisites: Property LAWS2204

Course Description: 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
- International sale of goods
- Insurance
- Property security
- Bailment

Indicative Assessment: The assessment for this course will involve a compulsory piece of written assessment during the semester, a final exam in the examination period and continuous assessment for class participation in tutorials. Tutorial attendance is compulsory and marks will be deducted for failing to attend more than two tutorials during the semester. More information about the means of assessment and the relationship of the assessment to the learning outcomes of the course will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: Please refer to LAWS2210 course home page.

This course provides essential background for advanced commercial law courses.

Conflict of Laws LAWS2212 (6 units)

Later Year Course

not offered in 2010

Workload: Three hours of in-class time per week.

Academic Contact: Kent Anderson

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: Conflict of Laws, also sometimes called Private International Law, is concerned with what happens in cases where not all of the facts are tied to one jurisdiction. In the federal system of Australia, this can occur both within a domestic intra-Australia context and in an international context. While this course deals with a number of specific theoretical frameworks, it is taught largely from a practical standpoint aimed at preparing lawyers for handling cases with trans-jurisdictional issues. The three core components of the course investigate:

- Jurisdiction: When domestic courts can hear cases that involve parties and property from outside the territory of the court
- Choice of Law: Which law is applicable when a case has connections with a number of different jurisdictions. In particular, this course considers contract and tort disputes that involve a variety of jurisdictions
- Enforcement of Judgments: How to enforce a court judgment or arbitral awarded from another jurisdiction in local courts.

Indicative Assessment: A compulsory mid-term exam (40 per cent) and a compulsory final exam (60 per cent). Details of the final assessment will be provided on the course home page by the first week of semester.

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: Please refer to LAWS2212 course home page.

This is an extremely useful course both for people who plan to practice litigation in a domestic and international context. People who intend to be transactional lawyers will also benefit from having a sound grounding on the issues to be able to draft predictable outcomes in light of Conflicts risks.

Contemporary Issues in Constitutional Law LAWS2213 (6 units)

Later Year Course

First Semester, 2010

Academic Contact: James Stellos

Prerequisites: Commonwealth Constitutional Law LAWS2202. Completed or completing five LAWS courses at 1000 level.

Course Description: This course builds upon the concepts and ideas introduced in Australian Public Law and Commonwealth Constitutional Law. In 2010, the course will focus on Ch III of the Constitution - the federal judicial system. It will look at the separation of powers, and the implications that separation has for federal, State and Territory courts; the exercise of federal

jurisdiction by federal, State and Territory courts and the law that is applicable when a court is exercising federal jurisdiction; and the jury trial requirements of s 80.

Indicative Assessment: It is anticipated that the course will be assessed by written assessment.

Prescribed Text: There will be a prescribed text for this course which will be published in early 2010. Please refer to course home page.

Criminal Justice LAWS2214 (6 units)

Later Year Course

Second Semester, 2010

Workload: Three hours per week.

Academic Contact: Gregor Urbas

Prerequisites: LAWS1206 Criminal Law and Procedure. Completed or completing five LAWS courses at 1000 level.

Course Description: 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 course will also examine how criminal justice theory operates in practice and evaluate the social impact of the criminal justice system.

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. In conjunction with this part of the course, students will observe and report on criminal proceedings in the Magistrates' and Supreme courts. The second part of the course will explore theoretical and practical legal and policy issues through an examination of a range of substantive topics, such as: policing, criminal investigation, covert operations, electronic and other surveillance, charging and prosecution, diversionary conferencing and restorative justice, committal and trial requirements, the role of the jury, the impact of the criminal justice system on indigenous people, victims' interests, miscarriages of justice, domestic violence, multiculturalism, sentencing and corrections.

Indicative Assessment: Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2214 course home page

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

Environmental Law LAWS2215 (6 units)

Later Year Course

First Semester, 2010

Workload: Three hours per week.

Academic Contact: James Prest

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: 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 both theoretical and practical perspectives, taking a broad national and thematic approach. Whilst it places particular emphasis on the applicable Commonwealth, NSW and ACT law, the course reviews fundamental concepts, useful tools and insights with which to understand and critically analyse environmental law.

The course commences with an introduction to concepts relating to defining the 'environment', including the notion of 'ecologically sustainable development'. It then considers environmental law 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, climate change and energy law, the enforcement of environmental protection measures (including the topics of standing and access to justice), as well as environmental litigation.

Indicative Assessment: Mid-semester examination and research essay. Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text:

Please refer to LAWS2215 course home page.

Environmental Law Elective LAWS2216 (6 units)

Later Year Course

not offered in 2010

Academic Contact:

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Family Law LAWS2217 (6 units)

Later Year Course

Second Semester, 2010

Workload: Three hours per week.

Academic Contact: Juliet Behrens

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: The course is designed to equip students with the theoretical and contextual material to enable them to think critically about, and to take a considered position on family law issues. It is also designed to enable students to acquire understanding of law and its contexts in relation to the following areas: marriage, nullity and dissolution; violence and abuse in families; decision-making about parenting after separation; economic aspects of marriage and relationship breakdown. Themes which run through the course (and associated questions) include:

- the public/private dichotomy (to what extent and in what ways is 'the family' a private sphere?)
- the focus of regulation (has marriage as the benchmark of family law been replaced by parenthood?)
- gender and domestic violence (how well does the family law system respond to domestic violence? Are family laws and decision-making gendered?)
- child-centredness (to what extent are laws, decision-making, process and research on family law child-centered?)
- the *form* of regulation (to what extent does family law rely on discretion, principles and rules? What are the advantages and disadvantages of these various forms of regulation?)
- private ordering (to what extent is family law privately ordered? What are the implications of this?).

Indicative Assessment: The means of assessment for this course will involve a compulsory research essay and a compulsory end of semester examination.

Details of the final assessment will be provided on the course home page by the first week of semester.

Preliminary Reading: Students should read the outline, and Chapter 1 of the prescribed text before the end of the first week of term.

Prescribed Text: Belinda Fehlberg and Juliet Behrens, *Australian Family Law: The Contemporary Context* (OUP, 2008) and *Teaching Materials* (OUP, 2009) - these can be bought as a package.

This course can be taken at any stage in a degree. Students sometimes say that they find it easier to cope 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 commercial aspects to the course, and links with Property, Equity and Trusts and Corporations Law.

Feminist & Critical Legal Theory LAWS2218 (6 units)

Later Year Course

not offered in 2010

Workload: Throughout the course there will be three hours of teaching per week. This will generally involve a one hour lecture and a two hour seminar. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Wayne Morgan

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: A knowledge of feminist and critical theory is NOT required before studying this course.

Course Description: The aim of this course is to engender critical thought about law. In particular, the course introduces students to feminist theories about law. A range of topics will be discussed using a diverse range of feminist and critical materials. Topics will include feminism within the academy, the concept of equality and violence against women as well as other topics.

Indicative 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 information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

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 & Human Rights LAWS2219 (6 units)

Later Year Course

Second Semester, 2010

Workload: Contact Hours: Three hours per week (lectures will be taped in accordance with flexible learning policies). One hour pre-reading per lecture.

Academic Contact: to be confirmed

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: The course examines the regulation of health care in Australia, involves analysis and development of moral and bioethical 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, safety and cost effectiveness regulation of pharmaceuticals and new medical technologies, nanomedicine and biotechnology regulation, stem cells and medical research, 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.

Indicative Assessment: Draft academic article (essay) (2,000 words) or participation in a medico-legal moot in the ACT Supreme Court or ACT Magistrates Court with medical students from the ANU Medical School - 45 per cent and end of course examination (45 per cent). 10 per cent class participation based on demonstration of above learning outcomes in face-to-face situation. Details of final assessment will be provided on the course home page by the first week of semester.

Preliminary Reading: I Freckleton and K Petersen, *Controversies in Health Law* (Federation Press 2006).

Prescribed Text: TA Faunce 'Who Owns Our Health?: Medical Professionalism, Law and Leadership in the Age of the Market State' (UNSW Press 2007). Two small books of materials of key case excerpts, legislation and key articles.

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

Human Rights Law in Australia LAWS2220 (6 units)

Later Year Course

Second Semester, 2010

Workload: There will be three hours of lectures each week. The first session will be two hours and will be composed of lecture material, delivered in semi-seminar mode as class size allows. The subsequent single hour will allow presentations in the first part of the course, and a more discursive format before and after the presentations. In general, the course is likely to involve overall some ten hours a week.

Academic Contact: Peter Bailey

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: The course will be adapted where possible to take into account students' prior knowledge. It will assume a desire to probe the human rights enterprise, although not necessarily in supportive mode. The object is to promote interest in human rights and their realisation, and to discuss in a receptive environment what are often very different views both about values and how they should be implemented. So interest, a willingness to be involved, and a receptiveness to the views of others are preferred rather than simple absorption of 'the law'. The subject provides a human rights based critique for the values and standards the law contains.

Corequisites: Commonwealth Constitutional Law LAWS2202.

Course Description: The course is concerned with how the international standards defining human rights can be recognised and established in Australian law. To do this it starts with what human rights are, and compares them with other forms of rights. There is discussion of how bills of rights fit with human rights. The Australian Human Rights Acts (ACT and Victoria) are examined as examples and the proposals for an Australian bill of rights will be reviewed.

Another topic discussed is the implementation in law of the human rights to equality and non-discrimination. Commonwealth and State legislation, and the resultant case law, are analysed and critiqued. The inadequacies in human rights terms of the Constitution will be exposed and there will be discussion of how the inadequacies might be remedied.

The final section of the course is devoted to examining the human rights of individuals and groups who suffer disadvantage within the legal system. The particular groups and individuals will potentially include a critical examination of the enjoyment of human rights by Indigenous peoples, people with alternative forms of sexuality, asylum seekers and prisoners. To the extent possible these topics and others such as human rights relating to Counter-terrorism law and the rights to life

and to freedom of expression will be subject to selection in consultation with the class.

Indicative Assessment: A two-part assessment package will be offered to give a range of choices and to enable students to have feedback on their progress. It is likely to include essays, take-home assignments, responses to a video presentation and class presentations. The various learning outcomes promoted by the options are identified in the means of assessment available on the course website.

Prescribed Text: Bailey P, *The Human Rights Enterprise*, LexisNexis, 2009

Students may find it helpful to take International Law of Human Rights (LAWS2225) as well at some point in their degree, (preferably before this course as it is a logical sequel). The two courses together provide a comprehensive introduction to human rights law.

Income Tax LAWS2221 (6 units)

Later Year Course

First Semester, 2010

Workload: The course consists of three hours of lectures per week. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Michael Kobetsky

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Recommended: It would be helpful but not compulsory for students to have completed Corporations Law prior to commencing this course.

Course Description: 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 services income;
- business income;
- property income;
- the deductions;
- 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; and
- tax administration.

Indicative Assessment: The proposed means of assessment for this course will involve two pieces of assessment, with one piece during the semester. More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Prescribed Text: Kobetsky, et al, *Income Tax: Text, Materials and Essential Cases* (7th ed) (2008), *Fundamental Tax Legislation* (2009).

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

First Semester, 2010

Workload: This course will involve weekly two-hour lectures, and one-hour seminars over the period of a semester. Students are expected to devote approximately ten hours overall per week to this course.

Academic Contact: Matthew Rimmer

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: 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 policy-based seminar each week.

The course provides an overview of intellectual property law. It considers the main aspects of Copyright Law, Designs Law, Passing Off, Trade Mark Law, Confidential Information, Patent Law and Plant Breeders' Rights. It 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. The course also explores a number of key policy themes - including the globalisation of trade; the formation of the public domain and the Creative Commons; the rise of information technology; the scientific revolutions in agriculture, medicine and biotechnology; the development of personality rights and privacy rights; the promotion of clean technologies to address the effects of climate change and global warming; and the protection of traditional knowledge and culture.

Indicative Assessment: The proposed scheme of assessment for this course will involve three compulsory and non-redeemable components:

- Seminar presentation - 8-11 minutes presentation plus 1,000 word note (value 20 per cent)
- Research essay - 2,000-2,500 word essay (value 40 per cent)
- Examination - 1 hour examination (3 questions) (value 40 per cent).

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: McKeough, J., Bowrey, K. and P. Griffith, *Intellectual Property: Commentary and Materials* (4th ed). Sydney: LexisNexis Butterworths, 2007, pp. 772 or Davison, M., Monotti, A, and L. Wiseman, *Australian Intellectual Property Law*. Cambridge: Cambridge University Press, 2008, pp. 625.

It is also essential that students have access to Australian intellectual property legislation and international treaties. These Acts may be downloaded from www.comlaw.gov.au/ or www.austlii.edu.au/ or may be found in the Butterworths *Intellectual*

Property Collection 2009 (Sydney: LexisNexis Butterworths, 2009).

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. Intellectual Property would also be of interest of those with an information technology or science background.

International Dispute Resolution LAWS2223 (6 units)

Later Year Course

not offered in 2010

Academic Contact: Wayne Morgan

Prerequisites: International Law LAWS2250. Completed or completing five LAWS courses at 1000 level.

Course Description: 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.

Indicative 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.

Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2223 course home page

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

Later Year Course

not offered in 2010

Workload: Three hours per week.

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

Completed or completing five LAWS courses at 1000 level.

Course Description: 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.

Indicative 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.

Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2224 course home page.

International Law of Human Rights LAWS2225 (6 units)

Later Year Course

First Semester, 2010

Workload: There will be three contact hours per week, made up of one large group lecture and two smaller seminars. The average workload for the course will be 10 hours per week.

Academic Contact: Matthew Zagor

Prerequisites: International Law LAWS2250. Completed or completing five LAWS courses at 1000 level.

Recommended: It would be helpful but not essential for students to have completed Commonwealth Constitutional Law prior to commencing this course.

Course Description: This course aims to provide students with a critical understanding of international human rights law and practice. Topics to be covered include:

- historical development of international human rights law
- international humanitarian law (the law of armed conflict) and its relationship with the international law of human rights
- human rights 'enforcement' mechanisms: the UN Human Rights Council, the human rights treaty bodies and human rights regional mechanisms
- the rights of women and the rights of indigenous peoples
- threats to rights, particularly in the context of the war on terror
- application of international human rights law in Australia, including refugee issues, anti-terror legislation and the argument about an Australian Bill of Rights.

Indicative Assessment: The components of the assessment will be: either a class presentation worth 40 per cent or a research paper worth 40 per cent; a class participation mark

worth 10 per cent; and a take-home exam worth 50 per cent to be undertaken at the end of the semester. The relationship between the assessment and the learning outcomes for the course will be set out in the course outline. Details of the course means of assessment will be provided on the course home page and WebCT (or Wattle) by the first week of semester.

Preliminary Reading: Students should read Lynn Hunt's *Inventing Human Rights: A history* (2007) and Mary Ann Glendon's *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (2001). There are copies of both books in the Law Library. Students should also visit the website of Human Rights Watch (www.hrw.org) to familiarise themselves with current human rights issues.

Prescribed Text: Henry J Steiner, Philip Alston and Ryan Goodman, *International Human Rights in Context* (3rd ed, 2007).

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 the indigenous right to self-determination.

International Trade Law LAWS2226 (6 units)

Later Year Course

First Semester, 2010

Workload: Throughout the course there will be three hours of teaching per week. This will generally involve a two hour lecture and a one hour seminar (sometimes the seminars will be 'skills sessions'). Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: James Stellios

Prerequisites: International Law LAWS2250. Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: It is not required that students have a background in economics, although some knowledge of economics will be helpful.

Course Description: 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. 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 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.

Indicative 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 information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading:

The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text:

Information about prescribed texts will be made available in the course outline. See the course home page.

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

Japanese Law & Society LAWS2227 (6 units)

Later Year Course

First Semester, 2010

Workload: This course meets twice a week for 90 minutes. Student attendance and participation is worth 5 per cent of assessment and WebCT (or Wattle) discussion posting is worth 5 per cent of assessment. Do not take this course if you will rely on taping. I will endeavour to tape the course, but there is no guarantee that it will work. Classroom participation is an important part of this course that cannot be replaced by listening to tapes.

Academic Contact: Kent Anderson

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: 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.

Course Description: 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.

Indicative Assessment: The following assessment scheme is proposed:

- Attendance and Participation (5 per cent)
- WebCT (or Wattle) Discussion Postings (5 per cent)
- News Assignment-Presentation (20 per cent)

- News Assignment-Impressions Paper (20 per cent)
- Final Examination OR Final Paper (50 per cent).

Prescribed Text: There is no prescribed text. All materials will be available as an eBrick on WebCT (or Wattle).

Labour Law LAWS2228 (6 units)

Later Year Course

Second Semester, 2010

Workload: Class contact hours are 3 hours per week. This will include lectures and class discussion. The amount of time dedicated to class discussion as opposed to lectures will vary depending on class size. Students are generally expected to devote approximately 10 hours per week to this course.

Academic Contact: Cameron Roles

Prerequisites: Contracts LAWS1204. Completed or completing five LAWS courses at 1000 level.

Recommended: Other courses making up a specialisation in labour law include Work and Law - Selected Topics.

Anti-discrimination law studied in Human Rights Law is also relevant.

Course Description: This course examines labour law in Australia. Labour law is an important component of studies in the legal regulation of commerce. Students are introduced to the key aspects of labour laws which determine the rights, entitlements and responsibilities of employers and workers in the workplace. Both practical and theoretical perspectives on judge-made law and statute regulating work are examined. Given extensive recent legislative activity by the Commonwealth Parliament in the area of labour law, the *Fair Work Act 2009* (Cth) as amended is analysed in some detail.

Topics covered include:

- The history and development of Australian labour law
- The constitutional framework of Australian labour law
- Employees contrasted with other categories of workers
- The common law contract of employment
- Minimum employment terms and conditions
- Workplace bargaining and agreements
- The regulation of industrial conflict (including strikes)
- Wrongful, unlawful and unfair termination of employment
- Transmission of business rules.

Indicative 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 information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

Law & Society in South East Asia LAWS2229 (6 units)

Later Year Course

Second Semester, 2010

Academic Contact: Daniel Fitzpatrick

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: This course introduces students to the legal systems 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 a range of customary, Islamic and State laws. These laws exist today in varying combinations, occasionally in harmony and, not infrequently, in conflict.

Part 1 of the course will provide an historical outline and general overview of these systems. In Part 2, the focus will be on land law and legal pluralism, as a representative case-study of law-in-action in Southeast Asia.

Indicative Assessment: Please refer to LAWS2229 course home page.

Preliminary Reading: Please refer to LAWS2229 course home page.

Prescribed Text: Please refer to LAWS2229 course home page.

Law Internship LAWS2230 (6 units)

Later Year Course

Summer Session, 2010, First Semester, 2010, and Second Semester, 2010

Workload: The amount of time spent in the workplace will depend on the placement, the topic and the nature of the research to be undertaken. An agreement is prepared between the student, the professional supervisor and the course convenor to provide for regular meetings between the student and the supervisor and to set out expectations relating to progress.

Academic Contact: Peter Ford

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

Recommended: It would be helpful for students to have completed academic study of the relevant topic area before undertaking an internship.

Course Description: 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 ANU College of Law on projects of an applied nature. These projects may include submissions to inquiries and parliamentary committees, responses to discussion and issue papers, and projects of bodies with which members of the ANU College of Law are involved (for example, advisory councils).

A Law School protocol governs these internships. College 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.

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

Further information (including application form) is available on the ANU College of Law website: <http://law.anu.edu.au/undergraduate/Internship.asp>

Indicative Assessment: The internship involves the completion of a 6,000 word research paper under the direct supervision of a legal professional in a workplace. The paper is jointly marked by the professional supervisor and the course convenor. This is the only assessment task for the course.

Preliminary Reading: This will depend on the topic of research and may be discussed with the professional supervisor.

Work & Law – Selected Topics LAWS2231 (6 units)

Later Year Course

not offered in 2010

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: 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.

Indicative 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.

Prescribed Text: Please refer to LAWS2231 course home page.

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.

Selected Topics in Torts LAWS2233 (6 units)

Later Year Course

not offered in 2010

Prerequisites: Torts LAWS1203. Completed or completing five LAWS courses at 1000 level.

Course Description: 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.

Preliminary Reading: Please refer to LAWS2233 course home page.

Prescribed Text: Please refer to LAWS2233 course home page.

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: Animals & the Law LAWS2234 (6 units)

Later Year Course

not offered in 2010

Workload: Each week students will attend a two hour lecture and a one hour interactive and participative tutorial based upon the material presented in the lecture.

Academic Contact: Alex Bruce

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Students may also find it beneficial to have completed LAWS2201 Administrative Law and LAWS2203 Corporations Law.

Course Description: The purpose of the course is to introduce students to the legal, ethical, regulatory, economic and social issues that are associated with human interaction with animals.

The President of the Australian Law Reform Commission Professor David Weisbrod has suggested that 'animal welfare' is likely to become the next great social justice movement in Australia, observing that the treatment of animals is 'increasingly becoming a social and legal issue, as well as an important economic one'. Why is this? There is a growing understanding in society of the importance of respect and protection of animals as an indicator of the ethical maturity of a society.

The way in which society exploits animals for our entertainment, pleasure and consumption therefore raises profound moral, ethical and legal issues. Accordingly, 'ethical animal welfare, the protection of animals for their own sake as sentient beings with a capacity for suffering, is no doubt one of the basic values of modern western states'. This interaction between human activities and animal interests is a serious area of academic inquiry giving rise to significant legal regulatory and socio-ethical issues.

Adopting an inter-disciplinary approach, this new elective course will consider animals within established categories of law such as property, (for example, s4 of the *Trade Practices Act 1974* (Cth) defines 'goods' to include animals), but will also examine the legal status and regulation of the treatment of within broader social, philosophical and legal contexts. This includes an economic and scientific context, an environmental context, and an ethical-political context.

Students will therefore be challenged in their traditional understanding of animals as they are conceptualised in law (including underlying philosophical assumptions) and to critically evaluate the way the legal system influences the interests of animals within society.

In this way, an examination of animals through prevailing and traditional legal doctrines is critiqued and evaluated through the insights of other academic disciplines such as philosophy, economics and science. This approach will provide students with an opportunity for critical reflection on the legal and ethical interaction between humans and animals as manifested in the law.

Indicative Assessment: Students will be assessed on class participation and be required to write a substantial research essay on a topic of their choice and approved by the course convenor.

Prescribed Text: To be advised

Classes will not be taped as Animals and the Law is intended to be an interactive and participative course.

Special Law Elective 2: Occupational Health & Safety Law LAWS2235 (6 units)

Later Year Course

Summer Session, 2010

Workload: The workload for this course will comprise:

- 36 contact hours; and
- approximately 78 hours preparation.

Academic Contact: Cameron Roles

Prerequisites: Torts LAWS1203 and Contracts LAWS1204. Completed or completing five LAWS courses at 1000 level

Course Description: Occupational Health and Safety Law will provide students with an understanding of the legal regulation of workplace injuries, especially the employer's common-law duty to maintain a safe workplace and the employer's obligations under occupational health and safety statutes. The course will consider the problem of work-related injuries in the workplace, and the nature of workplace accidents. The course will consider briefly the history of workplace safety regulation, the failure of the common law to reduce accidents in the workplace and the Robens reforms on which modern safety laws are based. The focus of the course will then shift to an examination of statutory regimes governing occupational health and safety law in Australia. The focus of the course will be on the New South Wales statute, but significant differences between the New South Wales statute and those existing in the other States and Territories will also be highlighted. Importantly, the course will also consider the proposals to harmonise Australia's nine separate occupational health and safety jurisdictions, and will provide students with the opportunity to be completely up-to-date with these important changes.

Indicative Assessment: It is anticipated that the final assessment will comprise of the following:

- class presentations on selected extracts from materials (15 per cent);
- class participation (10 per cent);
- two on-line quizzes (10 per cent each); and
- research paper of 3,000 words (55 per cent).

Prescribed Text: Please refer to LAWS2235 course home page.

Succession LAWS2236 (6 units)

Later Year Course

First Semester, 2010

Workload: Depending on class size, it is expected that each week there will be 3 contact hours divided between lecture, seminar and tutorials. Final details will be provided on the course website during the first week of semester. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Glenda Bloomfield

Prerequisites: Completed or completing five LAWS courses at 1000 level.

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

Course Description: With our ageing population succession law is a growing area of practice for legal practitioners. The course examines the law governing succession to property after the death of the owner. Succession law touches every family, and, eventually, all of us.

Major topics include:

- the nature of wills and their relationship to contracts
- capacity to make a will, fraud on the testator, undue influence, formalities for making a will and how a will is revoked
- what wills mean and how they are applied
- the principles and practice of drafting wills
- loss of capacity to benefit under a will; for instance, for killing the testator
- how an estate is divided when there is no will
- how the law protects family members against being disinherited by will.

The law on the various topics is considered in a social and political context, and the principles and rules are related to theory and to practice. While the course concentrates on the law of the ACT, students will also frequently make comparisons and consider the law in other jurisdictions. It follows that considerable attention is given to pressures and directions for reform.

Indicative Assessment: The proposed means of assessment for this course will require students to undertake at least two pieces of assessment, including one piece during the course and a final exam. Details of the final assessment will be provided on the course home page and WebCT (or Wattle) by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text:

Takeovers & Securities Industry Law LAWS2237 (6 units)

Later Year Course

Second Semester, 2010

Workload: Three hours per week

Academic Contact: Emma Armson

Prerequisites: Corporations Law LAWS2203. Completed or completing five LAWS courses at 1000 level

Course Description: This course examines important facets of the regulation of corporations. It investigates the law and policy relating to the acquisition of control of corporations, particularly by takeover, and the regulation of financial markets generally. Topics to be covered include:

- issues prompting, and theories shaping, the regulation of takeovers and the securities industry generally;
- the regulation of financial markets;
- the powers of the Australian Securities and Investment Commission and the Australian Securities Exchange (ASX) 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 Chapter 6 of the *Corporations Act 2001* (Cth); and
- compulsory acquisition powers.

Indicative Assessment: The proposed means of assessment for this course will involve at least two pieces of assessment, including one piece during the semester.

Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2237 course home page

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 & the Law LAWS2238 (6 units)

Later Year Course

not offered in 2010

Workload: Three hours per week.

Prerequisites: Australian Public Law LAWS2201, Criminal Law and Procedure LAWS1206. Completed or completing five LAWS courses at 1000 level.

Corequisite: Property LAWS2204.

Course Description: 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.

Indicative Assessment: Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2238 course home page.

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: Insurance Law LAWS2239 (6 units)

Later Year Course

Summer Session, 2010

Workload: The course will be taught intensively over Summer involving at least 36 contact hours.

Academic Contact: Ashley Tsacalos

Prerequisites: LAWS1204 Contracts: Completed or completing five LAWS courses at 1000 level.

Course Description: This course will provide students with an introduction to the general principles of insurance law. It will include an overview of the legislation that relates to insurance, particularly the *Insurance Contracts Act 1984* (Cth), and the legislation that regulates the insurance industry, particularly Chapter 7 of the *Corporations Act 2001* (Cth) and the *Insurance Act 1973* (Cth), as well as an examination of the common law relating to insurance law. There will also be a consideration of the fundamental principles in insurance law such as the duty of utmost good faith, the duty of disclosure, double insurance, contribution, subrogation and reinsurance. This course is taught with an emphasis on the practical application of the principles of insurance law. Therefore, the fundamental principles will be considered in a practical context. In addition, there will be a consideration of various insurance policies, standard policy conditions and exclusions as well as indemnity issues. The course will also include an examination of insurance law in a dispute resolution framework in terms of the nature of insurance disputes, dispute resolution mechanisms and insurance litigation.

Topics covered include:

- Introduction to Insurance Law and the Insurance Contracts Act
- Regulation of the Insurance Industry
- Formation of the Contract of Insurance
- Insurance Agents and Brokers
- Interim Contracts of Insurance
- Duty of Utmost Good Faith, Duty of Disclosure and Misrepresentation
- The Policy
- Construction of the Contract of Insurance
- Renewal, Variation and Cancellation of Insurance
- Mistake
- Waiver and Estoppel
- The Claim
- Double Insurance and Contribution
- Subrogation
- Reinsurance

Indicative Assessment: The proposed assessment of this course comprises class participation (10 per cent), two short answer papers (15 per cent each) and a take home exam (60 per cent).

Prescribed Text: Readings will be contained in a brick of materials. Information about prescribed texts and other recommended reading will be available in the course outline on the course home page.

Special Law Elective 4: LAWS2240 (6 units to 12 units)

Later Year Course
not offered in 2010

Special Law Elective 5: LAWS2241 (6 units)

Later Year Course
not offered in 2010

Litigation & Dispute Management LAWS2244 (6 units)

Later Year Course
First Semester, 2010

Workload: Four hours per week.

Academic Contact: Peta Spender

Prerequisites: Torts LAWS1203 and Contracts LAWS1204.
Completed or completing five LAWS courses at 1000 level.

Course Description: This course is an introduction to dispute resolution focussing upon mediation and civil litigation. The course will examine dispute resolution within and outside the legal system and will explore litigation via the principles of civil procedure. The interlocutory steps in civil litigation will be analysed alongside the strategies adopted by lawyers in the conduct of litigation. The course is structured to meet the requirements for admission as a legal practitioner in the Australian States and Territories but also provides opportunities for critical appraisal of litigation policy and practice.

Topics to be covered include:

- access to justice
- the importance of process
- mediation procedures
- confidentiality and power imbalances in dispute resolution
- when and how to commence proceedings in court
- class actions
- urgent applications
- gathering evidence.

Indicative 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. Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2244 course home page.

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
First Semester, 2010

Workload: The course consists of weekly 2 hour lecture. Every second week there will also be a one hour research skills tutorial. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Surend Dayal

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: General computer literacy and a willingness to learn about new technology is helpful for this course.

Recommended: A prior understanding of Intellectual Property and Contracts is helpful for some topics covered in this course.

Course Description: The course looks at the intersection of Information Technology with law. Five broad subject areas have been identified within which this intersection is explored: from the impact of digital content, through the challenges and opportunities of a vastly more interconnected, perhaps 'borderless' society.

The 5 areas of study are:

- information technology and intellectual property
- censorship
- privacy
- computer crime and evidence
- e-commerce and IT contracts.

An important component of the course is the cultivation of an understanding of the technology underlying information technology.

Indicative Assessment: The proposed means of assessment for this course will provide students with the option of undertaking at least two pieces of assessment, usually an essay mid-semester and a final examination. More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

Special Law Elective 6: LAWS2246 (6 units to 12 units)

Later Year Course
not offered in 2010

Survey of United States Law LAWS2247 (6 units)

Later Year Course
Summer Session, 2010

Workload: The course requires attendance at the University of Alabama in Tuscaloosa throughout the 5-week intensive teaching period. Details for reading will be available through the course home page.

Academic Contact: 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 2010). Where appropriate, academic merit may be taken into account.

Completed or completing five LAWS courses at 1000 level.

Course Description: 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, eg, the Civil Rights Museum in Birmingham, the Alabama Supreme Court in Montgomery, (forming an integral part of the course's class work and included in the contact hours). It will concentrate on non-common law subjects (eg, Constitutional Law, Administrative Law, Labour Law, Limited Liability Corporations, Bankruptcy, Consumer Protection, Environmental Law, Federalism, etc.).

Indicative 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. 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.

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

Later Year Course

Summer Session, 2010

Workload: Taught at the University of Alabama Law School in Tuscaloosa, Alabama in January-February.

Academic Contact: Gregor Urbas

Prerequisites: Criminal Law and Procedure LAWS1206.

Completed or completing five LAWS courses at 1000 level.

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 2010). Where appropriate, academic merit may be taken into account.

Course Description: 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 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 2010, the course will involve a comparative study of Australian and US approaches to selected topics within Criminal Law and Procedure.

Indicative Assessment: Details of the final assessment will be provided on the course home page.

Prescribed Text:

Please refer to LAWS2248 course home page.

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.

Topics

The detail for the course shown above applies to the following topic.

Comparative Criminal Law

Legal Theory **LAWS2249 (6 units)**

Later Year Course

Second Semester, 2010

Workload: Every week there will be two 1 hour lectures and a 1 hour tutorial. Students are expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Tony Connolly

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: This course presupposes that students have some legal knowledge through the study of a central area of law, such as torts or constitutional law. It does not assume that you have knowledge or skills in philosophy, political theory, economics or other social sciences - though any such knowledge and skills may be of assistance in undertaking this course.

Course Description: 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.

Indicative Assessment: Examination (closed book) 2 questions, 2 hours - 60 per cent.

Essay (1200 words) based on seminar presentation - 20 per cent.

Seminar presentation (5-10 minutes) and discussion of presentation - 10 per cent.

Seminar attendance and participation - 10 per cent.

Preliminary Reading: Hart, HLA (1961) - *The Concept of Law* (Chapter 1). Bix, B (2006) - *Jurisprudence: Theory and Context* (4th ed) (Chapters 1 and 2).

Prescribed Text: The course is generally based on a two volume reading brick containing relevant articles and book extracts.

International Law **LAWS2250 (6 units)**

Later Year Course

Second Semester, 2010

Workload: In weeks 1-2 there will be one two hour lecture and one one hour lecture. In weeks 3-4 there will one two hour lecture and one one hour library tutorial. In weeks 5-13 there will be one two hour lecture and one one hour tutorial.

Students will generally need to devote about 10 hours on average per week to this course.

Academic Contact: Donald R Rothwell

Prerequisites: LAWS1205 Australian Public Law. Completed or completing five LAWS courses at 1000 level.

Course Description: This course deals with the body of law known as International Law or sometimes 'Public International Law', as distinct from 'Private International Law'. The field of International Law deals with many aspects of the functioning of the international community (including the relations of States with each other and with international organisations); it also affects many activities that occur within or across State boundaries (including the treatment by States of their citizens, environmental law, military operations, and many other areas). The impact of international law on the Australian legal system and the globalised nature of many governmental, judicial and social activities means that a basic knowledge of the terminology, institutions, and substance of international law is not only worthwhile acquiring in its own right, but is also a necessary part of the knowledge and skills of any law graduate.

Indicative 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. An end of semester examination has been a regular means of assessment in recent years. More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

This course offers a significant foundational framework for the study of: Advanced 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 LAWS3010.

Legislative Drafting & Technology LAWS2251 (6 units)

Later Year Course

Second Semester, 2010

Workload: Each week there will be a 3 hour class consisting of both a theoretical and hands-on component. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Fiona Guy (Haley)

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: It is helpful for students to have some experience in Microsoft Word, basic computer literacy and an interest in learning new technology.

Course Description: 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. The course specifically

explores how technology can be used throughout the legislative lifecycle.

Students will be introduced to a methodology and technologies which emphasise the importance of precise and structured legal expression and offer many options to analyse and represent the structure of complex legal material.

Throughout the course, students will be required to learn and apply new technology to the problems at hand.

Indicative Assessment: The assessment for this course generally consists of:

- an analysis piece (or multiple pieces) requiring the student to interpret and analyse a piece of legislation and report on their findings
- the construction of a legislative rulebase using the technology taught in class
- a final report examining the interaction of legal drafting and technology.

Prescribed Text: Course materials will be made available on the course website.

This course is restricted to 20 students.

International Criminal Law LAWS2252 (6 units)

Later Year Course

not offered in 2010

Academic Contact: Ashleigh Barnes

Prerequisites: International Law LAWS2250. Completed or completing five LAWS courses at 1000 level.

Course Description: The course will explore the developments in international criminal law, including criminal responsibility of individuals under international law and the correlative development of national and international mechanisms for its enforcement. Attention will be focused essentially on the so called 'Nuremberg crimes' and on their subsequent developments, even though reference will also be made to other international/trans-national crimes such as acts of terrorism, on the basis of the time available. The analysis of the criminal prosecution of international crimes will be centred on the most recent case-law of both national courts and international criminal courts. The application and interpretation of some general principles and notions of (international) criminal law by domestic and international courts will be assessed, including an analysis of the objective and the subjective element of a crime, non-retroactivity of criminal offences, defences and grounds for excluding criminal responsibility. Reference will also be made to forms of implementation other than criminal prosecution (e.g. truth and reconciliation commission), as well as to the question of amnesties.

Indicative 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 information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2252 course home page.

International Environmental Law LAWS2253 (6 units)

Later Year Course

First Semester, 2010

Workload: Three hours per week.

Academic Contact: Don Anton

Prerequisites: International Law LAWS2250. Completed or completing five LAWS courses at 1000 level.

Course Description: 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, and the marine environment. Key institutions such as the United Nations Environment Programme and the World Bank will also be examined.

Indicative Assessment: Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2253 course home page.

Restitution LAWS2254 (6 units)

Later Year Course

First Semester, 2010

Academic Contact: Pauline Ridge

Prerequisites: LAWS1204 Contracts. Completed or completing five LAWS courses at 1000 level.

Course Description: 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 situations where restitutionary relief may be sought including:

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

The third part highlights various defences including:

- estoppel

- change of position.

The fourth part of the course examines personal and proprietary remedies for unjust enrichment.

Indicative Assessment: Mid-semester exam worth 50 per cent; and, an end of semester exam worth 50 per cent, or an essay worth 50 per cent. In addition, there will be a mark deduction for non-attendance at several seminars and there may be further assessment of such seminars.

Prescribed Text: Please refer to LAWS2254 course home page.

Restrictive Trade Practices LAWS2255 (6 units)

Later Year Course

Second Semester, 2010

Workload: Three hours per week (Lecture - 2 hours, Tutorial - 1 hour).

Academic Contact: Alex Bruce

Prerequisites: Contracts LAWS1204. Completed or completing five LAWS courses at 1000 level.

Course Description: This course will consider the role and function of the *Trade Practices Act 1974 (Cth)* ('the TPA') in contributing to Australia's National Competition Policy. The TPA is under continuous review. The TPA was significantly amended by the *Trade Practices Legislation Amendment Act (No 1) 2006 (Cth)* and most recently, the Labour government has introduced an exposure draft of the *Trade Practices Legislation Amendment Bill 2008* that will substantially amend s 46 of the Act concerning misuse of market power.

The TPA aims to preserve competition by prohibiting conduct that prevents or eliminates competition. The course principally involves a consideration of the various anti-competitive trading practices that are prohibited by Part IV of the TPA. The TPA is enforced by the Australian Competition and Consumer Commission ('the ACCC') and significant penalties can be imposed for contraventions of the TPA. In addition, private parties may seek a variety of remedies for loss or damage suffered as a result of a contravention of Part IV of the TPA.

Indicative Assessment: It is anticipated that students will complete an assignment and an exam during the course. There will also be compulsory tutorial exercises. Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2255 course home page.

Law & Sexualities LAWS2256 (6 units)

Later Year Course

not offered in 2010

Academic Contact: Wayne Morgan

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: 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.

Indicative 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.

Details of the final assessment will be provided on the course home page by the first week of semester.

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:

Please refer to LAWS2256 course home page.

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

Later Year Course

Second Semester, 2010

Workload: This course is run in intensive format with approximately 9 hours of lectures / seminars per week during Weeks 1-5 inclusive of Semester 2.

Academic Contact: Gregor Urbas

Prerequisites: LAWS1206 Criminal Law and Procedure. Completed or completing five LAWS courses at 1000 level. This course is capped at 20.

Incompatibility: Please note that 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.

Course Description: The course will involve a comparative study of Australian and US approaches to selected topics within Criminal Law and Procedure.

Indicative Assessment: Assessment details will be specified prior to student enrolment in the course. Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: A reading guide will be available on the course web page.

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.

Topics

The detail for the course shown above applies to the following topic.

Comparative Criminal Law

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

Later Year Course

Summer Session, 2010

Workload: Students will attend between 50 and 60 hours of actual class time in the course of the 3-week intensive program of study. In addition, students will have to allocate appropriate time in the course of the first half of the following semester to complete the required research essay.

Academic Contact: Jean-Pierre Fonteyne

Prerequisites: International Law LAWS2250. Completed or completing five LAWS courses at 1000 level. In addition, priority will be given to later year students who have completed at least one additional international law elective. Where appropriate, academic merit may also be taken into account. Enrolment is subject to the payment of the applicable administrative fees and accommodation costs.

Assumed Knowledge and Required Skills: Enrolment in the course is limited to students with a sufficient background in international law (see prerequisites).

Recommended: Any international law elective in addition to International Law.

Course Description: This course will be taught in conjunction with the equivalent postgraduate course. Due to practical considerations, enrolment will be strictly limited (20 students from all sources – a limited number of places may go to non-ANU summer school students and/or to postgraduate students).

The purpose of the course is to provide participants with a substantive overview of the activities of international organisations (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. Formal academic instruction will be 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 activities of their organisation.

The first week will be devoted to general aspects of the operation of international organisations, the second week will focus on human rights and related issues, and the third week will mainly address trade, IP 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 College webpage as an indicator of the likely content of the next course.

The classes will take place at the Graduate Institute of International Studies and Development, and in various international organisations in Geneva. All classes and visits will be conducted in English and knowledge of French is not required.

Indicative Assessment: 20 per cent for class participation in light of the high level of student participation expected in class and 80 per cent for completion of a 4,000 to 4,500 word essay, to be completed in the early part of the following semester, on a topic approved by the convenor prior to the end of the Geneva program. Details of the final assessment will be provided on the course home page.

Prescribed Text: A reading brick will be made available at the start of the program in Geneva, and further materials may be made available by guest lecturers in the course of the program.

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 human rights in its various guises (including labour law, refugees, health, etc) might find the unit particularly interesting, as this aspect of international law will feature prominently in the course given the location in Geneva of various UN and NGO human rights organisations (HCHR, UNHCR, ICRC, IFRC, WHO, ILO, Global Fund, etc). International trade, environmental, and intellectual property law, as well as a number of other specialised areas, are also likely to be the subject of specific visits in the course of the program.

Consumer Protection & Product Liability Law LAWS2259 (6 units)

Later Year Course

First Semester, 2010

Workload: Three hours per week (Lecture – 2 hours, Tutorial – 1 hour)

Academic Contact: Alex Bruce

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: The *Trade Practices Act 1974 (Cth)* ('the TPA') is the principal source of consumer protection and product liability laws at Federal level. Increasingly, the TPA is being employed at Federal level as the principal method of providing for consumer protection through the elimination of unfair trading practices and the regulation of product safety. The Consumer Protection and Product Liability provisions of the TPA contribute significantly to Australia's dynamic National Competition Policy.

Accordingly, the object of this elective is to introduce 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 and its most common forms including silence, comparative advertising, passing off, sale of businesses, breach of contract and franchising industry issues, various forms of false conduct, 'special' areas of consumer concern such as pyramid selling and false claims for payments, conditions and warranties implied into consumer contracts by the TPA including the status of 'No Refund' policies, unconscionable conduct, Industry Codes of Conduct with an examination of the franchising industry, product liability, remedies under the TPA including damages, injunctions and other orders and enforcement of the Consumer Protection and Product Liability provisions of the TPA by the Australian Competition and Consumer Commission.

Indicative 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. Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to course outline on the LAWS2259 course home page.

Law & Psychology LAWS2260 (6 units)

Later Year Course

Second Semester, 2010

Workload: There will be 3 hours of class time per week. A further 7 or so hours of private study is expected per week in order to review required reading and research assessment tasks.

Academic Contact: Mark Nolan

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: The course is pitched at students who have never studied psychology and also aims to extend those who have studied psychology. Researching interdisciplinary law and psychology literature databases as well as reading empirical psychological reports will be skills taught in the course.

Recommended: The course focuses mainly on the psychology of criminal justice. Those who have studied and enjoyed Criminal Law and Procedure, Criminal Justice, and/or Selected Topics in Criminal Law should enjoy this course.

Course Description: 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.

Indicative Assessment: A mid-semester research casenote or empirical report review, a short answer test, and a research essay.

Preliminary Reading: Consult course outline for Week 1 reading.

Prescribed Text: A Kapardis, *Psychology and the Law: A Critical Introduction* (2nd Edition, Cambridge: Cambridge University Press, 2003).

Selected Topics in Criminal Law LAWS2261 (6 units)

Later Year Course

not offered in 2010

Workload: Every week there will be three contact hours. Depending on the size of the group, it is likely that predominantly the classes will be lecture-style. However, during some weeks, it is likely that one of the contact hours will be in a seminar format and will involve working through problems or other material for group discussion. In general, students are expected to spend 10 hours a week in reading, preparation and participation in this course.

Academic Contact: Miriam Gani

Prerequisites: Criminal Law and Procedure LAWS1206.

Completed or completing five LAWS courses at 1000 level.

Course Description: The aim 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
- 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.

Indicative Assessment: Assessment in this course is likely to involve at least two pieces of assessment including an exam at the end of the semester. More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

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

Current Issues in Administrative Law LAWS2262 (6 units)

Later Year Course

not offered in 2010

Workload: Three hours per week.

Academic Contact: Robin Creyke

Prerequisites: Administrative Law LAWS2201. Completed or completing five LAWS courses at 1000 level.

Course Description: The 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.

Indicative 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.

Prescribed Text: Please refer to LAWS2262 course home page

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 2010

Workload: Three hours per week.

Academic Contact: Daniel Stewart

Prerequisites: Intellectual Property LAWS2222. Completed or completing five LAWS courses at 1000 level.

Course Description: 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.

Indicative 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 per cent or 60 per cent depending on which gives the highest overall grade.

Prescribed Text: Please refer to LAWS2263 course home page.

Advanced International Law LAWS2264 (6 units)

Later Year Course

Second Semester, 2010

Academic Contact: Sarah Heathcote

Prerequisites: LAWS2250 International Law. Completed or completing five LAWS courses at 1000 level.

Course Description: This course is a follow-up to the compulsory International Law course (LAWS2250). It is intended to round out the coverage of 'general' public international law by focusing on those areas not (or only partially) dealt with in the compulsory course. It consists of three inter-related modules.

At this stage, it is anticipated that the course will cover:

- territory;
- international organisations;
- state responsibility; and
- counter-terrorism and international law.

Indicative Assessment: Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2264 course home page.

International Advocacy & Procedure LAWS2265 (6 units)

Later Year Course

Second Semester, 2010

Workload: Three hours per week.

Academic Contact: Don Anton

Prerequisites: LAWS2250 International Law. Completed or completing five LAWS courses at 1000 level.

This course is capped at 56 students.

Course Description: The course has three primary aims:

- It will teach students the basic procedure and practice of principal international courts, tribunals and bodies, including: the International Court of Justice, the International Tribunal for the Law of the Sea, the

International Criminal Court, the World Trade Organisation, Human rights bodies, international commercial and investment arbitration and conciliation mechanisms, and Inspection Panels

- It will allow students to develop proficiency with all the important issues related to international advocacy, including a working knowledge of: governing texts, organisation and composition of courts and tribunals; institution of proceedings; provisional measures; jurisdiction (advisory, contentious and appellate) and access; admissibility; preliminary objections, third parties, intervention and *amicus curiae*; written proceedings; oral argument, experts, enforcement, interpretation and revision of judgement; execution, recognition and enforcement of award
- It will equip students with advanced skills in international legal research and writing and with basic advocacy skills.

Indicative Assessment: The proposed assessment in this course will consist of the preparation of written submissions and the delivery of oral submissions on a hypothetical international law problem.

Prescribed Text: Please refer to LAWS2265 course home page.

This course will ordinarily serve as a prerequisite for Jessup Moot. It will also serve as a platform for students wishing to participate in the many other international law moots available, including the Jean-Pictet International Humanitarian Law Moot, the Red Cross International Humanitarian Law (IHL) Moot Competition, the Asia Cup International Law Moot Court Competition, the Oxford International Intellectual Property Mooting Competition, the Manfred Lachs Space Law Moot Court Competition, the Willem C Vis International Commercial Arbitration Moot, and the International Maritime Law Arbitration Moot Competition.

International Arbitration & Negotiation Moot Competition in Japan LAWS2266 (6 units)

Later Year Course

Spring Session 2010

Workload: 39 hours minimum.

Academic Contact: Kent Anderson

Prerequisites: LAWS2250 International Law. Students must be fluent in Japanese to undertake this course. Completed or completing five LAWS courses at 1000 level.

The course is capped at 5 students.

Course Description: Topics covered in this course generally include:

Private International Law: Basic Concepts

- Jurisdiction over disputes, people, property
- Choice and conflict of laws

Substantive Cross-Border Legal Matters

- UNIDROIT Principles of International Commercial Contracting
- Comparative law topics (the specific subject will be determined by the factual problem and may cover constitutional law, administrative law, environmental law, torts etc)

Arbitration

- Introduction to arbitration

- UNCITRAL Rules of Commercial Arbitration
- Advocacy and Cross-Cultural Communication
- Effective oral advocacy in arbitration
 - Effective written advocacy for arbitration and for negotiation
 - Effective Japanese language and cross-cultural communication in a legal context

Negotiation

- Basic principles and strategies of negotiation
- Cultural based negotiation?

Indicative Assessment: Assessment will be based on:

- student contribution to the team's preparation
- the team's two memorandum for arbitration and negotiation
- assessment of the student's participation in the competition
- a reflective essay following the competition.

Details of the final assessment will be provided on the course home page by the first week of semester.

Prescribed Text: Please refer to LAWS2266 on the course home page.

Clinical Youth Law Program LAWS2267 (6 units)

Later Year Course

First Semester, 2010 and Second Semester, 2010

Workload: Students undertake a compulsory 2 day orientation at the start of the course, undertake onsite work for one afternoon a week throughout the course and attend a workshop once a week. The workshop times vary between 1 and 2 hours but one workshop is for a full morning. Students also undertake a research project which they present at a presentation session.

Students are generally expected to devote approximately 8 hours per week to this course.

Academic Contact: Judy Harrison

Prerequisites: Completion of 48 units of law courses

This course is capped at 10 students

Assumed Knowledge and Required Skills: This course does not assume that you have particular legal knowledge, experience or skills. However, knowledge from other law courses, any legal experience which you do have as well as interpersonal and work related skills will be useful to you in this course.

Recommended: It would be helpful but not compulsory for students to have completed Torts, Contracts, Criminal Law, Family Law and Administrative Law before commencing this course.

Course Description: The Clinical Youth Law Program is an elective course. Students who have completed 48 units of LAWS courses are eligible to enrol and places are allocated by date of application.

This is a clinical program based in a community legal practice environment. Students participate in the Youth Law Centre, a non-profit legal service for ACT youth aged 12-25 years. While analysing the various roles that lawyers can play, students will focus on extending legal assistance, social justice and reform - particularly in relation to youth legal needs in the ACT.

The course objectives are to:

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

The course also explores issues such as:

- the concept of 'reflective practice'
- the links between the legal framework of legal practice 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'
- tailoring service models to client needs.

Indicative Assessment: The assessment for this course will involve evaluation of the student's onsite work at the Youth Law Centre, seminar participation and a research project which involves preparation and presentation of a paper.

More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available through the WebCT (or Wattle) area for the course at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

Community Law Clinical Program LAWS2268 (12 units)

Later Year Course

First Semester, 2010 and Second Semester, 2010

Workload: Students undertake a compulsory 2 day orientation at the start of the course, undertake onsite work for two full days throughout the course and attend a three hour workshop once a week. Students also undertake a research project which they present at a presentation session.

Students are generally expected to devote approximately 20 hours per week to this course.

Academic Contact: Judy Harrison

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

This course is capped at 6 students.

Assumed Knowledge and Required Skills: Students who have completed 48 units of LAWS courses including LAWS2201 Administrative Law and LAWS2204 Property are eligible to enrol. However, knowledge from other law courses, any legal

experience which you do have as well as interpersonal and work related skills will be useful to you in this course. Places are allocated by date of application.

Recommended: The course prerequisites are noted above. It would be helpful but not compulsory for students to have completed Criminal Law and Law Reform before commencing this course.

Course Description: The Community Law Clinical Program is a 12 unit elective course.

This is a clinical program based in a community legal practice environment. During the course students work for two full days a week at the Welfare Rights and Legal Centre where they provide legal information and undertake casework under the supervision of solicitors.

The course objectives are to:

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

Course topics include:

- introduction to public interest law
- professional responsibilities
- legal practice skills - legal writing, interviewing, casework skills, advising
- substantive law in relation to tenancy, Social Security and Disability Discrimination
- law Reform.

Indicative Assessment: The assessment for this course will involve evaluation of the student's onsite work at the Welfare Rights and Legal Centre for two days per week, seminar participation and a research project which involves preparation and presentation of a paper.

More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available through the WebCT (or Wattle) area for the course at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

Migration Law LAWS2269 (6 units)

Later Year Course

Summer Session, 2010

Workload: It is expected that the course will be taught over six days in an intensive mode, requiring students to devote approximately 20-25 hours per week over the summer.

Academic Contact: Hitoshi Nasu

Prerequisites: LAWS1205 Australian Public Law. Students will benefit from having completed LAWS2201 Administrative Law. Completed or completing five LAWS courses at 1000 level.

Course Description: Migration law is a public law course concerned with the regulation by the government of migrants into Australia. This course examines the Migration Act, Regulations, and relevant court decisions, developing skills in statutory interpretation and legal analysis. It aims to demonstrate administrative, constitutional and international law in action in migration areas, and encourages thinking about the interaction among the legislature, executive and judiciary. This course is designed, not simply to follow detailed rules of visa system that are subject to constant changes, but to provide fundamental building blocks to equip students with the skills to identify main issues involved and construct legal and policy advice in an effective manner.

Indicative Assessment: There are three compulsory items of assessment: class participation; mid-semester assignment; and the assessment at the end of the summer session.

More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course will be available on the course home page.

Preliminary Reading: Familiarise yourself with the Department of Immigration and Citizenship website and other online material, including the course site. Read any text that excites your interest in the role of law in regulating entry into Australia. For example, Crock, Saul and Dastyari *The Future Seekers II* (Federation Press, 2006).

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

Law Reform LAWS2270 (6 units)

Later Year Course

First Semester, 2010

Workload: This course is taught for three hours a week, in one two hour class and one one hour class each week. Depending on enrolment numbers, the class will be a seminar discussion based on the readings, rather than a lecture. There will as well be a weekly practical activity in class that enables students to implement law reform tactics in a hypothetical scenario.

Academic Contact: Simon Rice

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Assumed Knowledge and Required Skills: In engaging in discussion about processes for *changing* law, this course assumes that students have a general understanding of the conventional processes of *making* law (eg through legislation, policy, and appellate courts), and a general awareness of contemporary politics and policy debates.

Course Description: In seminar discussion and case studies, the course will examine theories and processes of achieving law reform.

The topics to be covered in the course include:

- theories of law reform;
- the politics of law reform;
- law reform through institutions: parliament, the bureaucracy, commissions and courts;
- law reform through community action; and

- the role of the news media and new media.

Indicative Assessment: Students will be assessed for their class participation, reflective journal entries, and a practical assignment which addresses a current or proposed issue of law reform. Details of the final assessment will be provided on the course home page by the first week of semester.

Preliminary Reading:

The preliminary reading required for this course, if any, will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text:

Prescribed reading will be in a course brick compiled for the course and available before the first week of semester.

Refugee Law LAWS2271 (6 units)

Later Year Course

not offered in 2010

Workload: Depending on class size, it is expected that every week there will be a two-hour lecture and a one-hour student-lead seminar based around presentations. Students are generally expected to devote approximately 10 hours overall per week to this course.

Academic Contact: Matthew Zagor

Prerequisites: LAWS2250 International Law and LAWS2201 Administrative Law. Completed or completing five LAWS courses at 1000 level.

Recommended: It would be helpful but not compulsory for students to have completed International Law of Human Rights prior to commencing this course.

Course Description: A participant who has successfully completed this course should have a clear understanding of:

- the conventional and customary law obligations of States in respect of refugees and other asylum-seekers and of the rights of applicants
- the protection mechanisms, both national and international, that operate for the immediate and long-term protection of refugee-seekers and the policy considerations that affect contemporary State attitudes to such groups
- the legal problems affecting national interpretations and application of refugee concepts, with particular emphasis on definitional problems, status determination procedures and non-refoulement.

The course will focus mainly on the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, supplemented by additional materials that assist in the interpretation, construction and critique of these instruments. Particular attention will be paid to national implementation of refugee protection and status determination procedures in Australia, comparing and contrasting the approach taken, where appropriate, with that of other nations.

Addressed will be the origins of the international system of protection, its limitations and deficiencies; the role and relevance of UNHCR; definitional problems; exclusion and cessation of refugee status; core concepts of protection (including complementary protection), asylum, non-refoulement, penalization and refugee rights; asylum, temporary refuge, temporary protection and burden-sharing; durable solutions; protracted refugee situations; status

determination procedures; detention; 'deflection' techniques; other categories such as 'environmental' refugees and internally displaced persons; and a consideration of possible future directions for refugee law.

Indicative Assessment: The assessment for this course will involve three components: class participation, formal presentation, and research assignment. Students will be encouraged to develop a research proposal of their choice in coordination with the lecturer; it may be on the same topic upon which they presented. Attendance at 80 per cent of classes will be compulsory, with marks deducted for failure to attend. The overall aim of these components is to provide students with an opportunity to engage at all levels with both the ongoing subject matter of the course, as well as to develop their research skills, and to allow them to direct their energies towards areas of specific interest.

More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least one week prior to the commencement of the course.

Prescribed Text: Information about prescribed texts will be made available in the course outline. See the course home page.

Comparative Law LAWS2272 (6 units)

Later Year Course

Summer Session, 2010

Workload: The course will be taught intensively over four weeks in the summer session involving at least 36 contact hours.

Academic Contact: Anne McNaughton

Prerequisites: LAWS2250 International Law. Completed or completing five LAWS courses at 1000 level.

Course Description: The aim of this course is to introduce students to the field of comparative law. The course will be divided into two parts. Part 1 will consist of an introduction to comparative law covering topics such as:

- theory and history of comparative law
- the Continental civil law and common law approaches to comparative law
- the role and significance of Roman law and civil law
- the common law families
- 19th century codification movements in both civil law and common law systems
- the emergence of hybrid systems of law melding civil law and common law traditions, such as the EU law and Japanese law, and systems which incorporate religious law (Shariah)
- the actual and perceived differences between adversarial and inquisitorial systems of law.

Part 2 will focus on three comparative case studies from a range of fields. The topics here are indicative as the case studies offered each year would depend on the profile of the staff involved:

- Comparative Criminal Law - comparative counterterrorism law; use of force; scope of self defence and necessity; codification projects
- Comparative Contract Law - division between contract, tort and equity; the role of good faith and unfairness doctrines; comparison of *causa* and consideration in French and German law codified systems
- Comparative Public and Constitutional Law - different traditions of public law; bills of rights; judicial review
- Comparative Environmental Law - the evolution of environmental law in different legal traditions, role of standing and class actions; the German contribution to the precautionary principle.

Indicative Assessment: The assessment for this course will involve two research essays, one relating to Part 1 and one relating to Part 2 of the course. More information about the means of assessment and the relationship of the assessment to the learning outcomes of the course will be available on the course home page the week before the beginning of the course.

Preliminary Reading: The preliminary reading required for this course will be available from the course home page at least 1 week prior to the commencement of the course.

Prescribed Text: Please refer to the course outline LAWS2272 on the course home page.

Australian Legal History LAWS2273 (6 units)

Later Year Course

Second Semester, 2010

Academic Contact: Judith Jones

Prerequisites: Completed or completing five LAWS courses at 1000 level.

Course Description: The course aims to introduce students to central questions and themes in Australian legal history. It will consider important questions relating to historical events and legal developments in Australia from 1788 to the end of the twentieth century. The course also aims to further develop students' research and essay writing skills. With a significant guided research and writing component, it is a course that is suitable preparation for students who are planning to undertake the research paper for Honours. Students will be required to write a research essay and will be encouraged to choose a topic relating to their own interests in Australian legal history.

The proposed topics for class discussion include sovereignty, colonial rule, the reception of English law and the early colonial courts. This will be followed by consideration of the journey from repugnance to independence including examination of uniquely Australian colonial legislation and related laws of the nineteenth century. Consideration of the limitations of colonial law when responding to frontier violence and rebellion during this period will enable examination, from a legal perspective, of some focal events such as the Rum Rebellion, the Myall Creek massacre, the Eureka stockade and the trial of Ned Kelly. The course will also examine early Australian environmental laws and natural resource use that have shaped the landscape and the exploitation of the natural environment of the Australian continent. Moving towards the twentieth century, the course will consider pathways to Federation and influences that shaped our Constitution and legal institutions. This will be followed by examination of the Australian High Court in the

twentieth century, including patterns of Australian doctrinal development, deference to the English courts, the role of the Privy Council and the influence of a selection of significant English cases on Australian law. The Australian notion of the separation of powers will be examined in an historical context. Finally, consideration of some more recent legally and historically significant events, such as the Chamberlain case, legal independence through the Australia Acts 1986 and reflections on Mabo, will complete the course.

Indicative Assessment: In this course students will complete a research proposal and a research essay (approx 3,000 words in length) worth 50 per cent of the assessment and a final examination (essay questions) also worth 50 per cent of the assessment for the course.

Prescribed Text: Materials will be made available in reading brick and online format.

Climate Law LAWS2274 (6 units)

Later Year Course

Second Semester, 2010

Academic Contact: James Prest

Prerequisites: Completed or completing 30 units of 1000 level LAWS courses.

Incompatible with LAWS2216 Environmental Law Elective

Recommended: LAWS2215 Environmental Law

Course Description: This course provides an overview of the rapidly developing field of domestic and international climate law. It examines the current state of the law. It also offers opportunities to critically discuss the legal and policy issues linked with the future course of climate law, both domestically and internationally. Although the emphasis is on domestic Australian climate law (in order to avoid overlap with International Environmental Law (LAWS2253)), the course will provide opportunities for comparative analysis of the emerging law within other jurisdictions including EU and EU member states, USA, Canada, NZ and Japan.

Indicative Assessment: The *proposed* means of assessment for this course will involve:

- a mid-semester research note on a key statute or case, key document or report - 15 per cent
- mid semester short answer test - 25 per cent
- research essay (on a topic of the student's choice) - 40 per cent
- seminar presentation (10 minutes), course attendance and participation - 10 per cent

More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course will be available on the course home page by the first week of semester.

Preliminary Reading: Bonyhady & Christoff (eds) *Climate Law in Australia* (Federation Press 2007). *The Garnaut Review* (Cambridge University Press 2008). United Nations Framework Convention on Climate Change Kyoto Protocol to UNFCCC. Yamin and Depledge *The International Climate Change Regime: A guide to rules, institutions and procedures* (Cambridge Press 2004).

Prescribed Text: Please refer to the course outline LAWS2274 on the course home page.

Jessup Moot LAWS3010 (6 units)

Later Year Course

Summer Session, 2010

Workload: Jessup requires hard work. Effective participation requires a full time commitment throughout the preparation and competition period. Minimal part time employment (up to 10 per cent of normal working hours) is permissible, but only up to the Christmas–New Year period.

The preparation of the team written memorials will start in late November. The memorial submission date is usually about 12 January (possibly earlier for the Australian rounds). Then we hold 12 practice moots. The Australian rounds are held here at ANU in late January or early February.

The international finals are held in the United States in March or April. The top 2 Australian teams participate in the international competition.

Academic Contact: Wayne Morgan

Prerequisites: Only students selected by the Coordinator for the course, on the basis of criteria adopted by the ANU College of Law, 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 is desirable, as well as a willingness to devote most of the summer period to the undertaking.

Assumed Knowledge and Required Skills: Applicants for enrolment will be considered in the light of these skills: basic familiarity with international law (though completion of an international law unit is not essential); general academic performance; research experience and mooting experience (desirable but not essential). We also seek to find at least one team member with these qualities plus excellent IT skills to help in the demanding requirements of constructing the memorials. Students must not have graduated with an LLB by the time the competition is held.

Recommended: Basic familiarity with international law is necessary, but completion of an international law unit is not required.

Course Description: Jessup Moot is a summer session elective unit (LAWS3010). It is the Australian round of the Philip C. Jessup International Law Moot Court Competition.

Members of the Jessup team are all expected to prepare the written memorials and participate in the internal ANU practice moots. The team then participates in the Australian rounds of the Jessup Moot competition and, if the team reaches the Final of the Australian rounds, would compete in the International Rounds in the United States.

There is a maximum of 5 team members.

Applications for selection for the 2009–10 Jessup Moot team closed in first semester 2009.

More details of Jessup Moot can be viewed at the Jessup website <http://www.ilsa.org/jessup/>

Indicative Assessment: Assessment is based on the performance of the students on the team through the entire Jessup period. A common mark is awarded to each Jessup team member based on the performance of the team as evaluated by the convenor and team coach in consultation with the Jessup Faculty 'Advisor'.

The convenor may vary individual marks in exceptional circumstances.

The criteria on which assessment will be based are:

- The team's capacity to work cooperatively and successfully under pressure
- depth and quality of research
- ability to draft a written international law argument and support it with appropriate authority
- ability to present oral argument in international law, support it with appropriate authority and defend it under questioning
- the level of achievement of the team in the competition, including awards to individual members.

Preliminary Reading: Vaughan Lowe and Malgosia Fitzmaurice (eds) *Fifty Years of the International Court of Justice* (1996), Shabtai Rosenne, *The Law and Practice of the International Court 1920–2005* (4th ed 2006), Christopher Kee, *The Art of Argument: A Guide to Mooting* (2006) and David Pope and Dan Hill, *Mooting and Advocacy Skills* (2007).

Law & the Environment LAWS3103 (6 units)

Later Year Course

not offered in 2010

Workload: Three hours of lectures per week

Academic Contact: Judith Jones

Prerequisites: 96 units completed or the permission of the coordinator

Incompatibility: Not available to Law students

Course Description: This course is offered by the ANU College of Law to non-law students who are interested in environmental issues and are in the later years of their program. It is usually taken as an out of college course. In this regard, students should check their degree requirements before enrolling to ensure that the course may be counted as part of their degree.

The course seeks to examine environmental law from theoretical, contextual, and practical perspectives, taking a broad national and thematic approach rather than 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. The course will explore environmental regulation, including 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; human rights and the rise of environmental rights, and environmental participation, protest and litigation. The course will also look at philosophical and ethical bases for environmental protection and conservation, as well as an examination of the roles of scientific evidence and environmental values in environmental decision-making.

Indicative Assessment: A research paper (on a topic of the student's choice) worth 50 per cent of the student's final mark and a take-home exam worth 50 per cent of the student's final mark.

Principles of Intellectual Property LAWS3104 (6 units)

Later Year Course

First Semester, 2010

Workload: This class will involve 2 hours of class contact each week and up to 8 hours of reading and associated exercises to be completed out of class.

Academic Contact: Matthew Rimmer and Alison McLennan

Assumed Knowledge and Required Skills: This is a six unit Group E course offered by the ANU College of Law for students with no prior law knowledge.

Incompatibility: Not available to Law students.

Course Description: This course will consider the application of intellectual property to the various fields of biotechnology - covering agriculture, research, medicine and the environment. It will examine the legitimate scope of patentable subject matter, the threshold criteria, the exceptions to patent infringement, the implications for bioethics, the relationship between patents and plant breeder's rights, and questions of access to genetic resources. Principal topics include:

- Micro-organisms
- Plants
- Animals
- Research Tools and Experimental Use
- Gene Patents
- Stem Cell Patents
- Pharmaceutical Drugs and Access to Medicines
- Information Technology and Bioinformatics
- Nanotechnology
- Synthetic Biology
- Clean Technologies
- Access to Genetic Resources
- Traditional Knowledge

Indicative Assessment: The assessment of this course is likely to involve at least two components, including a compulsory exam and essay or presentation components. There is also likely to be a class participation component depending on class size. More information about the means of assessment, including the relationship between the assessment and the learning outcomes of the course, will be available on the course home page by the first week of semester.

Prescribed Text: The set texts for this course are: Australian Law Reform Commission, *Genes and Ingenuity: Gene Patenting and Human Health*. Report 99. Sydney: Australian Commonwealth, June 2004, <http://www.austlii.edu.au/au/other/alrc/publications/reports/99/> and Senate Community Affairs Committee, *Inquiry into Gene Patents*, Canberra: Australian Parliament, November 2009, http://www.aph.gov.au/senate/committee/clac_ctte/gene_patents/index.htm

Students should also refer to the key cases and other key material, which are electronically hyperlinked. Students should have reference to a copy of the Patents Act 1990 (Cth), the Plant Breeder's Rights Act 1994 (Cth), and the Environmental

Protection and Biodiversity Conservation Amendment Regulations (No 2) 2005 (Cth). These may be downloaded from <<http://law.gov.au>>. Or this legislation may be found in the Butterworths Intellectual Property Collection (Butterworths, Sydney, 2009).

Information about prescribed texts and other reading materials will be available in the course outline. See the course home page on the ANU College of Law website.

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 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 College course.

Honours Thesis LAWS3202 (12 units)

Later Year Course

First Semester, 2010 and Second Semester, 2010

Workload: There are no classes scheduled in this course. Instead, students are expected to meet regularly with their supervisors during the semester and to devote at least 20 hours per week to the thesis.

Academic Contact: Molly O'Brien

Assumed Knowledge and Required Skills: Enrolment in Honours Thesis is restricted to students who satisfy the following requirements:

- the candidate, at the time of completion of his or her studies in the Law School, will have completed 14 or more eligible law courses
- the candidate has, by Tuesday of the first week of the semester in which they will undertake Honours Thesis, submitted to the Law School Administration 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
- 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
- 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 School otherwise requires) in which the candidate has scored the lowest marks
- Guidelines for the detailed research proposal are available in the course outline for Honours Thesis (which can be accessed via the Law web page) or by request from the course convenor.

Course Description: The Honours Thesis makes up Part B of the final Honours Examination for students wishing to graduate with an honours degree. For this course a student must

complete an honours thesis on a topic of their choice, under the supervision of a member of the academic staff or a person approved by the Course Convenor.

Indicative Assessment: Students are required to complete a thesis of between 11,000 and 13,000 words on a topic of their choice, under the supervision of a member of the academic staff or a person approved by the Course Convenor.

To assist students to prepare their detailed research proposal and to undertake Honours Thesis, the ANU College of Law offers Honours Thesis Workshops each year. Attendance is voluntary. Dates for 2009 will be advised on the web. 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. For more information, see the brochure about Honours in Law available on the noticeboard at the student's login page, the honours information page on the College of Law website and the course outline.

Exchange Program for Law Students LAWS5920 (6 units to 24 units)

Later Year Course

First Semester, 2010 and Second Semester, 2010

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 Please note that all law students in combined degrees require Law School 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: http://www.anu.edu.au/ieo/admissions/admission_howtoapply.html Further information may be obtained by contacting the IEO directly.

