



The University of Sydney
FACULTY OF LAW
Undergraduate



Unit of Study Descriptions 2010

This information is correct at the time of publication, but is subject to change without notice.
Please consult the Faculty website www.law.usyd.edu.au for the latest information.

1. COMPULSORY UNITS

LAWS2002 **Administrative Law**

8 Credit Points

Ms Nicola Franklin

Prohibition: LAWS2010 **Offered:** Semester 1
Classes: 2x2hr seminars/wk. Students will attend classes for LAWS2010. **Assessment:** 1x3000wd essay (40%) and 1x2hr exam (60%)

This unit of study involves a study of the relationships of individuals and organisations with government decision makers. It examines the legal principles which apply to those relationships with the aim of developing an understanding of the extent to which decision-makers within the executive branch of the government are accountable to parliament, to the courts and to other administrators, such as ombudsmen and merits review tribunals. The unit provides an overview of relevant legal principles and encourages an understanding of how values of openness, fairness and participation may be promoted. By adopting a critical perspective, the unit requires an appreciation of how political theory and the insights of other disciplines may provide a framework for analysing the choices made by administrators, and by judges in judicial review.

NB: Available to candidates proceeding under the old LLB resolutions.

LAWS2010 **Administrative Law**

6 Credit Points

Ms Nicola Franklin

Corequisite: LAWS2011 **Prerequisite:** LAWS1021
Prohibition: LAWS2002 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** 1x 3,000w assignment (40%) and 1x 2hr exam (60%)

Administrative Law is a study of the relationships of individuals and organisations with government. This unit examines the legal principles which apply to those relationships with the aim of developing an understanding of the extent to which government decision-makers are accountable to the public, to parliament, to the courts and to other administrators such as ombudsmen and merits review tribunals. The unit focuses principally on the grounds of judicial review. The unit encourages the development of a critical perspective on these grounds of review, and their theoretical underpinnings. This critical perspective requires an appreciation of how political theory and the insights of other disciplines may provide a framework for analysing the choices made by administrators, and by judges in judicial review. The unit develops perspectives on how the values of openness, rationality, fairness and participation may be promoted through Administrative Law.

NB: Available to candidates proceeding under the

new LLB resolutions.

LAWS1014 **Civil and Criminal Procedure**

6 Credit Points

Ms Miiko Kumar (combined law), Professor Reg Graycar (graduate law)

Prerequisite: LAWS1006 **Prohibition:** LAWS1001, LAWS1007, LAWS3002, LAWS3004, LAWS2006
Offered: Semester 1 & Semester 1b **Classes:** 2x2hr seminars/wk (combined), 3x4hr seminars a week for 3 weeks followed by 1x3hr seminar in week 13 (graduate) **Assessment:** 1x tutorial assessment (25%) and 1x 2hr final exam (75%)

This unit of study aims to introduce students to civil and criminal procedure. It is concerned with the procedures relating to civil dispute resolution and criminal justice which are separate to the substantive hearing. The unit will consider the features of an adversarial system of justice and its impact on process. Recent reforms to the adversarial system of litigation will be explored. The civil dispute resolution part of the unit will cover alternative dispute resolution, the procedures for commencing a civil action, case management, gathering evidence and the rules of privilege. Criminal process will be explored by reference to crime and society, police powers, bail and sentencing. International dispute resolution will also be introduced. The course focuses on practical examples with consideration of ethics, and contextual and theoretical perspectives.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS1015 **Contracts**

6 Credit Points

Dr Greg Tolhurst

Prerequisite: LAWS1006 **Prohibition:** LAWS1002, LAWS2008 **Offered:** Semester 1, Summer Main & Semester 1b **Classes:** Combined: 2x2hr lectures or seminars/wk; Graduate: 3x4hr seminar/wk for 3 weeks and 1x3hr seminar in week 13. **Assessment:** Combined Law: class participation (10%), 1 x take-home assignment (30%), 1x2hr final exam (60%); Graduate Law: 1x take-home assignment (40%) and 1x2hr exam (60%)

Contract law provides the legal background for transactions involving the supply of goods and services and is, arguably the most significant means by which the ownership of property is transferred from one person to another. It vitally affects all members of the community and a thorough knowledge of contract law is essential to all practising lawyers. In the context of the law curriculum as a whole, Contracts provides background which is assumed knowledge in many other units. The aims of the course are composite in

nature. The course examines the rules that regulate the creation, terms, performance, breach and discharge of a contract. Remedies and factors that may vitiate a contract such as misrepresentation are dealt with in Torts and Contracts II. The central aim of the course is to provide an understanding of the basic principles of contract law and how those principles are applied in practice to solve problems. Students will develop the skills of rules based reasoning and case law analysis. A second aim is to provide students an opportunity to critically evaluate and make normative judgments about the operation of the law. Successful completion of this unit of study is a prerequisite to the elective unit Advanced Contracts.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS2003 Corporate Law

8 Credit Points

Professor Jennifer Hill (semester 2), Mr Saul Fridman (summer school)

Prohibition: LAWS2014 **Offered:** Summer Early & Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1x mid-term test and 1x exam

This unit of study considers the legal structure of the corporation as an organisational form for both public and proprietary companies. It is designed as an introduction to both the law of corporations and the Australian context in which that operates. The focus of this unit is on the nature of the corporation and its governance structure. The unit covers issues such as the implications of the company as a separate legal entity, power to bind the company, duties of directors, and shareholders rights and remedies. Students will be required to evaluate critically existing corporate law and reform proposals, with particular reference to legislative policy and underpinning theory.

NB: Available to candidates proceeding under the old LLB resolutions.

LAWS2014 Corporations Law

6 Credit Points

Professor Jennifer Hill (semester 2), Mr Saul Fridman (summer school)

Prohibition: LAWS2003 **Offered:** Semester 2 & Summer Early **Classes:** 2x2hr seminars/wk for 10 weeks **Assessment:** 1 x mid-term test (30%) and 1 x 2hr open book exam (70%).

This unit of study considers the legal structure of the corporation as an organisational form for both public and proprietary companies. It is designed as an introduction to both the general law of corporations and the Australian regulatory context. The focus of

this unit is on the nature of the corporation and its governance structure. The unit covers issues such as the implications of the company as a separate legal entity, power to bind the company, duties of directors, and shareholders rights and remedies. Students will be required to evaluate critically existing corporate law and reform proposals, with particular reference to legislative policy and underpinning theory.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS1016 Criminal Law

6 Credit Points

Assoc Prof Gail Mason (combined law), Dr Kristin Savell (graduate law)

Prerequisite: LAWS1006, LAWS1014 **Prohibition:** LAWS1003, LAWS3001, LAWS2009 **Offered:** Semester 2 **Classes:** Combined: 2x2hr seminar/wk; Graduate: 3x4hr seminar/wk for 3 weeks and 1x3hr seminar/wk in week 13. **Assessment:** class participation (10%), 1x research problem (30%) and 1x 3hr open book exam (60%)

This unit of study is designed to introduce the general principles of criminal law in context as they operate in NSW, and to critically analyse these in their contemporary social and political relevance. In order to achieve these goals, the unit will consider a range of theoretical literature as well as critical commentary, and will focus on particular substantive legal topics in problem-centred contexts. Although the topic structure is necessarily selective, it is intended that students will gain a broad understanding of crime and justice issues, as well as of the applications of the criminal law. Students will encounter problem-based learning and will be encouraged to challenge a range of conventional wisdom concerning the operation of criminal justice. This unit of study is designed to assist students in developing the following understandings: (1) A critical appreciation of certain key concepts which recur throughout the substantive criminal law. (2) A knowledge of the legal rules in certain specified areas of criminal law and their application. (3) A preliminary knowledge of how the criminal law operates in its broader societal context. (4) Through following the process of proof in a criminal prosecution and its defense, to understand the determination of criminal liability. The understandings referred to in the foregoing paragraphs will have a critical focus and will draw on procedural, substantive, theoretical and empirical sources. The contradictions presented by the application of legal principle to complex social problems will be investigated.

NB: Available to candidates proceeding under the

new LLB resolutions.

LAWS2004 Equity

8 Credit Points

Mr James Glister

Prohibition: LAWS2015 **Offered:** Semester 2
Classes: 2x2hr seminars/wk for 10 weeks and reading guide on equitable assignments and priorities. Students are strongly encouraged to attend the lectures on equitable assignments and priorities in Introduction to Property and Commercial Law in first semester. Students will be advised of the timing of these classes. **Assessment:** 1x optional essay (30%) and 1x exam (70% or 100%). The examination will contain a compulsory question on equitable assignments and priorities.

An appreciation of equitable principles and remedies is fundamental to understanding the Australian legal system. This unit of study explains the origins of the equitable jurisdiction and examines its role today. A substantial part of the unit is dedicated to study of the law of trusts, including remedial constructive trusts. Other topics include dealings with property in equity, assignments, fiduciary obligations, the doctrines of undue influence and unconscionable dealing, estoppel and equitable remedies.

NB: Available to candidates proceeding under the old LLB resolutions.

LAWS2015 Equity

6 Credit Points

Mr James Glister

Prohibition: LAWS2004 **Offered:** Semester 2
Classes: 2x2hr seminars/wk for 10 weeks
Assessment: 1x compulsory or optional assignment (30%) and 1x exam (70% or 100%)

An appreciation of equitable principles and remedies is fundamental to understanding the legal system and the law of property, taxation and obligations. This unit of study explains the origins of the equitable jurisdiction and examines its role today. A substantial part of the unit is dedicated to study of the law of trusts, including remedial constructive trusts. Other topics include fiduciary obligations, breach of confidence, the doctrines of estoppel, undue influence and unconscionable dealing, and a study of the equitable remedies of the injunction, an account of profits and equitable compensation.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS2016 Evidence

6 Credit Points

Mr David Hamer

Prerequisite: LAWS1006 Foundations of Law and LAWS1014 Civil and Criminal Procedure

Prohibition: LAWS2006 **Offered:** Semester 2
Classes: 2x2hr seminars/wk for 10 weeks
Assessment: 1x interim exam (30%) and 1x 2 hr final exam (70%)

This unit of study aims to teach students the laws of evidence. The focus of this unit is on the operation of the laws of evidence in civil and criminal trials. The unit considers the laws of evidence contained in statute and the common law. Students will appreciate the significant law reform in this area. The unit considers the rules for adducing evidence, then the rules of admissibility (relevance, hearsay, opinion, tendency and coincidence, credibility, character, privilege and the discretions to exclude evidence). Finally, there will be consideration of issues relating to proof. This unit will focus on the uniform Evidence Acts 1995 and develop students' skills in the area of statutory interpretation. Further, the unit aims to introduce students to the contexts within which lawyers might encounter evidential issues in the course of a trial. Consideration is also given to the ethical problems that may arise in the conduct of a trial. Students are encouraged to think critically about the doctrines that govern the laws of evidence.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS2011 Federal Constitutional Law

6 Credit Points

Assoc Prof Peter Gerangelos

Prerequisite: LAWS1021 **Prohibition:** LAWS1004, LAWS3000, LAWS3003 **Offered:** Semester 1
Classes: 2x2hr seminars/wk for 10 weeks, optional tutorials **Assessment:** 1x mid-term assessment and 1x final examination

The main objective of the course is to impart an understanding of the fundamentals of federal constitutional law through the study of key judicial decisions on powers and prohibitions in the Commonwealth Constitution. In a one session course it is neither feasible nor desirable to study all aspects of federal constitutional law. The course is designed to provide a general conceptual framework for solving problems about federal constitutional law by a detailed treatment of selected topics.

The course also aims to:

- Provide analysis of the function of the High Court as the final arbiter of constitutionality.
- Develop an understanding of the techniques of judicial review as applied in Australia.
- Encourage discussion on the adequacy of the Constitution as Australia's basic instrument of government and on the scope for 'reform' by interpretation.

The topics covered in detail are: Trade and

commerce, severance and reading down, inconsistency, external affairs, defence, corporations, freedom of interstate trade, general doctrines of characterisation and interpretation, grants, revenue powers, excise duties, and constitutional rights.

The course includes some material on the US Constitution to provide points of comparison and contrast.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS1006 Foundations of Law

6 Credit Points

Professor David Kinley (Combined), Mr Fady Aoun (Graduate)

Prohibition: LAWS1000 **Offered:** Semester 1
Classes: Combined: 1x1hr lec and 1x2hr seminar/wk; Graduate: The unit is taught to Graduate Law 1 students on an intensive basis over four weeks. The aim of this is to give students a good grounding in the basic legal skills needed for law studies before undertaking other Semester 1 units. The course commences two weeks prior to the start of semester in the University calendar. Preparation for and attendance at the intensive is essential for completion of the course. No other law classes are taught for the duration of the intensive. **Assessment:** Combined: class participation (20%), 1 x case analysis (30%), 1 x essay (50%); Graduate: class participation (20%), 1 x case analysis (30%), 1 x take-home exam (50%)
This is subject to change.

This unit of study provides a foundation core for the study of law. We aim to provide a practical overview of the Australian legal system, an introduction to the skills of legal reasoning and analysis which are necessary to complete your law degree, and an opportunity for critical engagement in debate about the role of law in our lives. The course will introduce students to issues such as: (i) the development of judge made and statute law, with a particular focus on English and Australian legal history; (ii) the relationship between courts and parliament; (iii) the role and function of courts, tribunals and other forms of dispute resolution; (iv) understanding and interrogating principles of judicial reasoning and statutory interpretation; (v) the relationship between law, government and politics; (vi) what are rights in Australian law, where do they come from and where are they going; (vii) the development and relevance of international law. The course focus may be subject to change.

LAWS1018 International Law

6 Credit Points

Dr Timothy Stephens (Combined), Mr Ross

Anderson (Graduate)

Prerequisite: LAWS1006 **Prohibition:** LAWS2005

Offered: Semester 1, Summer Early & Semester 2b

Classes: 1x2hr lecture and 1x1hr tutorial/wk (combined), 3x4hr seminars/wk for 3 weeks and 1x3hr seminar in week 13 (graduate) **Assessment:** Combined: 1x2000w assignment (30%), tutorial participation (pass/fail), 1x2hr final exam (70%). Graduate: 1x1hr class test (25%), 1x2hr exam (75%).

The unit of study is a general introduction to private international law and public international law and the relationship between these disciplines. The following private international law topics receive detailed treatment: (1) Nature, function and scope of private international law; (2) Jurisdiction, including discretionary non-exercise of jurisdiction; (3) Substance and procedure; (4) Proof of foreign law; (5) Exclusionary doctrines; and (6) Choice of law in tort. The following public international law topics receive detailed treatment: (1) Nature, function and scope of public international law, including the relationship between public international law and municipal law; (2) Sources of public international law; (3) State jurisdiction, including civil and criminal jurisdiction and jurisdictional immunities; and (4) State responsibility, including diplomatic protection, nationality of claims and exhaustion of local remedies. Available to candidates proceeding under the new LLB resolutions.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS2005 International Law

8 Credit Points

Dr Tim Stephens

Prohibition: LAWS1018 **Offered:** Semester 1

Classes: 1 x 2hr lecture, 1 x 1 hr tutorial/wk (Students attend classes for LAWS1018)

Assessment: 1x3,000w assignment (30%), 1x2hr final exam (70%)

The unit of study is an introduction to the general problems, sources and techniques of private international law and public international law. The private international law part of the unit will focus on the function and scope of this branch of municipal law, with particular reference to jurisdiction, substance and procedure, proof of foreign law, exclusionary doctrines, and choice of law in tort. The public international law part of the unit will focus on the function and scope of this regime of legal norms in the modern world, with particular reference to sources of law, the relationship between public international law and Australian law, state jurisdiction, jurisdictional immunities and state responsibility, and law on the use of force.

NB: Available to candidates proceeding under the

old LLB resolutions.

LAWS2012 Intro to Property and Commercial Law

6 Credit Points

Assoc Prof Patricia Lane

Prohibition: LAWS2004, LAWS2007 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk for 10 weeks **Assessment:** 1x interim assessment and 1x final examination

Property law and commercial law are two key sources of rights and obligations in modern western law. This subject provides an introduction to both areas of law, and shows the ways in which they are inter-related. The unit is designed to provide an opportunity to consider the role these areas of law play in Australian society, as well as giving a good grounding in legal principle.

Key topics covered will include: notions of "property"; an introduction to personal property; an introduction to real property including rights to fixtures and airspace; the different title systems relating to land in NSW (eg, Torrens; strata; Crown lands and including indigenous systems); the nature and classification of equitable interests in land and personalty; the principles governing assignment of rights to property at common law and in equity (including by sale and by compulsion - such as by bankruptcy), and an introduction to the principles for resolving competing claims to property

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS3004/LAWS1001/LAWS3002 Law, Lawyers and Justice

12/8/6 Credit Points

Dr Rita Shackel

Prerequisite: LAWS1006 **Prohibition:** LAWS2013 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk (Students attend classes for The Legal Profession) **Assessment:** 1x2500w assignment (pass/fail), 1x mid-term exam (40%), 1x open book exam (60%)

Law, Lawyers and Justice has a distinct intellectual focus. It is the only unit in the curriculum that concentrates on the regulation of the legal profession and legal practice. Part 1 of Law, Lawyers and Justice examines the nature and structure of the legal profession, historical struggles to regulate the profession, and the current regulatory regime in New South Wales. Part 2 explores specific forms of legal practice, highlights the major cultural and economic forces that challenge attempts to regulate the profession and canvasses alternative ways of organising legal practice and providing legal services. Part 3 investigates the adversary system and

considers its advantages and limitations. More specifically, the material in Part 3 addresses how the adversary system moulds lawyers' behaviour within and outside the judicial process and analyses current regulatory measures aimed at curbing the undesirable aspects of an adversarial culture. Part 4 evaluates the way clients are treated by lawyers and suggests strategies to change their conduct in the interests of both equality and effective communication. Furthermore, it examines lawyers' duties to their clients and the ways in which the rules and principles of confidentiality, legal professional privilege and conflicts of interest shape the advice and representation lawyers provide for their clients.

NB: Available to Combined Law candidates proceeding under the old LLB resolutions. Students attend classes for LAWS2013 The Legal Profession.

LAWS1013 Legal Research I

0 Credit Points

Mr Graeme Coss

Corequisite: LAWS1006 **Prohibition:** LAWS1008 **Offered:** Semester 1 & Semester 2 **Classes:** Combined Law: 6x1hr seminars **Assessment:** Satisfactory attendance, WebCT-based quizzes and 1x in-class test

This is a compulsory unit taught on a pass/fail basis. The aim of the unit is to introduce you to finding and citing primary and secondary legal materials and introduce you to legal research techniques. These are skills which are essential for a law student and which you will be required to apply in other units.

NB: Available to candidates proceeding under the new LLB resolutions. Semester 1 classes are for Combined Law candidates in the faculties of Arts, Engineering and Science. Semester 2 classes are for Combined Law candidates in the Faculty of Economics & Business.

LAWS1019 Legal Research II

0 Credit Points

Mr Graeme Coss

Prerequisite: LAWS1013 **Prohibition:** LAWS1008, LAWS1022 **Offered:** Semester 1 & Semester 2 **Classes:** Combined Law: 3x2hr seminars **Assessment:** Satisfactory attendance and 1x assignment

This is a compulsory unit taught on a pass/fail basis. It is a continuation of Legal Research I and covers advanced searching techniques and the use of Lexis.com, Westlaw and other complex commercial databases. The purpose of this unit is to further develop the skills you will need as a law student and to introduce you to the legal research skills you will need after graduation.

NB: Available to candidates proceeding under the

new LLB resolutions. Semester 1 classes are for Combined Law candidates in the faculties of Arts, Engineering and Science. Semester 2 classes are for Combined Law candidates in the Faculty of Economics & Business.

LAWS1022 Legal Research I & II

0 Credit Points

Mr Graeme Coss

Corequisite: LAWS1006 **Prohibition:** LAWS1008, LAWS1013, LAWS1019 **Offered:** Semester 1 **Classes:** 6x2hr seminars **Assessment:** Satisfactory attendance, WebCT-based quizzes, 1x assignment and 1x in-class test

This is a compulsory unit taught on a pass/fail basis. The aim of the first part of the unit is to introduce you to finding and citing primary and secondary legal materials and introduce you to legal research techniques. These are skills which are essential for a law student and which you will be required to apply in other units. The second part of the unit covers advanced searching techniques and the use of Lexis.com, Westlaw and other complex commercial databases. The purpose of this part of the unit is to further develop the skills you will need as a law student and to introduce you to the legal research skills you will need after graduation.

NB: Available to graduate law candidates proceeding under the new LLB resolutions

LAWS2006 Litigation

8 Credit Points

Mr David Hamer

Prohibition: LAWS2016 **Offered:** Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1x interim exam, 1x 2 hr final exam, 1 x 1000w pass/fail assignment

This unit of study seeks to provide a knowledge of the basic elements of civil and criminal procedure and evidence. The focus is primarily on the law of civil procedure and the law of evidence. Pre-trial procedures are studied including techniques for initiating litigation, limiting the issues for judicial decision, obtaining evidence to support a case and avoiding trial. Attention then turns to the trial itself. Rules governing forms of evidence, and the basic inclusionary and exclusionary rules of evidence, together with rules governing the burden and standard of proof are considered.

NB: Available to candidates proceeding under the old LLB resolutions. Student are required to attend classes for LAWS2016.

LAWS1021 Public Law

6 Credit Points

Ms Nicola Franklin

Prerequisite: LAWS1006 **Prohibition:** LAWS2002, LAWS3003, LAWS1004 **Offered:** Semester 2, Summer Late & S2 Late IntB **Classes:** 2x2hr seminars/wk for 10 weeks (combined), 3x4hr seminars/wk for 3 weeks and 1x3hr seminar in week 13 (graduate) **Assessment:** Combined Law: 1x3,000w assignment (40%) and 1x2hr exam (60%); Graduate Law: 1x2,500 case note (35%) and 1x2hr exam (65%)

Public Law will examine the fundamental tenets of constitutionalism and constitutional principle essential to an understanding of the system of representative and responsible government as manifested in the Australian constitutional context, at both Federal and State level. As an introduction to the units Administrative Law and Federal Constitutional Law, it will cover both introductory topics and substantive topics directly relevant to those units. Topics covered include: Constitutionalism and the Rule of Law; Representative and Responsible Government; Amendment of the Commonwealth and State Constitutions; Separation of Powers; Judicial Power and implications derived from Chapter III of the Constitution; the Executive and its Powers; Accountability of the Executive to Parliament, Courts and Tribunals; and Administrative Rule-making.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS2007 Real Property

8 Credit Points

Dr Fiona Burns

Prohibition: LAWS2017 **Offered:** Semester 2 **Classes:** 2x2hr seminars/wk. Students will be required to attend classes for LAWS2017. **Assessment:** 1 x mid-term test, 1x final exam. Assessment is subject to change.

The law of real property has always played an important role in the economic, social and political life of England and of those countries, such as Australia, which adopted its legal system. This unit of study aims to provide a study of the modern-day law of real property. After a brief historical introduction, we consider the nature of the various interests in land, the law of co-ownership (joint tenancies and tenancies in common), priorities between competing interests in land, and the legislation governing the registration of instruments affecting land. We also consider the Mabo and Wik cases and concepts of native title. Because of its significance in Australian land law, we spend some time considering the Torrens system. We also consider in some detail the law relating to easements and covenants, and provide an introduction to the law of mortgages and leases.

NB: Available to candidates proceeding under the old LLB resolutions.

LAWS2017 Real Property

6 Credit Points

Dr Fiona Burns

Prerequisite: LAWS2012 **Prohibition:** LAWS2007

Offered: Semester 2 **Classes:** 2x2hr seminars/wk

Assessment: 1x1hr mid-term test (30%), 1x2hr final exam (70%). Assessment is subject to change.

Land law (or the law of "real property") has always played an important role in the economic, social and political life of Australia. Australian real property law draws much of its principle from English real property law; but over the last 100 years in particular, Australian real property law has begun to develop its own unique character. This is particularly evident in two key aspects of modern Australian law: the Torrens system of land registration (which forms a large part of this unit of study) and the developing law of indigenous title to land (which is studied in Introduction to Property and Commercial Law, but which may surface occasionally in parts of this unit also).

This unit considers in particular the following topics: priorities between competing interests in land (building on material from the introductory unit, Introduction to Property and Commercial Law); the Torrens system of land registration; co-ownership of land (joint tenancies and tenancies in common); leases and licences; easements; covenants; mortgages.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS2013 The Legal Profession

6 Credit Points

Dr Rita Shackel

Prohibition: LAWS1001, LAWS3002, LAWS3004

Offered: Semester 1 **Classes:** 2x2hr seminars/wk for 10 weeks **Assessment:** 1 x mid-term exam (40%), 1x open book exam (60%)

The Legal Profession concentrates on the regulation of legal practice and its practitioners. Part 1 of The Legal Profession examines the nature and structure of the legal profession, historical struggles to regulate the profession, and the current regulatory regime in New South Wales. Developments towards national legal practice are also examined. Part 2 explores specific forms of legal practice, highlights the major cultural and economic forces that challenge attempts to regulate the profession and canvasses alternative ways of organising legal practice and providing legal services. Part 3 evaluates the way clients are treated by lawyers and suggests strategies to change their

conduct in the interests of both equality and effective communication. Furthermore, it examines lawyers' duties to their clients and the Court, and the ways in which the rules and principles of confidentiality and conflicts of interest shape the advice and representation lawyers provide for their clients.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS1012 Torts

6 Credit Points

Mr Ross Anderson (Graduate), Assoc Prof Barbara McDonald (Combined)

Prerequisite: LAWS1006 **Prohibition:** LAWS1005, LAWS1010, LAWS3001 **Offered:** Semester 2 & Semester 1 **Classes:** Combined: 1x2hr lectures and 1x1hr seminars/wk; Graduate: 3x4hr seminar/wk for 3 weeks and 1x3hr seminar in week 13. **Assessment:** Graduate: 1x1hr class test (25%) and 1x2hr exam (75%); Combined: 2000w assignment (30%), tutorial participation (10%) and 1x2hr exam (60%)

This is a general introductory unit of study concerned with liability for civil wrongs. The unit seeks to examine and evaluate, through a critical and analytical study of primary and secondary materials, the function and scope of modern tort law and the rationale and utility of its governing principles. Particular topics on which the unit will focus include:

- (a) The relationship between torts and other branches of the common law including contract and criminal law;
- (b) The role of fault as the principal basis of liability in the modern law;
- (c) Historical development of trespass and the action on the case and the contemporary relevance of this development;
- (d) Trespass to the person (battery, assault, and false imprisonment);
- (e) Trespass to land and private nuisance;
- (f) The action on the case for intentional injury;
- (g) Defences to trespass, including consent, intellectual disability, childhood, necessity and contributory negligence;
- (h) Development and scope of the modern tort of negligence, including detailed consideration of duty of care and breach of duty and causation and remoteness of damage with particular reference to personal and psychiatric injury;
- (i) Compensation for personal injuries, including special and alternative compensation schemes;
- (j) Injuries to relational interests, including compensation to relatives of victims of fatal accidents;
- (k) Defences to negligence.

NB: Available to candidates proceeding under the new LLB resolutions.

LAWS1017 **Torts and Contracts II**

6 Credit Points

Assoc Prof Barbara McDonald (Combined), Mr Ross Anderson (Graduate)

Prerequisite: (LAWS1010 or LAWS1012) and LAWS1015 **Offered:** Semester 2 **Classes:** 1x2hr lecture and 1x2hr tutorial/wk (combined), 3x4hr seminars/wk for 3 weeks, and 1x3hr seminar in week 13 (graduate) **Assessment:** Graduate Law: 1x1hr class test (25%) and 1x2hr exam (75%) (Graduate); Combined Law: 1x 2000 word assignment (30%), tutorial participation (10%) 1x 2 hour exam (60%).

The laws of tort and contract frequently overlap in practice and are increasingly regulated by statute. This unit aims to develop the integrated study of the law of obligations and remedies. It builds on the introduction to tort and contract law which students have acquired in Torts and Contracts. It will include the study of more advanced topics in both areas and the impact of related statutory liability and remedies. Topics:

- (a) Concurrent, proportionate and vicarious liability;
- (b) The role of statutory duties and powers in tort law;
- (b) Liability for misrepresentation in tort, contract and under statute (eg statutory duties, s 52 Trade Practices Act 1974 (Cth));
- (c) Liability for economic loss in tort, including some comparative study;
- (d) Detailed consideration of causation and remoteness of damage in tort and contract;
- (e) Damages for breach of contract;
- (f) Unfair dealing in contracts and vitiating factors: mistake, misrepresentation, duress, undue influence, unconscionable conduct. This topic includes a study of equitable principles and statutory rights.

NB: Available to candidates proceeding under the new LLB resolutions.

2. ELECTIVE UNITS

LAWS3400 **Advanced Commercial Law**

6 Credit Points

Dr Jacqueline Mowbray, Mr Wayne Courtney

Prerequisite: (LAWS1015 or LAWS1002 or LAWS2008) and (LAWS2004 or LAWS2015) and (LAWS2012 or LAWS2003 or LAWS2014)

Prohibition: LAWS3064 **Offered:** Semester 2

Classes: 2x2hr seminars/wk **Assessment:** 1 x 2hr exam (100%)

This unit of study offers students an opportunity to examine the key commercial doctrines and institutions in non-corporate commercial law. The unit will consider the regulation of commercial activity through general legal principles, legislation and case law, and will advance students' knowledge of not only commercial law but also statutory interpretation and case law analysis. This is a survey unit, offering a broad overview of commercial law. Topics may include commercial relationships (partnership; principal and agent; bailment); sale of goods; risk management (taking security; retention of title; insurance); and commercial remedies.

LAWS3401 **Advanced Constitutional Law**

6 Credit Points

Assoc Prof Peter Gerangelos

Corequisite: LAWS2011 **Prerequisite:** LAWS1004 or LAWS1021 or LAWS3000 or LAWS3003

Prohibition: LAWS3027 **Offered:** Semester 2

Classes: 2x2hr seminars/wk **Assessment:** Class-participation (20%); and either 1) 1 x research essay (80%) or 2) 1 x 40001 essay (40%) and 1 x 2hr exam (40%)

The main purpose of this course is to build on the fundamental understandings achieved in Federal Constitutional Law in order to provide a far broader and deeper understanding of the subject. This will be achieved by, first, examining in depth the fundamental aspects and tenets of "constitutionalism" in the Australian context. Reliance will be on comparative jurisdictions, in particular the United States and the United Kingdom, the latter serving as an entre to relevant issues in European Community law. A detailed analysis will first be attempted of the following major concepts, primarily from a theoretical perspective, in the more precise context of Westminster-based systems: the rule of law, parliamentary sovereignty, judicial review and constitutional rights, separation of powers, federalism, constitutional conventions, the status of common law principles as fundamental constitutional guarantees. Thus, for example, the course will examine the evolving notion of parliamentary supremacy from Diceyan orthodoxy to the more

recent debates involving leading constitutional scholars in the UK and Australia. (TRS Allan, Goldsworthy, Hart, Hood Phillips, Jowell, Wade, Winterton) In relation to separation of powers, the different constitutional consequences which result when the doctrine is entrenched in a written constitution (as in the US and Australia) on the one hand, and when it exists as a convention without being so entrenched, on the other, will be explored, again with reference to leading constitutional scholars in Australia, the UK and US. From this theoretical basis, the course will proceed to examine in detail the three main branches of government from a constitutional perspective, with particular emphasis on the separation of powers.

The definition, nature and limits of judicial, executive and legislative power will be examined in detail. There will be particular emphasis on the Australian position, although extensive reference will be made to other jurisdictions such as the United Kingdom and the United States. The functionalist/formalist debate will be examined to determine the most appropriate interpretive methodology with respect to the application of the constitutional limitations which may emanate from the separation of powers. In so doing, the principal decisions of the High Court of Australia and other relevant courts in other jurisdictions. There will be an opportunity to evaluate major Australian constitutional decisions in a detail not possible in the prerequisite and undergraduate courses. A principal underlying theme will be the extent to which the tenets of constitutionalism are being complied with in Australia and the extent to which they can be. The interpretational methodology of the High Court will be a critical theme.

The course will be enriched and made more presently relevant by the exploration of current developing themes in constitutional law. The precise topics may vary from year to year. Depending on the topic, this may involve the introduction of completely new themes or the integration of developments with topics already examined.

LAWS3402 **Advanced Contracts**

6 Credit Points

Assoc Prof Gregory Tolhurst

Prerequisite: LAWS1015 or LAWS1002 or LAWS2008, LAWS2004 or LAWS2015 and LAWS2012 **Prohibition:** LAWS3007 **Offered:** Semester 2

Classes: 2x2hr seminars/wk **Assessment:** 1 x mid-term exam (50%), 1 x final exam (50%)

The aim of this course is to build on the level of knowledge students gained in the core contract

course. To give the course a focus, two particular areas of contract law are chosen each year and dealt with in detail. The areas chosen vary from year to year the choice being based on current movements in contract law and the research of the lecturer; this is very much a research driven course. By the end of term most aspects of the core contract course will be revisited at a higher level of sophistication within these core units.

LAWS3403 Advanced Corporate Law

6 Credit Points

Mr Saul Fridman

Prerequisite: LAWS2003 or LAWS2014

Prohibition: LAWS3008 **Offered:** Semester 1

Classes: 2x2hr seminars/wk **Assessment:** Students can select from various options: 1 x 3000w research paper (50%) or 1 x 6000w research paper (100%) or 1 x take-home exam (either 50% or 100%)

This unit of study will deal with corporate insolvency as well as a number of contemporary issues concerning debt and equity finance in Australian public and proprietary companies. It will cover receivership, voluntary administration, liquidation, the raising of corporate finance and the positions of shareholders and creditors in the event of the company's insolvency.

LAWS3404 Advanced Criminal Law

Credit points: 6 **Session:** Semester 1 **Classes:** 2x2hr seminars/wk **Prerequisites:** LAWS1016 or

LAWS1003 or LAWS2009 **Assessment:** 1 x research paper (30%), 1 x open-book exam (50%) and class participation (20%) **Campus:**

Camperdown/Darlington Delivery Mode: Normal (lecture/lab/tutorial) Day

This unit identifies current crime control case-studies which lend themselves to advanced historical and theoretical interrogation. In so doing, processes for determining criminal liability are exposed to shifting realities of law and order politics which explain why criminal law is such a popular if problematic mechanism of social engineering. The unit content will range from broad considerations such as the determination of individual and collective liability, and the tensions between subjectivity and reasonableness, to more particular concerns with contemporary offence/defence concerns. It will break away from a topic driven approach to criminal law in favour of exploring liability and sanctioning in terms of specific contradictions and life-problems. The advanced study of criminal law supplements

foundational understandings of criminal law in context and the processes of criminal justice. A critical, cross disciplinary approach to the operations of criminal law will enable an interesting intersection between law and criminology.

LAWS3405 Advanced Environmental Law

6 Credit Points

Dr Andrew Edgar/Ms Susan Shearing

Corequisite: LAWS2002 or LAWS2010

Prerequisite: LAWS3024 or LAWS3430 **Offered:**

Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:**

2 x 3000w assignments (50% each)

This unit of study aims to build on the knowledge students gained in the Environmental Law unit. It focuses on environmental governance and accountability for decision-making. The unit explores government decision-making processes and the role of courts, tribunals and other institutions, such as the Independent Commission Against Corruption, in providing accountability mechanisms. It also examines ways in which corporations are regulated and the role of financial institutions, the insurance industry and non-government organisations in driving change in corporate environmental behaviour.

LAWS3406 Advanced Evidence

6 Credit Points

Ms Miiiko Kumar

Prerequisite: LAWS2006 or LAWS2016 **Offered:**

Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** Class participation (25%), 1 x 4000w research essay (75%) (subject to class size)

This unit builds on knowledge gained in the compulsory course Evidence (or Litigation). The unit has three aims. Firstly, it examines the rules of evidence covered in the compulsory Evidence course in greater depth. Secondly, this unit covers new topics such as (i) theories of evidence (ii) identification evidence, (iii) evidence of past sexual history (iv) interaction between human rights legislation and evidential rules. Thirdly, the unit engages in a comparative analysis with evidential rules in Australian and International jurisdictions.

LAWS3407 Advanced Family Law

6 Credit Points

Professor Patrick Parkinson

Prerequisite: LAWS3026 or LAWS3432 **Offered:**

Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 4,000w assignment (50%), 1 x 1.5hr exam (50%)

This unit of study will focus on key issues of contemporary importance in Family Law including: processes for dealing with family law disputes; the role of Family Relationship Centres, issues about

mediation, dealing with issues of violence and abuse in family law, the property interests of third parties and proposals for reform in Australian family law.

LAWS3408 Advanced Public International Law

6 Credit Points

Assoc Prof Chester Brown

Prerequisite: LAWS1018 or LAWS2005

Prohibition: LAWS3009 **Offered:** Semester 1

Classes: 2x2hr seminars/wk **Assessment:** 1 x 4000w essay (50%), 1 x 2hr exam (50%)

This unit provides an opportunity for students who are familiar with the basic institutions and processes of public international law to deepen their understanding by studying in greater detail than is possible in the introductory unit several areas of conceptual importance and contemporary relevance. It follows that a prerequisite is the unit, International Law, or an equivalent unit undertaken at another institution.

The topics covered by this unit are: (1) the law of treaties; (2) the international law of the sea; (3) international environmental law; (4) international dispute resolution; and (5) the law of international organisations and the United Nations. Some of these topics (treaties, disputes, and organisations) frame the system of international law as a whole and are vital to understanding how that system functions (and, sometimes, dysfunctions). The other topics (law of the sea and environmental law) are specialised, substantive areas of law which are of particular importance to global governance of resources, particularly for a large, ecologically diverse and maritime State such as Australia, and in an era of climate change.

LAWS3477 Advanced Obligations and Remedies

6 Credit Points

Assoc Prof Barbara McDonald, Professor Elisabeth Peden

Prerequisite: LAWS1010 or LAWS1012, LAWS1002 or LAWS1015 and LAWS1017, LAWS2015 **Offered:** Winter session **Classes:**

Intensive mode. Held at Sydney Law School 28 and 29 June, and then at the University of Cambridge 9-13 July 2010. Applications open in November 2010 and close in December. **Assessment:** Class participation (20%), 1 x assignment after Sydney session (20%), 1 x essay (60%)

This unit will explore a number of contentious issues arising in the law of civil obligations and remedies. It will revise and build on the fundamentals in the areas

of torts, contracts and equity and place particular emphasis on the interaction of these three fields of the law. Particular topics and problems will involve issues of:

- causation and scope of liability
- controlling liability by contract
- tort duties to third parties to contracts
- assessing loss
- duties of good faith
- fiduciary duties and conflicts.

The unit will also include a number of guest lectures, to be announced.

LAWS3409 Advanced Taxation Law

6 Credit Points

Mr Micah Burch

Prerequisite: LAWS3047 or LAWS3412

Prohibition: LAWS3013 **Offered:** Semester 2

Classes: 2x2hr seminars/wk **Assessment:** 1 x 1hr class test (30%), 1 x 2hr exam (70%)

This unit of study further pursues the goals of Australian Income Tax and is to be regarded as an extension of that unit. In particular, the unit analyses the special difficulties of levying tax on business activities, different types of entity, and complex transactions, and the operation of the income tax in an international environment. The taxes covered extend beyond the income tax to include stamp duties and goods and services tax. This unit of study will cover the following topics: (a) taxation of partnerships and trusts; (b) taxation of companies and shareholders under the imputation system; (c) taxation of international transactions; (d) goods and services tax; and (e) stamp duties.

LAWS3410 Animal Law

6 Credit Points

Ms Celeste Black

Prohibition: LAWS3088 **Offered:** Semester 2

Classes: 2x2hr seminars/wk **Assessment:** 1 x 2000w research essay/reflection (40%), 1 x 3000w take-home exam (60%)

This unit of study examines the ways in which the law defines and regulates the relationship between humans and animals. It introduces students to the key issues, legal frameworks and regulatory regimes in this area whilst encouraging a critical examination of these sources. The unit begins with a discussion of the status of animals as property and the implications of this approach and then moves to providing an overview of the moral and ethical arguments supporting an animal protection position and the case for animal rights. The focus of the unit is on the regulatory frameworks which currently apply to

interactions between humans and animals, both domesticated and wild. The following topics will be considered: legal issues relating to companion animals; torts and animals; animal welfare legislation and its enforcement; the regulation of the agricultural use of animals and product labelling; animal welfare standards and free trade; live export of animals; the regulation of the use of animals in science; and issues relating to wildlife, including conservation and management, hunting, pest animals and endangered species. Although the primary focus of the unit is the law in Australia, wherever relevant, the approach to these issues which has developed in Australia will be compared and contrasted with that of other jurisdictions.

LAWS3411 Anti-Discrimination Law

6 Credit Points

Dr Belinda Smith

Prohibition: LAWS3012 **Offered:** Semester 2
Classes: 2x2hr seminars/wk **Assessment:** 1 x 2,500w research assignment (35%), 1 x 2hr exam (65%)

The objective of this unit is to enable students to examine and develop answers to the following questions: (i) What is discrimination and what harm does it cause? (ii) How has the law been used in Australia to address discrimination? (iii) What type of conduct does anti-discrimination law prohibit? Specifically, which traits are protected, in what contexts and with what exceptions? (iv) What remedies can be sought for unlawful discrimination and how are these enforced? (v) What are the limits and future directions of anti-discrimination law? The law as it operates will be examined, focussing on particular grounds of discrimination (such as sex, race, disability, age, or family responsibilities), but considerable attention is also paid to regulatory alternatives to explore how the law could be developed.

LAWS3412 Australian Income Tax

6 Credit Points

Ms Celeste Black, Mr Micah Burch

Prohibition: LAWS3047 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** 1x1hr mid-semester quiz (30%), 1x2hr final exam (70%)

This unit provides an introduction to the Australian federal income tax system (including capital gains tax and fringe benefits tax). It introduces both the operation of the tax laws and the underlying principles which those laws seek to implement, as well as the important issues in tax policy, thereby allowing students to make a critical examination of the Australian tax system. Topics covered include the concept of income, capital gains tax, income from property, compensation receipts, periodic receipts,

income from services and fringe benefits tax, business income, allowable deductions and the capital/revenue distinction, private outgoings and dual purpose expenditure, basic tax accounting principles, and legislative responses to tax avoidance. The unit also introduces the key concepts used to evaluate tax policy, including welfare economics, thereby providing students with a basic understanding of why taxation is of such fundamental concern in modern democratic societies. This unit serves as an introduction to the Australian income tax system and is a prerequisite for Advanced Taxation Law.

LAWS3413 Banking and Financial Instruments

6 Credit Points

Professor Roger Magnusson

Prerequisite: LAWS1015 or LAWS1002, LAWS2004 or LAWS2015, LAWS2007 or LAWS2017 **Prohibition:** LAWS3101 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** Three options: 1) 2 x 1,500-2,000w assignments (60%), 1 x 1hr exam (40%); 2) 1 x 3,500w essay (50%), 1 x 80 min exam (50%); 3) 1 x 2hr exam (100%).

This unit aims to provide students with:

- * An overview of the legal regulation and supervision of banks and other Authorised Depositing Institutions (ADIs);
- * An understanding of the legal basis of the relationship between banks, ADIs and their customers, and an overview of the more common rights and duties which adhere to the banker/customer relationship;
- * An introduction to cheques and bills of exchange;
- * An introduction to basic principles of secured debt, with a focus on guarantees and charges.

LAWS3068 Chinese Laws and Chinese Legal Systems

6 Credit Points

Ms Vivienne Bath

Prohibition: LAWS3014 **Offered:** Summer L1
Classes: Intensive mode (3 weeks). Teaching takes place in November/December in Shanghai as part of the Shanghai Winter School. The unit is assessed in the following year. Applications for the Winter School open in June and close in July. **Assessment:** 1x take-home exam to be completed in Shanghai (100%)

This unit of study provides an overall picture of the contemporary Chinese legal system. The unit seeks to develop an understanding of the unique character of Chinese law by tracing its role through major social epochs - its imperial origins, the reforms of the

Nationalist regime, the eras of revolutionary and radical transformations, and its role in a socialist market economy. The nature and function of law in contemporary China is explored through examination of the development of various legal regimes, including constitutional and administrative law, the civil and criminal law systems, the legal profession and court system, real property law, foreign investment law and intellectual property law.

NB: Available to cross-institutional and non-degree candidates, and University of Sydney LLB candidates proceeding under the new resolutions.

LAWS3417 **Commercial Land Law**

6 Credit Points

Dr Fiona Burns

Prerequisite: LAWS2007 or LAWS2017 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** Class presentation (20%), 1 x 1800w research essay (30%), 1 x exam (50%). NB Assessment subject to change and dependent on enrolment numbers.

This unit aims to explore in greater depth some important aspects of the law of real property which the compulsory Real Property unit does not cover. The topics which will be covered will be: leases (including covenants of leases, assignments of leases, remedies of landlords, relief against forfeiture and subleases); possessory title; mortgages (with special attention on the rights and remedies of the mortgagor and mortgagee; reverse mortgages); options and strata and community titles.

LAWS3418 **Comparative Constitutional Law: Aus & US**

6 Credit Points

Professor Helen Irving

Prerequisite: LAWS1004 or LAWS1021 and LAWS2011 or LAWS3003 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 3000w research essay (50%), 1 x 2hr exam (50%)

Australia and the United States are common law countries, with federal constitutions and shared historical roots. Many provisions in the Australian Constitution were borrowed directly from the United States Constitution. Australia's federal distribution of powers and its provisions for a federal judiciary are closely modelled on the United States. The major difference is the absence of a Bill of Rights in the Australian Constitution. While Australia has been significantly influenced by the jurisprudence of the U.S. Supreme Court, there are striking differences in each country's constitutional law. This unit will explore the similarities and difference, with a focus on the legal and cultural history of the two countries, differences in legal institutions, and constitutional doctrine. Its topics will include some or all of the

following: federalism, the separation of powers, rights and freedoms, the constitutional regulation of property, and the role and powers of the constitutional court.

LAWS3419 **Competition Law**

6 Credit Points

Dr Brett Williams

Prohibition: LAWS3016 **Offered:** Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** class presentation, 1 x 2000w essay (33.3%), 1 x 2hr exam (66.6%)

This unit of study examines competition law and policy in Australia. The central part of the course deals with Part IV of the Trade Practices Act 1974 (Cth). The framework for analysis will include a critical examination of the fundamental purposes of competition law policy. Some references will be made to the restrictive trade practices provisions of comparative jurisdictions.

Topics include: (a) common law antecedents of competition law and history of competition law legislation; (b) National Competition Policy and legislation; (c) application of the Trade Practices Act 1974 (Cth); (d) elementary economic theory of monopoly and the goals of competition policy; (e) fundamental concepts of competition, market definition, market power and public benefit; (f) mergers and acquisitions; (g) horizontal arrangements including cartel conduct, primary boycotts, and arrangements which substantially lessen competition; (h) vertical arrangements including exclusive dealing and third line forcing; (i) misuse of substantial market power; (j) notifications and authorizations; and (k) overview of remedies and enforcement. Additional topics may include resale price maintenance or access to essential facilities.

LAWS3423 **Copyright, Design and Patents**

6 Credit Points

Dr Simon Butt (Sem 1), Dr David Rolph (Sem 2 and Summer School)

Prohibition: LAWS3033 **Offered:** Semester 1 & Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** Sem 1: Two options: 1 x 5,000w (50%) and 1 x 1.5 hr examination (50%); or 2) 1 x 3 hr examination (100%) Sem 2: Two options: 1) 1 x 5,000w research essay (50%) and 1 x 2 hr exam (50%); 2) 1 x 3 hr exam (100%)

This unit of study will focus on copyright, design and patent laws. These areas of law are often justified on the presumption that they encourage the exercise of inventive, creative and entrepreneurial skill and labour. The protection these areas of law provides is said to better enable commercial exploitation of the

resulting works, products or processes. Most aspects of copyright law will be covered, including the implications of the internet, accompanied by an overview of patent protection. There will be a particular focus on patents covering medical process and business method patents, in light of their recent development and controversial nature. Although the unit of study will emphasise legal doctrine and be taught from the perspective of a relatively depoliticised formalism, it is also recognised that the deployment and the regulation of intellectual property inevitably have substantial cultural and economic consequences, which in turn inform and shape the development of legal doctrine. So, for example, *Gone With The Wind*, as a literary work still under copyright, is both an asset with a monetary value and the focus of a civil rights activism which demands the right to imitate the work for social and political criticism and parody. Pharmaceutical patents are both valuable assets to their owners, who accordingly demand extensive legal protection for those assets, and also the target of vigorous criticism in the developing world for the patents' potentially detrimental effect on public health in relation to, inter alia, HIV. There will, accordingly, be some attention paid in this unit to the cultural and economic consequences of intellectual property laws, to the significance of access to the public domain and to the effects of international trade pressure in the area.

LAWS3424 Corporate and Securities Regulation

6 Credit Points

Offered: Semester 2 **Classes:** 2x2hr seminars/wk at Phillip St building **Prerequisites:** LAWS2003 or LAWS2014 **Prohibitions:** LAWS3108 **Assessment:** class participation (10%), 1 x 3hr exam (90%) **Campus:** Phillip St campus **Delivery Mode:** Normal (lecture/lab/tutorial) Day

Explore the world of a mergers and acquisitions lawyer! This unit discusses takeovers and schemes of arrangement from a technical, practical and tactical viewpoint. Does a distressed market give rise to transactional opportunities - or rescue operations? How do corporations find money in a market with none to lend? Has the Takeovers Panel removed the scope for poison pills - and how far should a target search for white knights? How do minority shareholders, arbitrageurs and institutional shareholders fare in the corporate playing field? Students will not only examine legal principle, but also its practical application in our current market.

LAWS3426 Criminology

6 Credit Points

Professor Julie Stubbs, Assoc Prof Gail Mason, Dr Murray Lee

Prohibition: LAWS3020 **Offered:** Semester 1 & Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 2,250-3,000w research essay (50%), 1 x take-home exam (40%), class presentation (10%)

This unit of study aims to introduce students to the theoretical issues associated with the definition and explanation of crime, criminality and crime control. Rationales for punishment are examined along with sentencing, and other possible responses to criminal behaviour are explored. The unit considers the impact of criminal justice policy and practice on particular groups which may include juveniles, women, Indigenous people, ethnic minorities and victims of crime. The regulation of particular types of offences such as hate crime are considered. Other topical issues are covered as they arise in contemporary criminological debate. Students are expected to take part in visits to a gaol and/or a juvenile detention centre.

LAWS3473 Critical Legal Theory

6 Credit Points

Mr Euan McDonald

Offered: Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** Class participation (20%); 1 x class presentation (20%); 1 x 5000w essay (60%) Subject to change.

The Critical Legal Studies (CLS) movement exploded onto the academic scene in the late 1970s and early 1980s; by the late 1990s, it had all but burned out - yet it left a profoundly changed legal academy in its wake. Previously, the central questions of legal theory had largely been addressed in a manner - whether based on natural law or legal positivism - entirely "internal" to law itself, and had been predicated upon the maintenance of hard distinctions, in both theory and practice, between, for example, law and politics, public and private, and self and other. After CLS, these - and many other - previously cherished assumptions no longer seem tenable.

The purpose of this unit of study is twofold: firstly, to provide a detailed account of the emergence and nature of the CLS movement, paying particular attention, inter alia, to its intellectual predecessors within legal theory (such as legal realism); to the various different strands of political, social and literary philosophy on which it is based (including thinkers such as, for example, Foucault, Derrida, and the theorists of the Frankfurt School); and to the

various different tensions and subtexts within the CLS movement itself (such as rationalism and irrationalism, structuralism and subjectivism, nihilism and utopianism). Secondly, the course will examine the reasons why the movement appears to have, by the end of the 1990s, exhausted both the enthusiasm of its main exponents and the wealth of its intellectual resources; and, more importantly, the issue of "what next"? This part of the course will accordingly focus on "post-critical" approaches to legal theory, ranging from the various turns to identity politics, to different forms of ethics, and to rhetoric as potential responses to the critical challenge to law.

NB: This unit satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3427 Death and Inheritance Law

6 Credit Points

Dr Fiona Burns

Prohibition: LAWS3056 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** Class presentation (20%), 1 x 1800w research essay (30%), 1 x exam (50%). NB Subject to change and dependent on enrolment numbers.

The unit covers the law that governs the transmission of property rights from one holder to other persons on the death of the holder. The unit begins with an overview of succession law in Australia; looking at testamentary freedom in its historical context; the development of powers of testation, and the reception of English law in NSW. The unit then considers the modern family relationships for succession; the boundaries of the law of succession (dealing with such matters as nominations, donations mortis causa and contracts involving wills); the legal fact of death; intestate succession, the law of wills, family provision legislation and some aspects of the administration of deceased estates.

LAWS3428 Defamation and Privacy

6 Credit Points

Dr David Rolph

Prohibition: LAWS3059 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** Four options: 1) 1 x Assignment (30%) and 1 x 2 hr exam (70%); 2) 1 x Essay (40%) and 1x 2 hr exam (60%); 3) 1 x Assignment (30%), 1 x Essay (40%) and 1 x 1hr exam (30%); or 4) 1 x 3 hr exam (100%).

This unit of study analyses two areas of law which have a significant impact on the daily practice of journalism. Both of these areas of law relate to the personal interests of private plaintiffs and the legal recourse such plaintiffs may have against media outlets. The tort of defamation, which protects a plaintiff's reputation, is a well-established cause of

action which notoriously has a "chilling" effect on what the media publishes. By contrast, direct legal protection of privacy against invasions by the media is a rapidly developing area of law in Australia, the United Kingdom, New Zealand and the European Union. This unit of study provides a detailed examination of the principles of defamation law relating to liability, defences and remedies. It also examines how different common law legal systems are developing direct legal protection for individuals' privacy against intrusive media coverage. This unit of study provides a thorough doctrinal analysis of defamation, privacy and breach of confidence, as well as placing these areas of law in their broader historical, international, comparative, social and cultural contexts.

LAWS3430 Environmental Law

6 Credit Points

Dr Andrew Edgar/Ms Susan Shearing

Corequisite: LAWS2002 or LAWS2010
Prohibition: LAWS3024 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** 1 x 3000wd assignment (50%) and 1x take-home exam (50%)

This unit of study introduces students to the legal and institutional implications of adopting the precepts of ecologically sustainable development, particularly for governments and corporations. The unit begins with a discussion of environmental ethics and sustainable development, followed by an exploration of its ramifications for policy and decision-making, legal structures and processes, and federal relations. Various fields of regulation (including climate change, heritage, water, land-use and pollution) provide the context in which to develop the issues.

LAWS3474 Equity and Financial Risk Allocation

6 Credit Points

Professor John Stumbles

Prerequisite: LAWS2004 or LAWS2015 **Offered:** Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1x3000w essay (30%) and 1x2hr exam (70%)

The objective of this unit is to introduce the role of equity as a potential mechanism for allocating risk in commercial transactions. The unit introduces equitable doctrines, such as the doctrines of contribution, subrogation, marshalling and set-off, and explores how these doctrines assist in determining how parties in a commercial transaction should bear the financial risk. It also compares and contrasts the equitable principles with analogous common law rules and State legislative provisions (where relevant).

LAWS3431 External Placement Program

6 Credit Points

Mr Graeme Coss

Prohibition: LAWS3025 **Offered:** Semester 2
Classes: 8 x 2hr seminars/semester **Assessment:** class presentation and performance (30%), site performance (30%), and 1 x essay (40%).

In this unit of study students are afforded the opportunity to work for up to one day per week during the semester in a 'public interest' placement site. In addition, students attend fortnightly seminars which are designed to promote discussion and reflection on a range of issues that may arise during the course of the placement as well as seminar presentations on matters relevant to public interest externships. The unit has a public interest focus which is reflected in the selection of placement sites.

At the end of the unit students should have:

- acquired a better sense of the professional and personal responsibilities associated with the practice of law;
- developed an appreciation that the law is a people profession;
- observed and participated in a high level of problem solving flowing from real case files (where appropriate);
- been introduced to the basic inter-personal skills involved in the practice of law;
- interact with legal professionals in a flexible learning environment;
- been introduced to aspects of the practice of law such as legal writing, advocacy and time management; and
- developed the character and habits of a reflective practitioner.

NB: Enrolment in this unit is by special application. Enrolment is restricted to students in their final year of study.

LAWS3432 Family Law

6 Credit Points

Professor Patrick Parkinson

Prohibition: LAWS3026 **Offered:** Semester 1 & Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 3,000w assignment (40%), 1 x 2hr exam (60%)

Family Law deals with the core provisions of the Family Law Act 1975 governing parenting of children and the property of married couples. This course is essential for those interested in Family Law. It is a pre-requisite for Advanced Family Law.

Family Law will focus on the following topics: constitutional and jurisdictional issues; marriage, divorce and de facto relationships, the resolution of disputes relating to children under the Family Law Act 1975, property division under the Family Law

Act; child support and maintenance.

LAWS3030 Independent Research Project

4 Credit Points

Prohibition: LAWS3031, LAWS3115, LAWS3260
Offered: Semester 1 & Semester 2 **Assessment:** 1x5000w research paper

The goal of this unit of study is to provide students with an opportunity to pursue independent research in an area of their choosing. The project must involve a new piece of research. Material which has been submitted for assessment in any other unit of study may not form part of the project. Before enrolling in this unit of study, the student must formulate in writing the topic of the research project and a statement of methodology. The topic of the research project and the methodology must be approved in writing by a member of the teaching staff who agrees to act as supervisor and to be responsible for assessment of the research project. This approval will not be given if the topic of the research project falls within the scope of another unit of study being offered in the same semester. Students must have a WAM of 70% or higher to be eligible to enrol in this unit.

NB: Enrolment in this unit of study is at the discretion of the Faculty. Enrolment is by special application and is restricted to students in their final year of study.

LAWS3115 Independent Research Project

2 Credit Points

Prohibition: LAWS3031, LAWS3030, LAWS3260
Offered: Semester 1 & Semester 2 **Assessment:** 1 x 2,500w research paper

The goal of this unit of study is to provide students with an opportunity to pursue independent research in an area of their choosing. The project must involve a new piece of research. Material which has been submitted for assessment in any other unit of study may not form part of the project. Before enrolling in this unit of study, the student must formulate in writing the topic of the research project and a statement of methodology. The topic of the research project and the methodology must be approved in writing by a member of the teaching staff who agrees to act as supervisor and to be responsible for assessment of the research project. This approval will not be given if the topic of the research project falls within the scope of another unit of study being offered in the same semester. Students must have a WAM of 70% or higher to be eligible to enrol in this unit.

LAWS3260 Independent Research Project

6 Credit Points

Prohibition: LAWS3030, LAWS3031, LAWS3115
Offered: Semester 1 & Semester 2 **Assessment:** 1 x 7,500w research paper

The goal of this unit of study is to provide students with an opportunity to pursue independent research in an area of their choosing. The project must involve a new piece of research. Material which has been submitted for assessment in any other unit of study may not form part of the project. Before enrolling in this unit of study, the student must formulate in writing the topic of the research project and a statement of methodology. The topic of the research project and the methodology must be approved in writing by a member of the teaching staff who agrees to act as supervisor and to be responsible for assessment of the research project. This approval will not be given if the topic of the research project falls within the scope of another unit of study being offered in the same semester. Students must have a WAM of 70% or higher to be eligible to enrol in this unit.

NB: Enrolment in this unit of study is by special application and is restricted to students in their final year of study.

LAWS3435 **Indigenous People and the Law**
6 Credit Points
TBA

Prohibition: LAWS3005 **Offered:** Semester 2
Classes: 2x2hr seminars/wk **Assessment:** Class participation and presentation (10%); 1 x 4000w essay(50%); 1 x take-home exam (40%). Subject to change.

The course will provide students with an overview of the historical and contemporary issues which structure the relationship between the Aboriginal peoples of Australia and the criminal justice system. The course will also provide an opportunity for discussion and analysis of specific issues as they arise.

A major focus of the course will be the work of the Royal Commission into Aboriginal Deaths in Custody, the National Inquiry into Racist Violence and the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families. In particular there will be consideration of the state and federal responses to these national inquiries.

Specific issues will be analysed including the extent and nature of criminalisation, Aboriginal women and the justice system, Aboriginal young people and the juvenile justice system, and Aboriginal/police relations. Other aspects of the justice system which will be discussed include legislation, courts and sentencing, imprisonment, community justice

mechanisms and contemporary customary law, sovereignty and self-determination.

The course will also provide comparative material where appropriate. Many of the specific issues which arise can be usefully compared to the experiences of indigenous people in other 'settler' countries such as Canada, New Zealand and the USA. There will also be reference to international law as it relates to criminal justice issues and recognition of Indigenous communities.

LAWS3445 **Insolvency Law**

6 Credit Points

Professor John Stumbles

Prerequisite: LAWS2003 or LAWS2014 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** 1x 3000w essay (30%) and 1x 2hr exam (70%)

The unit provides an introduction to the law regulating insolvent individuals and companies. It explores the objectives and key principles of insolvency law, the various forms of insolvent administration including bankruptcy, liquidation and voluntary administration and associated procedures together with the avoidance of transactions in insolvency. The unit also considers the impact of insolvency on employees, unsecured creditors and shareholders.

LAWS3436 **International/Comparative Jurisprudence**

6 Credit Points

Assoc Prof Alex Ziegert

Prohibition: JUR3006 **Offered:** Semester 2
Classes: 2x2hr seminars/wk **Assessment:** 1x 1,000-2,000w research plan (40%), 1 x 3,750-5,000w research paper (60%)

This unit of study will introduce the student to a basic understanding of the variability of law as a function of the variability of the social context in which it operates. By applying comparativist theory and empirical methodology from different perspectives, the unit will prepare the ground for an appreciation of the operation of society's law in the complex historical setting of different cultural systems, nation states, multicultural societies and on the international level.

NB: Satisfies the Jurisprudence/Part 2 requirement of the LLB

LAWS3437 **International Commercial Arbitration**

6 Credit Points

Adjunct Prof Rashda Rana, Assoc Prof Chester Brown

Prerequisite: LAWS1015 or LAWS1002 or

LAWS2008 Prohibition: LAWS3092 Offered: Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 2,000-2,500w assignment (40%), 1 x 2hr exam (60%)

This unit of study aims to introduce students to the fundamentals of international commercial arbitration. The course covers the entire process of international arbitration: the significance of international commercial arbitration in international dispute resolution; the importance of a well drafted arbitration agreement; all procedural aspects and legal issues arising during cross border arbitrations; arbitral awards and the enforcement of arbitral awards around the world through the New York Convention 1958.

The unit will also cover the role and significance of specialised forms of international arbitrations and organisations involved in administering international arbitrations, such as maritime arbitrations, World Trade Organisation (Trade Law/Free Trade Agreement disputes), International Chamber of Commerce (large institution involved in administering international commercial arbitrations), Investor-State arbitrations (Bilateral Investment Treaties), sports arbitrations and Mediation in an international setting.

LAWS3438 International Commercial Transactions

6 Credit Points

Ms Vivienne Bath

Prerequisite: LAWS1015 or LAWS1002 or LAWS2008 **Prohibition:** LAWS3072 **Offered:** Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x mid-term exam (50%; 90 minutes plus reading time), 1 x 3000w research essay (50%), participation in the negotiation exercise.

The objective of this unit is to provide students with an introduction to a number of areas of international and cross-border business law and business transactions and to provide students with a basis which will allow them to study some of those areas in more detail.

The course will begin with an overview of the scope of the law relating to international transactions. The core topics are international sale of goods, carriage of goods, international payments and financing of international sales and methods of doing business in foreign markets, including international protection of intellectual property, dispute resolution in international business disputes and the availability and use of available business structures and methods such as direct foreign investment. As part of the discussion of intellectual property and technology

protection and use of available business structures, students will look at the structure and drafting of international commercial agreements, and participate in a skills exercise requiring them to divide into teams and engage in a short negotiation.

The course is focussed on the law as it affects individual business entities rather than on the relationships between States. It therefore will not cover the World Trade Organization treaties in any detail, although it will deal with the way that certain treaties have an impact on domestic law in relevant areas, including international sale of goods, carriage of goods and international dispute settlement.

LAWS3439 International Economic Law

6 Credit Points

Dr Brett Williams

Pre-requisite: LAWS1018 or LAWS2005

Prohibition: LAWS3090 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 2,500w essay (33.3%), 1 x 2.5hr exam (66.6%)

This course is an introduction to the law of the World Trade Organization and may also cover an introduction to Bilateral Trade Agreements and Bilateral Investment Treaties.

The largest part of the course deals with the law of the World Trade Organization and the context of economics and politics within which the law operates. This section of the course considers economic and political arguments for and against protection based on some basic economics of trade and economics of public choice. The course presents an overview of the history of the GATT-WTO system and a more detailed study of the dispute settlement system. The course analyzes some of the fundamental rules of the General Agreement on Tariffs and Trade ('GATT'): rules on customs duties, national treatment, non-tariff barriers, the MFN rule on non-discrimination and an introduction to the rules on subsidies. The course then studies the framework of rules under the General Agreement on Trade in Services ('GATS') and the Agreement on Trade-Related Aspects of Intellectual Property ('TRIPS').

The rest of the course is selected from three areas:

- Bilateral Investment Treaties;
- Bilateral Trade Treaties; and
- selected further topics of World Trade Organization law drawn from five areas: the GATT exceptions for restrictions for health, environmental, technical regulations and quarantine reasons; the GATT escape clauses providing for Safeguard measures, Anti-dumping Duties and Countervailing Duties; further consideration of the MFN rule by considering the exception for free trade areas and customs unions;

further consideration of the GATS by considering at least one specific service sector, and further consideration of the TRIPS by considering the extent of some exceptions.

NB: For students going on to do a University of Sydney LLM, students who have done this course may enrol in LAWS6249 World Trade Organization II without having to complete the normal pre-requisite unit, LAWS6063 World Trade Organization Law I

LAWS3434 International Human Rights Law

Credit points: 6 **Session:** Semester 2 **Classes:** 2x2hr seminars/wk **Prerequisites:** LAWS2005 or LAWS1018 **Prohibitions:** LAWS3034 **Assessment:** 1 x 4000w essay (60%), 1 x take-home exam (40%)

Campus: Camperdown/Darlington Delivery Mode: Normal (lecture/lab/tutorial) Day

This unit of study introduces students to the principles and practice of international human rights law - a species of international law and policy and a field of ever-expanding dimensions. It will introduce students to some key concepts, debates, documents and institutions in this field, while encouraging critical examination of these from a variety of angles. In summary, this unit considers the question: What happens when we regard a situation or predicament as one involving a breach of international human rights law? What possibilities and problems does this entail? Addressing these questions, we will look at: (a) particular fora where international human rights law is being produced (international tribunals, domestic courts, multilateral bodies - including United Nations organs - regional agencies, non-governmental organisations, academic institutions, and the media); (b) particular settings where international human rights law is being deployed (in Australia and elsewhere); and (c) particular identities/subjects that international human rights law aspires to shape, regulate or secure.

LAWS3440 International Law of War, Crime & Terror

6 Credit Points
Dr Ben Saul

Prerequisite: LAWS2005 or LAWS1018 **Prohibition:** LAWS3086 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 3,000w essay/assignment (50%), 1 x 2hr take-home exam (50%), 1 x 10 minute class presentation (pass/fail)
One vital function of public international is its

struggle against violence, including violence which is international or internal, committed by States or non-State actors, and whether it is classified as war, crime or terror. This unit explores how international law seeks to regulate and classify, and to prevent, suppress and punish, the spectrum of violence which plagues national and international communities. Five key areas of law are considered: (1) the law on the use of force (*jus ad bellum*), (2) the law of armed conflict / international humanitarian law (*jus in bello*), (3) international criminal law, (4) international anti-terrorism law, and (5) the human rights law of public emergencies.

By considering these branches of law together, students will appreciate how and why different regimes developed to regulate different species of violence; appreciate points of convergence and divergence between those regimes; understand how the reality of violence often defies any neat categorisation into war, crime or terror; and appreciate the promise and limits of law in confronting violence. The study of violence (and the law's response to it) is ultimately the study of the timeless philosophical question of when political violence is justified, against whom, and for what purposes - and who is empowered to define, detain, prosecute and sometimes even kill the enemy.

LAWS3443 Interpretation

6 Credit Points
Ms Patricia Lane

Prerequisite: LAWS1021, LAWS1002 or LAWS1015 **Offered:** Semester 2 **Classes:** 2x2hr seminars/wk for 10 weeks **Assessment:** 1 x 2,500-3,000w assignment (40%), 1 x 1000w drafting exercise (20%), 1 take home exam (40%)

This course covers the legal framework within which instruments are interpreted. While mainly relevant to statutory interpretation, the unit will also cover aspects of the law of interpretation of contracts and other consensual instruments, such as treaties.

The primary objective in interpretation of instruments is to give meaning to the words of the instrument. As observed by the former Chief Justice of the High Court, the question is not what the legislature, or the parties, subjectively intended, but the meaning of the words which must be ascertained in construing the effect of the instrument (Gleeson CJ, Wilson v Anderson (2002) 213 CLR 401 at [8]).

A variety of interpretive principles are used to ascertain the meaning of the words used in an instrument. The course will cover:

* approaches to interpretation, with emphasis on the

function of interpretation in private law and public law;

* Aspects of the interpretation of private instruments - contracts, testamentary dispositions, collective agreements.

* Principles of statutory interpretation, including:

- the conventions of grammatical interpretation of statutes, including the approach to the use of technical words, the need to read the instrument as a whole, and approaches to ambiguity and inconsistency of language.
- specific common law principles of interpretation, including the interpretation to uphold validity (the *ut res magis valeat quam pereat* principle); the extent of literal adherence to the text; and the 'mischief' rule.
- the role of presumptions, such as the presumption of non-interference with fundamental human rights, or vested proprietary rights, unless clearly expressed; constitutionality and territoriality, and principles governing implied repeal.
- the use of extrinsic aids to interpretation,
- the role and function of interpretation acts.

* Aspects of interpretation of international of national and international instruments - Constitutions and treaties.

It is envisaged that at least part of the course content will be taught by eminent guest lecturers from within and outside the Faculty.

LAWS3441 Introduction to Islamic Law

6 Credit Points

Dr Salim Farrar

Offered: Semester 1 **Classes:** 1x1hr lecture, 1x2hr seminar/wk **Assessment:** 1 x 5000w essay (80%), structure and unstructured class participation (20%)

This seminar program is an introductory course in Islamic Law. It will focus on Shari'ah (the classical laws as derived from the religious sources), and will seek to explain its relationship to the contemporary laws of Muslim states and to the cultural practices of Muslim communities living in Australia and other predominantly non-Muslim states.

The course aims to provide a basic understanding of the sources of Islamic Law, their interpretation, and of the 'Schools of Law' which predominate in the Muslim World. The case studies, in particular, aim to engage students to assess critically past and present understandings in the contexts of modernity, post-modernity, 'human rights', and social change.

LAWS3444 Japanese Law

Credit points: 6 **Teacher/Coordinator:** Assoc Prof Luke Nottage **Session:** Summer L4 **Classes:**

Intensive in Kyoto and Tokyo 8-12 & 15-18 February 2010. Applications open in September 2009 and close in October. **Prohibitions:** LAWS3076

Assessment: 2 x 750w reflective notes (20%), and 1 x 4500w research essay (80%) **Campus:** Kyoto/Tokyo

Delivery Mode: Block Mode

Note: Department permission required for enrolment.

This unit aims to develop the general skills of comparative lawyers, to effectively and critically assess contemporary developments in the legal system of the largest economy in our region. It is taught intensively in Japan by co-directors of the Australian Network for Japanese Law (www.law.usyd.edu.au/anjel) and Japanese professors, mainly from Ritsumeikan University Law School in Kyoto, with some guest lectures by Japanese and other practitioners as well as field trips to various legal institutions. About half the students generally come from Ritsumeikan or other Japanese Law Schools; the other half come from Australian universities or other institutions. The first week in Kyoto provides an introduction to how law operates in Japanese society. After an overview of comparative law techniques, Japanese legal history and its contemporary legal system, classes explore civil and criminal justice, politics and constitutionalism, gender and law, and an introduction to business and law. The second week in Tokyo examines business law topics in socio-economic context in more detail, such as corporate and securities law, consumer law (including product safety and financial services), insolvency and labour law, ADR, and lawyering.

LAWS3093 Jessup International Law Moot

6 Credit Points

Dr Timothy Stephens

Prerequisite: LAWS2005 or LAWS1018

Prohibition: LAWS3035 **Offered:** S2 Late Intensive **Assessment:** class participation, memorial writing & mooting and team participation

This unit of study is based on the Jessup International Law Moot Competition conducted annually among law schools throughout the world. Students in the unit work as a team preparing written memorials on a problem of current interest in international law. Mooting usually takes place over four days at the Australian Regional Rounds held in Canberra during February. Assessment is based on a short paper

dealing with an issue in the moot problem, memorial writing, mooting and team participation. Previous problems have dealt with the law of the sea, Antarctica, international environmental law and trade law, though always emphasizing basic principles of public international law. Enrolment in this unit will be by competitive selection in accordance with the rules of the competition. The course requires students to consult individually with other team members and the lecturer with no formal classes scheduled.

NB: Enrolment in this unit of study is by special application.

LAWS3446 **Labour Law**

6 Credit Points

Dr Shae McCrystal

Prohibition: LAWS3023 **Offered:** Semester 1
Classes: 2 x 2hr seminars/wk **Assessment:** 1x 1000w assignment (15%), 1 x 2,500w research assignment (35%), 1 x 1.5 hr exam (50%)

The aim of this unit is to introduce students to the law regulating relationships at the workplace. This body of law has been generally described as "labour law", and has fallen into two general divisions. "Employment law" deals with the individual contract between employer and employee including formation of the employment contract, terms and conditions of contract and termination of employment. "Industrial law" deals with the collective aspects of the subject, including the employment 'safety net' (awards and statutory minima), workplace bargaining and controls on industrial action. There has always been interaction and overlap between the individual and collective aspects of labour law and the particular challenges involved in regulating 'work' will be examined in this unit.

LAWS3447 **Law and Economics**

6 Credit Points

Professor Patricia Apps

Prohibition: LAWS3036 **Offered:** Semester 2
Classes: 2x2hr seminars/wk **Assessment:** 1 x 1000w essay (15%), 1 x 1200w essay (20%), class participation (5%) and 1 x 2hr exam (60%)

The aim of the unit of study is to provide an understanding of the economic analysis of law and to clarify fundamental differences between legal argument and the analysis of public policy. The unit defines the role of government within the framework of welfare economics and examines the social and economic effects of legal regimes within that framework. Particular attention is given to the concept of a competitive market, to the available empirical evidence of market failure, and to the need for government intervention in response to market failure and its negative consequences for social

justice. Topics covered include: distributive justice and social insurance; monopoly and environmental regulation; economics of property and contract law; labour law and bargaining power; tort rights and remedies; asymmetric information, adverse selection and moral hazard, with applications to medical malpractice; agency, corporate governance and bankruptcy; family law and the economics of the household; and models of crime and the effects of criminal sanctions.

NB: This unit satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3114 **Law as Communication**

(Seminar)

6 Credit Points

Professor Mark van Hoecke

Offered: Semester 1 **Classes:** 3 x 2hr seminars/wk for 7 weeks beginning week 1. **Assessment:** Class participation, 1 x exam or 1 x take-home exam (essay). Subject to change

The course considers some main problems of Legal Theory including the following:

1. What is Legal Theory - Jurisprudence - Legal Philosophy ?
2. Defining 'Law'
3. Characteristics of Law (law as an institutionalised legal system, law & State, law & coercion, autonomy of law, closure & comprehensiveness of legal systems, law & culture, law & justice)
4. Functions of Law
5. The Concept of a Legal Norm
6. The Concept of a Legal System
7. Methodology of Law
8. Legitimation of Law
9. Theory of Democracy

NB: This unit satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3044 **Law International Exchange Electives**

24 Credit Points

Offered: Semester 1 & Semester 2

For students studying overseas on an official university exchange program.

NB: Available to outbound exchange students only.

LAWS3452 **Medical Law**

6 Credit Points

Professor Belinda Bennett (sem 1), Professor Roger Magnusson (sem 2).

Prohibition: LAWS3046 **Offered:** Semester 1 & Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** Sem 1: class participation (10%), 1 x 3000w optional essay, 1 x 2hr or 3hr exam. Sem 2: 3 options 1) 1 x

2hr exam (100%), 2) 1 x 2,500-3,000w assignment (50%), 1 x 1hr exam (50%), 3) 1 x 4,000w essay (50%), 1 x 1hr exam (50%).

This unit of study provides an introduction to some of the legal issues that arise in modern health care. Issues to be covered in the course include: consent to medical treatment, professional liability and medical negligence, privacy and confidentiality, and end of life decision-making. By the end of the unit, students will have a grounding in legislation and caselaw regulating the provision of health care services, and will also be aware of some of the ethical issues that arise in medical contexts. Student participation in class discussion will be expected.

LAWS3453 **Migration Law**

6 Credit Points

Professor Mary Crock

Corequisite: LAWS2002 or LAWS2010

Prerequisite: LAWS1021 and LAWS2002 or LAWS2010, LAWS2011 or LAWS1004 or LAWS3003 **Prohibition:** LAWS3045 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** class participation, 1 x 3000w essay (40%), 1 x 2hr exam (60%)

Migration Law is designed to introduce students to one of the most fast moving and engaging areas of public law. At one level, the unit is about government regulation of the entry of persons into Australia. As such, it is a branch of applied administrative law that concerns the very make-up of our society, affecting both who we live with and how we live our lives. Statistics show that more than one in four Australians were either born overseas or had an Australian-born parent. Dramatic skills shortages have seen unprecedented rises in the number of migrants brought to Australia on temporary and permanent visas. In spite of this, controversy persists over the nature of Australia's immigration program and the extent to which the government is doing enough to control both unlawful entry and the quality of the (lawful) migrants. Covering all aspects of immigration law except refugee law the course is also a fine vehicle for exploring issues of human rights and the interaction between domestic and international law.

With Sydney receiving the lion's share of the migrants that come to Australia each year, migration law has become a growth area for both lawyers and for migration agents. By placing the current mechanisms for the controlling migration in their legal, social, historical and economic contexts, this unit provides an opportunity to explore the "big" issues raised by migration and to look at why the subject has assumed such a central role in the

development of Australia's identity as a nation.

LAWS3475 **Philosophy of International Law**

6 Credit Points

Mr Euan McDonald

Offered: Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** Class participation (20%); 1 x class presentation (20%); 1 x 5000w essay (60%) Subject to change.

Public international law has become - thanks to the various different forms of globalisation that mark the current era - one of the most important areas of legal theory and practice today; yet it remains, at the same time, one of the most contested and least understood. The object of this unit of study is to investigate the concepts, assumptions and images that inform contemporary international legal discourse, paying particular attention to the theory/practice nexus. The course will combine a historical approach to the development of the philosophy of international law with a thematic approach that considers the major issues facing the discipline today; and significant attention will be paid in this regard to the central importance of critical and post-critical theory, and to the more recent attempts to rethink world order along constitutional, administrative or liberal-political lines.

Throughout the course, theoretical discussions will be animated by locating them in the context of contemporary events of global significance - economic, political and military - in which international legal issues have been implicated. Key questions will include the following: What do we mean when we say that something is "illegal" under international law? What happens to ideas such as sovereignty, consent, rule of law, community and authority when they are removed from the statal context in which they have developed and are applied in the international setting? And is international law fundamentally different in kind from domestic legal systems, or are same the tensions and contradictions always present, and simply dramatised by the lack of institutionalisation in international law?

LAWS3455 **Policing, Crime and Society**

6 Credit Points

Professor Julie Stubbs

Prohibition: LAWS3048 **Offered:** Semester 1 **Classes:** 2x2hr seminars/wk **Assessment:** 1 x 3,000w essay (50%), 1x take-home exam (50%)

The unit of study aims to encourage students to develop skills and knowledge about the police and policing, with particular reference to the shifting nature of policing. The unit includes critical analysis of theoretical and policy issues within contemporary criminal justice, but also examines policing (in its

widest sense) including the pluralisation of policing. Students will examine: crime and crime control within a social and political context; policing and other institutions and processes of criminal justice in the light of contemporary research and policy debates; the major theoretical frameworks within which crime, policing and criminal justice policy are constructed and analysed; challenges for policing arising from changes in spatial arrangements, and from transnational developments in crime and crime control.

LAWS3457 Private International Law

6 Credit Points

Mr Ross Anderson

Prohibition: LAWS3015 **Offered:** Semester 1 & Summer Early **Classes:** 2x2hr seminars/wk **Assessment:** 1x class test (25%), 1 x 2hr exam (75%) Private international law is the part of local or municipal private law which is concerned with questions which contain a foreign element i.e. a relevant connection between a fact or party and a foreign legal system. For example, private international law issues will require consideration if a question arises in New South Wales concerning the distribution of the property of a person who died domiciled in France or the validity of a mortgage of shares in a New York corporation or the recognition of the dissolution of a marriage by a Norwegian court.

In seeking to develop your understanding of the international dimension of private law and your appreciation of the fact that many legal questions which arise in everyday life are not confined within one legal system, this unit of study will address the following topics: (1) personal connecting factor (domicile, nationality, residence); (2) renvoi and the incidental question; (3) transactions involving immovable property (e.g. land, intellectual property rights) and movable property (e.g. ships, aircraft, artworks, shares, contractual rights); (4) devolution of property on death (succession); (5) marriage validity; and (6) dissolution and annulment of marriage, including the recognition of foreign dissolutions and annulments of marriage. In addition to these topics, an introductory survey will address the function, purpose and rationale of private international law, theories and methods (e.g. the territorial theory of law, the vested rights theory), historical development and the relationship between statutes and the common law rules of private international law.

LAWS3458 Refugees and Forced Migration

6 Credit Points

Professor Mary Crock

Offered: Semester 1 **Classes:** 2x2hr seminars/wk **Prerequisites:** LAWS2002 or (LAWS2010 and LAWS1021), LAWS1004 or LAWS3000 or LAWS3003 or LAWS2011. **Prohibitions:** LAWS3045 **Assessment:** Class participation; 1 x 3000w research essay; 1 x 2hr exam **Campus:** Camperdown/Darlington **Delivery Mode:** Normal (lecture/lab/tutorial) Day

Refugees and Forced Migration provides students with practical and theoretical understanding of the growth and operation of refugee law as a specialist area of legal expertise. Forced migration as a by-product of human conflict is not new. What has changed over the last century is the scale and frequency of the conflagrations causing the mass movement of peoples; and the ease with which individuals have become able to move around the world in search of safe haven. Australia has played an important international role in developing legal norms both in general human rights protection and the more particular fields of refugee and humanitarian law. It has come to experience first-hand, phenomena born of developments at both an international and national level: the juridification of refugee protection and the emergence of a new breed of litigious asylum seeker.

Refugee law has become a burgeoning legal specialty with an increasingly sophisticated jurisprudence. The phenomenon of people displaced by generalised conflict or by natural disasters associated with climate change is also significant.

This course is designed to give students a critical understanding of how refugee law and the law governing forced migration has developed both at international law and within Australia's domestic legal system. In particular it will examine:

- The international instruments and institutions created to deal with refugee flows;
- The refinement of the definition of "refugee" at international law;
- The role of international organisations such as UNHCR;
- Theoretical bases for refugee protection; and
- Alternative protection models.

LAWS3459 Rights, Morality and Law

6 Credit Points

Professor Wojciech Sadurski

Offered: Semester 2 **Classes:** 2x2hr seminars/wk
Assessment: Class participation (20 %), 1 x 2000w essay (30%), 1 x take-home exam (50%).

The aim of the unit of study is to provide a basis for the theoretical analysis of rights, and to apply that analysis to specific legal situations in which human rights are the central issue. The emphasis will be on the philosophical and ethical foundations of human rights, and on the interconnections that exist between theory and practice. Analyses of actual cases culled from various legal systems will be used to illustrate more general propositions about the proper nature, scope and rationale of human rights. The lectures will focus on the concept of "rights" and the functions of the "rights talk", on the limits of legally protected liberty (including the problems of the enforcement of morals, legal paternalism, and the duty to render aid), and rights to equal protection (with special emphasis on "positive discrimination")

NB: This unit satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3460 Roman Law

6 Credit Points

The Hon Justice Arthur Emmett

Prohibition: LAWS3052 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** 1 x 2,000w essay (20%), 1 x 2hr closed book exam (80%)

The course provides a general introduction to all aspects of Roman private law. It begins with an historical sketch of Roman institutions from the earliest times until the reign of Justinian (CE 527-565), together with an introduction to Roman legal history and the development of Roman legal concepts. It also deals with the reception of Roman jurisprudence into modern European legal systems and the common law. The Roman law of marriage and family, moveable and immoveable property, real and personal security, succession, and contractual, quasi-contractual and delictal obligations are then dealt with in depth. The Institutes of Justinian, in English, is the fundamental text for study and students are expected to read the Institutes in some detail. The Institutes constitute a map of the law and means of ordering the law. Roman law has always been, and still is, of great historical importance in the development of many areas of the common law. Roman law also provides a yardstick by which both the virtues and the shortcomings of the common law can be measured. Further, Roman law forms the jurisprudential background of most of the legal systems in force in continental Europe and those parts of the rest of the world that were colonised by continental European nations.

LAWS3461 Social Justice Clinical Course

6 Credit Points

Prof Peter Cashman

Prohibition: LAWS4061 **Offered:** Semester 1 & Semester 2 **Classes:** 1x2hr seminar/week and the equivalent of one day per week for the semester at a pre-selected placement site. **Assessment:** 1 x Essay (40%), Seminar performance (30%), Placement evaluation (30%)

The Social Justice Program will arrange for students enrolled in the course to work with various organisations which have agreed to participate in the Program. To date, such bodies include the Refugee Advice and Casework Service (RACS) and the Public Interest Law Clearinghouse (PILCH). Through such organisations students will be exposed to real world cases and participate in a structured seminar program dealing with social justice issues and aspects of public interest law.

Hands-on experience with cases, clients and/or policy and research projects will be obtained one day per week in a 'social justice' placement site. Students will attend weekly seminars designed to provide students with the basic knowledge and skills required to participate in a working clinical legal organisation, and cover legal issues specific to the placement sites. The seminars will encourage discussion and reflection on the range of issues that may arise during the course of the placement.

At the end of the unit students should have: (i) enhanced their ethical, social and professional understanding of the practice of law; (ii) improved their ability to recognise, define and analyse legal problems flowing from real case files, and to identify and create processes to solve them; (iii) observed and practised communication and inter-personal skills involved in the practice of law; (iv) been introduced to aspects of legal practice such as legal writing, research, client interaction and time management; (v) had the opportunity to work both independently and collaboratively, in a way that is informed by openness, curiosity and a desire to meet new challenges.

NB: Enrolment in this unit of study is by special application. Priority will be given to students in their final year of study. The unit will be graded on a pass/fail basis and will not be included in the calculation of a student's WAM.

LAWS3462 Sociological Theories of Law

6 Credit Points

Assoc Prof Alex Ziegert

Prohibition: JUR3001 **Offered:** Semester 2
Classes: 2x2hr seminars/wk **Assessment:** 1x 1,000-2,000w research note (40%), 1 x 3,750-5,000w research paper (60%)

The unit of study will introduce the student to the basic concepts of sociological theory and methodology and will show how these concepts can be applied to the observation of the functioning of law. On the basis of such a primary understanding of how societies organise themselves and their law it will become possible for the student to appreciate and evaluate critically the efforts of socio-legal research and the conceptions of some major contributors to the sociological theory of law. The first part of this unit will look at what sociological theory and research can offer today in the description of social life, the explanation of how societies are organised, why people do what they do. Elementary sociological concepts like norm, role, group, power, class, social structure and social system will be related to the operation of the law. Concepts like these provide the tools which make it possible to examine and study systematically and carefully the social organisation and structure of legal systems, the operation and the social environments in which and in relation to which they are operating.

NB: Satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3463 **Sports Law**

6 Credit Points

Mr Saul Fridman

Prohibition: LAWS3087 **Offered:** Semester 2
Classes: 2x2hr seminars/wk **Assessment:** Students can select from various options: 1 x 3000w research paper (50%) or 1 x 6000w research paper (100%) or 1 x take-home exam (either 50% or 100%)

Sporting activity cuts across a number of disparate areas of law. Increasing professionalism, the enormous growth in the Olympic Movement and the commercialisation of sport have all contributed to the development of sport as a business, as well as a pastime. As a result there has been increasing intersection of the law with sporting activity. In this course we will examine the following:

- The economics of sports leagues
- The structure of sporting organisations
- International and national governance of sport
- The impact of administrative law on the working of disciplinary tribunals
- Industrial law and the treatment of the athlete as employee
- Labour market controls and the impact of competition law
- Player agents
- The law and policy relating to doping of athletes
- The impact of intellectual property laws on sponsorship and promotion of sporting events.

LAWS3465 **Sydney Law Review**

6 Credit Points

tba

Prohibition: LAWS3057 **Offered:** Semester 1 & Semester 2 **Assessment:** 1x2500w essay (25%), 1x5000w case note (50%), plus editing (25%)

This unit of study is offered annually under the supervision of the Editor of the Sydney Law Review, who is a member of the full-time teaching staff. The unit is limited to approximately 18-24 students per year, who are selected on the basis of their academic results. Preference may be given to students in their final year in the selection of students for the unit. Each student will complete a range of tasks with respect to the Review, including editing and proofreading submissions and writing a law reform essay and a casenote for potential publication. (A limited number of casenotes are selected for publication each year, according to their merit.) Students selected for this unit must be prepared to serve for six months, so that duties may start before, and may continue after, the formal teaching and examination period.

NB: Enrolment in this unit of study is by special application. For further information, please visit www.law.usyd.edu.au/slr.

LAWS3468 **Theories of Justice**

6 Credit Points

Dr Kevin Walton

Prohibition: LAWS3077 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** Class-participation (20%); 1 x report (20%); 1 x 4000w essay (60%)

This unit of study aims to provide students with a critical understanding of contemporary philosophical debates about justice. It examines the moral values that law ought to promote and by which legislation and judicial decisions ought to be assessed. The unit focuses on liberal conceptions of justice and critiques thereof. The moral values that it considers include freedom, community, utility, fairness, stability and equality. Among the themes that it explores are the limits of and connections between these ideals, the prospect of their realisation in contemporary societies as well as the politics with which each is associated.

NB: This unit satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3469 **Theories of Law**

6 Credit Points

Dr Kevin Walton

Prohibition: LAWS3089 **Offered:** Semester 2
Classes: 2x2hr seminars/wk **Assessment:** Class-participation (20%); 1 x report (20%); 1 x 4000w essay (60%)

This unit of study considers a single question: what is law? It explores prominent responses by both philosophers and sociologists to the problem of how law is best understood. Among the notions to which these responses refer (and on which the unit might focus) are the following: power, authority, rules, morality, adjudication, discourse, convention and politics.

NB: This unit satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3470 Theories of Legal Reasoning

6 Credit Points

Dr Kevin Walton

Prohibition: LAWS3083 **Offered:** Semester 1
Classes: 2x2hr seminars/wk **Assessment:** Class-participation (20%); 1 x report (20%); 1 x 4000w essay (60%)

This unit of study explores the nature of legal argumentation from a philosophical perspective. With reference to various theories, it examines the process from which legal conclusions result. The principal theme is the relationship between legal and other forms of decision-making. What - if anything - is distinctive about legal rationality? How - if at all - does legal reasoning differ from other forms of argumentation? Topics for discussion include: the role of morality in legal decision-making; the politics of legal reasoning; rules and their application; the nature of legal principles; the practice of interpretation; the objectivity of legal decisions; the connection between a theory of law and a theory of legal argumentation.

NB: This unit satisfies the Jurisprudence/Part 2 requirement of the LLB.

LAWS3472 Trade Marks and Passing Off

6 Credit Points

Assoc Prof Patricia Loughlan (sem 1), Dr Simon Butt (sem 2)

Prohibition: LAWS3033 **Offered:** Semester 1 & Semester 2 **Classes:** 2x2hr seminars/wk **Assessment:** Sem 1: 2 x 1.5hr class tests (50% each). Sem 2: Two options: 1 x 5,000w research essay (50%) and 1 x 1.5 hr examination (50%); or 2) 1 x 3 hr examination (100%)

This unit of study will focus on legal rights concerning the marketing of products, rights which are based on a public policy of preventing consumer confusion and unfair competition in the marketplace, specifically by way of misrepresentation. Most aspects of the law of registered trade marks, passing-off and unfair competition will be covered in the unit of study, as will the effect of these areas of law on new marketing practices on the Internet. Some specific topics which will be covered in depth are: the

differences between passing-off and a more general unfair competition cause of action; character merchandising and the protection of the celebrity persona; domain names; signs and the special problem of shape trade marks; counterfeiting and parallel imports; the badge of origin, private property and cultural resource functions of registered trade marks. Although the unit of study will emphasise legal doctrine and be taught from the perspective of a relatively depoliticised formalism, it is also recognised that the deployment and the regulation of intellectual property inevitably have substantial cultural and economic consequences, which in turn inform and shape the development of legal doctrine. There will, accordingly, be some attention paid in this unit to the cultural and economic consequences of intellectual property laws, to the significance of access to the public domain and to the effects of international trade pressure in the area.