

CURRICULUM  
— REVIEW —  
DESIGNING AN  
INTERNATIONAL,  
EXPERIENTIAL,  
RESEARCH-FOCUSED  
CURRICULUM FOR  
A C21 LAW SCHOOL



UNSW  
AUSTRALIA

Law

## **UNSW Law Curriculum Review Working Parties 2010-2013**

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# 1: Introduction

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In 2013, UNSW Law introduced major changes to our LLB and JD programs following a process of curriculum review. This report provides an account of what we have done and how we went about doing it.

Curriculum reviews often have two outcomes: either there is a superficial exercise in tidying-up and re-arranging without fundamental change; or reform efforts get bogged down in internal conflicts. We began with a distinct advantage: UNSW Law has a strong culture of vigorous, respectful collegiality and a commitment to progressive innovation. As will be clear below, both were vital to the success of this reform program. We set out not just to reorganise the list of subjects: the review insists that what we teach cannot be considered apart from how we teach and how we assess. We are following the UNSW Law tradition of looking at best practice elsewhere, but seeking to go beyond what others have done in a distinctive way which will set a new benchmark for Australian legal education.

## 2: The context and objectives of the reform program

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### **Changes in the academy and lawyers' work**

In 2010 UNSW Law recognised there were widespread changes occurring in legal education internationally and resolved to examine and renew its own curriculum in light of those developments. In particular, the Law School was interested in engaging with an emerging new paradigm which respond to changes in both the academy and in lawyers' work.

Academic legal education has gone through two phases – a professional period, in which teaching was delivered by practising lawyers, and an academic period, in which most legal academics are more likely to have a PhD than a practising certificate. We are entering a third phase, in which an academic research focus and knowledge of law in practice are becoming congruent rather than opposed. Developments within the academy that have contributed to this congruency include: a renewed interest in pedagogy; commitments to research which involves students and which addresses key contemporary issues; the increasing interest of students in global mobility; and concerns about how well students are prepared for work after university.

There have also been fundamental changes in the way in which law is practised. These changes include: the internationalisation of legal issues; developments in legal markets, especially through realignment of firms; the growing centrality of regulation in all its forms; concern about ethics and values, especially in light of some lawyers' contributions to the global financial crisis; responses to terrorism, and other systemic failures; and the increasing significance of the non-curial arena for dispute resolution.

## UNSW Law's reform program

UNSW Law is responding to these pressures for change by drawing on its history of leadership in legal education. Since its inception in 1971, UNSW Law has been at the cutting edge of legal education in Australia, breaking the mould which Australia had inherited from England. A commitment to learning as an interactive process in small classes rather than an installation of knowledge via lectures, a sensitivity to lawyers' professional commitment to serving the whole of society, and a commitment to social justice understood as part of a lawyer's professional identity have all continued to be essential features of UNSW Law. Our students study law either in the LLB program alongside another undergraduate degree or in a graduate JD program. In both, we teach them to use legal skills of utility whether they go on to work in the profession or, as many do, in myriad other spheres.

## Drawing on the US experience

In recent years, there have been major inquiries into US legal education (notably the Carnegie Report), significant curriculum reviews (e.g. at Harvard), the establishment of innovative new law schools (of particular interest is UC Irvine), and a wide-ranging debate in US law reviews. The key lesson of the current debate about legal education in the US may be crudely reduced to this: in the twentieth century, legal education shifted from trade school to academic discipline through a process of professionalisation and specialisation. The benefits of this process – academic rigour, openness to other disciplines – were off-set by distancing from the world of practice. In consequence, law schools produced graduates who were poorly prepared for working in the law. The current, third stage of legal education aims to reorient the Law School experience by combining academic rigour and interdisciplinary breadth with engagement in practice. It does so through 'experiential learning', which provides opportunities for students to learn and critically analyse legal materials and issues while experiencing law in action through clinical programs and internships. However, the change is not confined to specialist electives: core courses should provide students

with understanding through exposure to law in practice. There is considerable emphasis on first (or early) year courses which teach 'lawyering'. Underlying much of what has been done is a belief that education should be at least as much about inculcating values and developing skills as about transmitting information and knowledge. This leads to a shift of focus from how much content has been communicated to what kind of person law schools should graduate.

For UNSW Law, the US has been a source of inspiration, not another mould to borrow. In a number of vital respects, US legal education is different from that in Australia: they have fewer students, all of them are graduates, the law schools have different responsibilities to the profession, and more of their graduates than ours go on to practise law. Furthermore, there are significant ways in which UNSW Law provides a distinctive model from which US colleagues could (and do) learn.

UNSW Law is in a good position to respond to these arguments for change. One reason that the US debate resonates so strongly is that we are already doing much that is advocated in the US, and going beyond it. The original UNSW Law teaching model was not, as is sometimes suggested, the importation of Harvard-style Socratic case method, but a distinctive commitment to interactive learning based in educational theory and respectful teacher-student relations (See Marion Dixon, 'Thirty Up: The story of the UNSW Law School 1971-2001', pp15-19). UNSW Law's Kingsford Legal Centre has a distinctive combination of service provision, teaching and learning, and public education and policy advocacy. Clinical legal education is already well-developed as a core part of the curriculum at UNSW. We are currently developing more internships and related opportunities in what is the largest program of its kind in Australia. Our commitment is signalled by the appointment of a dedicated Director of Experiential Learning, a Director of a Human Rights Clinic and Refugee Rights Project, and the appointment of academics who combine research expertise and professional experience, one of whom has developed a Police Powers Clinic at Redfern Legal Centre, while another has developed the Land and Environment Court Clinic at the Land and Environment Court of NSW.



There is often concern that developments like these are at the cost of doctrinal and ‘black letter’ ability. This should not be the case. The clear intention of our reform program is that students will learn doctrine better by engagement with practice as well as the theoretical approaches we continue to emphasise. Our concern is to produce graduates with, inter alia, superior black letter skills. Experiential learning will be rigorously assessed. Much teaching will continue to be delivered in the classroom as it has been before. Just as there were doubts about the interactive method introduced in the 1970s, so we can expect scepticism about this development – and we can also expect that it will be accepted as best practice in a few years. This is no soft option: our intention is to produce graduates who can work as well in a commercial law firm as in an international legal organisation as in an Aboriginal legal service – and who may do all three and more during their career.

## **Streams and themes**

Law curricula are conventionally divided ‘horizontally’ by courses. To ensure integration and the development of students’ learning, we are also organising the UNSW Law curriculum ‘vertically’ by running a number of themes and learning objectives through the courses. Not every theme or objective will appear in every course: rather, by mapping the themes, we can ensure that they are developed systematically.

The themes are of various types. One is a series of social justice themes, including Indigenous legal issues. Another concerns ethics and values. A third is skills and capabilities (not in terms of detailed practical legal training, but rather in communication, critical-thinking and problem-solving). In addition, the major developments in regulation, internationalisation and dispute resolution will run as themes (including statutory interpretation). This allows us to connect subjects dealing with themes comprehensively and in a cumulative, integrated program.

# 3: Changing the curriculum

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## New developments, new courses

As noted above, our review seeks to respond (and contribute) to major developments in law. Most prominent are: the centrality of statute and regulation; the growing significance of international legal practice in many forms; the use of arbitration, mediation and other forms of non-litigious dispute resolution; the need for advanced research and communications skills; and the emphasis on lawyers' responsibilities as members of a profession committed to justice and the rule of law. The simple way to do this would have been to follow some other law schools in making compulsory existing courses in international law, statutory interpretation, alternative dispute resolution, legal research and writing, and ethics. In each case, we consider this to be inadequate.

- **Statute and regulation:** For some time, UNSW Law has recognised the increasing importance of statutory interpretation in the education of the modern lawyer. This has led to a strong emphasis on statutory interpretation both in teaching of formal skills and in working with statutes in subjects which formerly were treated largely as case law subjects. These include torts, contracts, property and equity, and some electives. In this curriculum review, we have sought to ensure that this continues throughout the degree, and that there is formal consideration of the principles of statutory interpretation developed at a range of points throughout the curriculum. In addition to increased emphasis on statute-based regulation across the degree, the introduction of *Principles of Public Law* is intended to create a specific point in the degree where introductory understandings of statutory interpretation developed in *Introducing Law and Justice*, *Torts*, and *Crime and the Criminal Process* are consolidated into a reflective approach to statutory interpretation more generally across legal practice. This broader understanding is reinforced throughout the public law stream, with detailed analysis of statute law in *Administrative Law*, a capstone assessment in *Federal Constitutional Law* and

then further development in later subjects. For us, statutory interpretation is as important as reading cases and must be taught in the same way – as an integrated, assessed part of most courses, not as a separate course. Overall it should provide students with (and assess them on) a coherent body of knowledge and skills regarding statutory interpretation. The teaching of statutory interpretation is currently a controversial issue. For us, teaching statutory interpretation should also encompass a broader emphasis on regulation (its making, interpretation and roles) in all its forms, from treaties, to statutes to rules, thus teaching students about the growing significance of statutes and other regulation and their consequences.

- **Dispute resolution:** It is no longer appropriate to treat non-curial dispute resolution as ‘alternative’. While specialist electives will continue to be available, all students will be introduced to the realities of how conflicts are handled outside the litigation process. This will be done in a number of courses focusing on dispute resolution and informal justice, from international commercial arbitration to plea-bargaining in criminal justice, and notably in a new compulsory course, *Resolving Civil Disputes*.
- **Legal research and writing:** Legal research and writing (LRW) is another important area of the curriculum which has been fundamentally changed. Previously taught as stand-alone LRW courses (at introductory and advanced levels), LRW features in the new curriculum as a set of learning units attached to *Introducing Law and Justice*, *Equity and Trusts*, and *Law in the Global Context*. Formerly, students received legal research instruction in their first semester, then undertook advanced legal research training towards the end of their degree. We found that there was a high demand for students to have access to the advanced components much earlier in their studies. The biggest change, however, was replacing formal separate classes with on-line study which feeds into focused discussion in the three core courses, as well as more generally throughout the curriculum.

Aiming for international best practice, we examined online legal research courses offered by universities in the United States, Canada, Europe and Hong Kong. Most of these online courses involved the filming of a lecture later placed online, or a video surveying the various legal databases. Often the student would complete an assignment at home, then the lecturer would upload a film talking about the various mistakes the class made as a whole. Instead, we chose to develop more ambitious interactive online materials. Our legal research and writing modules consist of a video of a scenario being acted out. The online content has been produced in high resolution, is compatible with all computer devices including tablets, and is organised in short segments so that students can do modules wherever and whenever is convenient for them. The student takes notes about the situation. Our interactive videos then guide the student through the process and strategy of effective research. Each module finishes with an online multiple choice quiz where correct answers are eventually explained. Additionally, each set of modules has an online assignment. The students upload their assignments for assessment by and feedback from the LRW teaching team. The students then come to class to undertake complex legal research involving a new scenario in which they will actively participate. The lecturer assists the students as they go through the process. Formal graded LRW assessments are included in each of the courses, *Introducing Law and Justice*, *Equity and Trusts*, and *Law in the Global Context*.

LRW teaches students how to research in law, and also how to write as a lawyer. The need for both was strongly indicated in consultations with employers. In particular, law graduates need to be able to write in various appropriate styles and formats. On one hand, they must be able to write a conventional, lengthy research essay. On the other, they must be able to write succinctly and directly, addressing problems critically and suggest innovative solutions, as they will be expected to do when providing advice in practice.

- **Ethics and professional practice:** In addition to the broad and thorough changes to the content of the curriculum, UNSW Law will also place much greater emphasis on the acquisition and development of the key values and capabilities that go to make a 'good lawyer'. This includes developing legal and ethical skills appropriate for professional work in law, along with the fostering of attitudes and capacities that can be successfully applied far beyond professional legal work, such as in governmental and non-governmental organisations and businesses. This practical orientation reflects the increasing recognition of the importance of experiential learning, whether through work at our in-house legal centre or other clinics, participation in local and international internships, or participation in our extensive mooted programs.
- **International:** Rather than taking the simple way of making public and/or private international law compulsory, we instead are taking a more radical approach which has two elements. First, all students will study a new course, *Law in the Global Context*, which will be taught through a series of case-studies illustrating the penetration of international issues into a variety of settings, from trade to criminal law and beyond. Secondly, international perspectives will be one of the themes which will vertically structure the new curriculum, complementing the conventional horizontal division into courses.

At UNSW Law, internationalisation has several other dimensions. Our students increasingly want to include international experiences in their programs with proportionally more doing so from Law than from any other Faculty at UNSW. More than 100 students go on exchange each year. Our exchange opportunities are growing, and our students travel to study at leading universities all over the world. Combining Law with International Studies in a dual degree program gives students particularly wide opportunities, spending a year overseas for International Studies as well as options via their degree in Law. An under-recognised benefit of exchange is that it brings students from around the world into our Law School. UNSW is proud of its leadership in international engagement (which goes back to a time when the White Australia policy dominated).

There are now students from some 130 countries on campus and some 40 in the Law School. In addition, students can travel to out-of-session winter/summer schools such as those in Beijing, Shanghai, Vanuatu and Italy. The latest addition to this list is a human rights summer school held annually at Columbia University in New York City. Not surprisingly, this has attracted great interest from students. Mooting opens more international opportunities: we support (and offer course credit) not only for the most well known international moot, the Jessup Moot, but also four other international moot competitions, more than any other Australian law school.

UNSW Law has offered public interest and social justice internships for some time. Increasingly, students are looking for international internship opportunities. Recent examples include internships at Amnesty International in London, the Permanent Court of Arbitration at The Hague, and in refugee camps on the Thai-Myanmar border. A scholarship funded by UNSW Law alumnus Michael Sternberg includes a legal internship in an international arts organisation. We are also developing a range of intensive international clinical opportunities. Already, several students have spent a summer at a human rights clinic in Johannesburg. Other human rights clinics focusing on the region are also underway, including a refugee clinic in Hong Kong.

While our international programs have legal substance, we hope also that students will benefit from broader lessons. By living and studying abroad, they accumulate the cultural knowledge, competence and facility which are vital to working overseas or with overseas clients and partners. Language skills are a crucial strength. Here, many of our students have a significant advantage: always a university which provided for the children and grandchildren of migrant communities, we have many students who speak a language in addition to English. Usually, they need help to bring their language skills in this other language to a professional standard. Here, UNSW is setting the pace: working with Arts & Social Sciences, we are

offering a Diploma of Languages. This has two streams, one for students with some knowledge and ability in another language, and another for those who, for example, want to learn Mandarin from scratch. We can take pride that internationalisation is alive, substantial and central at UNSW Law.

## Reorganisation and development

Courses tend to be developed over the years by subject area teachers who often are not fully aware of what their colleagues in other subject areas are doing. Inevitably, this can lead to both overlaps and gaps. The curriculum review provided an opportunity for a good deal of housekeeping: however, in each case, we have taken the opportunity to go beyond mere cutting or patching. Some examples of this are:

- **Criminal Process:** two flagship UNSW courses have been *Criminal Laws* and *Litigation*, both associated with textbooks which have set the Australian standard in their areas. However, this eventually led to unsatisfactory treatment of criminal process and procedure, with some elements appearing in both *Criminal Laws* and *Litigation* and some in neither. This problem has been eliminated in the new *Crime and the Criminal Process* and *Court Process, Evidence and Proof* courses.
- **Private Law:** The traditional approach to private law has been to construct courses that reflect strict doctrinal categories such as contract, torts, property, equity, and trusts. Two resulting problems with this model are: 1) conceptual, as those subject areas are seen as silos, with the linkages, overlaps and shared policy issues obscured; and 2) from a legal practice perspective, clients' problems do not present neatly as contractual and so on, but frequently straddle these domains. The new introductory course, *Principles of Private Law*, attempts to overcome both problems by focussing on key principles of private law, and at the same time introducing some of the central categories and doctrines of private and commercial law.

- **Equity and Trusts:** Formerly, UNSW Law addressed the 'silo' problem above by teaching Property, Equity and Trusts together. But this approach, while representing an advance on traditional models, tended to reduce the capacity to treat the doctrines of Equity and Trusts as areas of advanced study within the general field of private law. The new *Equity and Trusts* course builds on *Principles of Private Law* to do this.
- **Theory:** students previously had to choose between *Legal Theory* (aka jurisprudence) and *Social and Legal Theory* (aka sociology of law). This choice has been broadened by offering a new course, *Theories of Law and Justice*.

## Research

We seek to engage students in research by breaking the barriers between research and teaching. Interactive teaching allows teachers to explain their own involvement in research to students and to make students aware of the processes that produce the books and articles which they study. Research methods (which include, inter alia, the process of finding and interpreting legislation, cases and secondary materials, as well as the development of research questions and strategies) are taught formally and assessed formally at three different stages through the law curriculum (in *Introducing Law and Justice*, *Lawyers, Ethics and Justice* and *Law in the Global Context*). Assessment which uses formal examinations as just one among several methods provides opportunities for students to engage in research paper writing. In addition to coursework research, multiple opportunities are available for students to get research experience, either as an editor of one of our journals, an intern in a research centre, or a research assistant for an academic.



## Assessment

The curriculum review had to consider not just what and how we teach, but also how we assess. In contemporary education, assessment is an inextricable part of teaching and learning. Notably, assessment has to be coordinated with the developments of skills. UNSW Law long ago abandoned complete reliance on final exams. We recognised a need to coordinate the various assessment practices – class participation, mid-term tests, writing exercises, research essays, exams etc. – to ensure that they are constructive and complementary. We have now tailored and aligned assessment tasks across the program so that the goals of the curriculum review of deepening and broadening the student experience are better realised.

Assessment is also a major issue in the development of experiential learning. Learning outside the classroom does not mean a soft option and lack of rigour, not least so that taking a clinical subject has as much status as a more traditionally taught one. KLC's Director, Anna Cody, is a leading member of a team researching assessment in clinical teaching.

## Constraints

Our curriculum review took place in the context of a number of constraints which need to be acknowledged.

- **Resources and scale:** It is impossible not to envy the material circumstances of our peers in the US. Despite the well-publicised effects of the global financial crisis, leading US law schools continue to be far better resourced than ours. Relative lack of resources produces a related problem: we have to enrol four or five times as many students as a top US school, leading to difficulties managing scale: rearranging the teaching of 500 students is very different from rearranging 100. In addition, our staff have limited capacity for the intense innovative work required in a fundamental curriculum review, particularly in light of expectations regarding research publications and grants.

- **Professional accreditation:** Requirements for professional accreditation limit flexibility and innovation. The legal profession (via the Legal Profession Admission Board and the Law Admissions Consultative Committee) oversees curricula. Not only do the 'Priestley 11' have to be taught, we also have to account for how we do so.
- **Government regulation:** Australian higher education has increasingly been subject to the Australian disease of intrusive, poorly designed, parochial government regulation. The Australian Qualifications Framework which is applied by Tertiary Education Quality Standards Agency (TEQSA) creates great problems for all our programs. Indeed, the greatest challenge for our curriculum review was to maintain our focus and to prevent discussions being diverted into matters of regulatory compliance.
- **University:** The Law School does not enjoy the independence and flexibility of its US peers. Programs and courses are centrally approved, while teaching and learning assessment (of staff and students) is centrally directed. Timetabling and room allocation are centrally controlled. Learning & Teaching is an area of administrative specialisation which has its own priorities, style and language. All of these practices and developments have some justifications and benefits: their relevance here is the need to acknowledge limitations in our ability to change what we do and how we do it.

# 4: Making the review happen

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## Initial research phase

UNSW Law recognised that curriculum reviews were often undertaken with staff only having a partial knowledge of the issues informing the review. Experience elsewhere showed the danger that a perfectly rational reform proposal could be derailed by a small number of recalcitrant staff members running a campaign based on prejudices or outdated thinking. In order to avoid the possibility of this occurring, it was decided to engage in detailed background research before involving the School more actively in the review.

Beginning in March 2010, this involved employing a research assistant to collect and collate benchmarking data on law schools in Australia and overseas, and to identify some key trends in legal education. The researcher was guided by the Head of School, the Associate Dean (Education) and the Dean.

While the degree of coverage varied, in summary 20 international law schools were examined, 14 from the United States of America, one from Canada and five from the United Kingdom. Twenty one Australian law schools were also compared. This was primarily done via the description of curricula on the law schools' websites, but where available also included published articles and anecdotal information from colleagues familiar with those law schools. Use was also made of materials published by admitting authorities and law reform bodies that had examined legal education.

The researcher's work resulted in a number of draft reports. However, it became apparent that there were significant limitations to this overall approach to research. Firstly, the collection and comparison of degree structures of Australian law schools and some comparator international schools resulted in valuable understanding of the alternative ways the broad progression of a degree could be constructed, but without detailed knowledge of the courses it was very difficult to ascertain what was covered

in similarly named courses in different law schools and how accurately to compare the depth and breadth of coverage of those courses.

It was also clear that while the researcher could collate and summarise key literature, there were important linkages between that literature and the history and current structure of the UNSW Law curriculum that could only be made by members of the teaching staff. The initial efficiencies of having a small group of senior staff advising the researcher also soon faded when the level of knowledge of curriculum review issues held by that group became significantly more advanced than the rest of the School. On the other hand the raw data and comparative analysis collected by the researcher amounted to a valuable base for later discussions, and it also served to inform key academic staff of the issues that would be likely to arise in the review.

What emerged from this initial research was a clear set of trends in legal education, many of which overlapped or were interrelated. These were:

- the impact of internationalisation and globalisation on the content and structuring of curricula as well as the teaching of law;
- a growing concern with ethics, justice and human rights;
- an increasing recognition of the importance of Indigenous or first peoples in legal systems;
- an appreciation of the centrality of statutory and regulatory law, and the need for specific and thorough training in statutory interpretation;
- an emphasis on the acquisition of the requisite skills, capabilities and attributes necessary to practise law and interact with legal systems;
- a move towards clinical and other forms of experiential-based learning;
- the use of elective programs to enable students to specialise and develop expertise in areas in which they are interested;

- the use of capstone courses late in the degree to integrate previously acquired doctrinal and practical knowledge with the purpose of promoting holistic thinking and further developing confidence and efficacy in legal practice skills; and
- the development of whole-of-program matrices onto which each subject area's desirable knowledge, skills and attitudes are mapped highlighting learning across courses and with increasing complexity through the degree.

As will be seen below, all these trends have been incorporated in the new curriculum in novel and innovative ways that reflect and develop UNSW Law's core values.

## **Consultation with external stakeholders**

An extensive program of consultation with the legal profession and other employers of our graduates was identified early as a vital part of the project. This took two main forms. First, the Dean and the Development Manager had for some time been talking to law firms about what kind of graduates they wanted and the extent to which UNSW graduates met their needs. Such discussions grew out of general relationship-building meetings. They proved to be particularly valuable. Several lawyers commented that it was unusual for law schools to ask for law firms' opinions and that they appreciated the opportunity. Almost all had experiences, opinions and advice which they were keen to share with us. Secondly, a more formal series of consultations were in roundtable, focus-group discussions with groups of stakeholders from the judiciary, the Bar, the public legal service, NGOs, and mid-size and smaller law firms. Consultation occurred via the running of focus groups based on questions developed by the Curriculum Review Working Party (CRWP). The results of each group were written up and fed back to the CRWP.

Academics are sometimes reluctant to seek advice from the profession because they expect to be given advice that they do not want to hear, such as to make courses more 'practical', cut out interdisciplinary luxuries, focus on "lawyers' law", etc. This proved to be an inaccurate stereotype. While we did receive some

advice about our teaching of equity (long a preoccupation of some commentators), most of the lawyers had a gratifyingly progressive and positive view of the role of university legal education. They did not want us to be a 'trade school': they saw the teaching of practical legal skills as something for which they were happy to take responsibility. Instead they wanted law schools to produce graduates with higher level skills – analysis, communication, problem-solving and critical thinking. They wanted graduates capable of practising law as ethical professionals. They also often stressed the need for young lawyers to be able to see law in its increasingly important global contexts, and to be able to work with international clients and partners. This entails social and cultural skills, not just extended doctrinal knowledge.

A vital finding of our curriculum review was the congruence between the views expressed by external stakeholders and the influence of the US literature on reform which the curriculum review group was reading. In essence, our stakeholders told us what we wanted to hear – that the law school should focus less on content and more on seeking to produce graduates with particular skills, abilities and values.

## **Consultation with alumni and students**

Consultation with alumni overlapped with consultation with external professional groups. Often, these groups included UNSW alumni who could speak knowledgeably about their own education. We also consulted alumni via our alumni committee and via updates on the curriculum review process in our alumni magazine and newsletter. We received a considerable amount of very useful advice from alumni.

Student involvement has been a strong UNSW tradition. Our students played a very important role in the review process. Student representatives were members of the CRWP throughout. They organised consultation with the broader student body. Their contributions were always well-informed and constructive. The UNSW Law Society produced a Student Issues paper and surveyed students on their attitudes to the curriculum proposals in the discipline reports. Further information and input was garnered

through a student Facebook page. Armed with this information, current students, via their representatives, were able to play an active and important role in the forums and School meetings at which decisions were made, as well as the day-to-day work of the CRWP. As will be shown below, student involvement played a decisive role in one of the key decisions that we had to make about the curriculum.

## **Consultation with staff**

Staff, both full-time and sessional, were consulted as far as possible through the two major stages of the curriculum review. The central process of consultation was done through the cluster groups which connect academics working in the various subject areas (see below).

## **The Curriculum Review Working Party – 2 stages**

The small group that led the early phase was replaced by the creation of a Curriculum Review Working Group (CRWP) in July 2010 which met fortnightly to oversee the review. In keeping with the intention to have a democratic and collegiate approach to curriculum reform, membership of this committee was entirely based on volunteers from the academic staff, and the Chair, Robert Shelly, was chosen by the committee. Elected student representatives and the co-presidents of the student law society were also invited members.

As it transpired, the eventual membership of the CRWP turned out to be remarkably representative – with each broad discipline group in the Law School being represented. The person elected Chair of the committee was from the legal theory discipline. While the Dean, Head of School, Associate Dean (Education) and the Presiding Member were all on the committee, they did not play a directing role, other than occasionally to explain how operational or budgetary issues allowed or constrained reform choices.

Although not formed with this design in mind, the CRWP became a broadly representative committee where issues of concern to discipline groups could easily be raised and the

committee members could be effective communication channels with the groups. This had the effect that there was no sense amongst the School that decisions were being taken in secret or that any perceived group interests would not be considered in deliberations.

A further important element was the role of the student representatives. The nature of the discussions about curriculum review was such that the School did not feel it appropriate to broadcast email alerts about discussions throughout the process, and instead relied on the student representatives. The attendance of the student representatives ebbed and flowed given study workloads, and the students may not have always fully appreciated the detail of developments. However, while the broader student body might at times have felt communication to them from the representatives was less than complete, the contribution of the students to discussions was invaluable. It was a significant part of the process to have students privy to all the issues, and for them to be forthcoming in criticising any suggestions they thought not in the students' interests. Politically, it was also an important affirmation of the ethos of the School that all School committees are open to student attendance and involvement, and that discussions are not in any way inhibited by the students' presence.

Ultimately the CRWP operated in two phases, with largely different members. The initial CRWP, chaired by Robert Shelly, focused on setting the parameters for the structures and values of the curriculum and sorting out the core. It worked from 2010 – 2012. Many of the members of that CRWP then stepped aside, and new members were elected to work on the elective program in 2013. The new Curriculum Review Working Party – Electives (CRWP-E) was chaired by Prue Vines, who had been a member of the original CRWP.



## Discipline group benchmarking and proposals

After the CRWP had come up to speed with the research already undertaken, the committee moved to obtain better analysis of best practice in all subject areas at those national and international law schools against which UNSW Law was benchmarked. One issue that the committee was concerned about was a potential for inertia amongst staff who felt that they had a well-honed and developed course that did not need revision. We sought to overcome the problem of an atomistic or siloed understanding of the curriculum by creating discipline groups that brought together courses into clusters and asking the teachers of those courses to benchmark and critique their group of courses as a whole. Each member of staff was asked to join a cluster, and this had the benefit of giving each member of staff a role early on in shaping the direction of the curriculum review. These discipline groupings were later to become formalised into ongoing research and teaching clusters.

The groups created were:

- Private Law
- Commercial and Corporate Law
- Public Law
- Criminal Law, Evidence and Advocacy
- Comparative and International Law
- Theories of Law and Society
- Foundational Aspects of Law and the Legal System (including Legal Research)
- Experiential Learning (including Law, Lawyers and Society)
- Civil Litigation and ADR
- Ethics
- Greening the Law Curriculum
- Indigenising the Law Curriculum.

All academics were part of at least one group, and some were part of more than one. Funding was also allocated for a student research assistant to undertake benchmarking research into the particular subject area of each cluster. The groups were asked to address a set of research questions developed by the CRWP, and to provide a written report on their findings to inform the review. Research conducted for the groups was discussed internally and inter-group meetings and discussions were held on ways to collaboratively deal with overlapping content and course progression issues. Final reports on the core curriculum were completed by March 2011. These groups continued to be important for consultation for the elective phase of the review.

## The core

It was decided, perhaps unsurprisingly, that the compulsory core of the degree would be the focus of the initial stages of the review. In Australia, unlike for example the US, all legal disciplinary knowledge required for practice is taught and assessed within the law degree. After their law degree, graduates do a diploma of legal practice or equivalent, which involves training in practical legal skills (as if doing articles in a law office). Lawyers admitted to practice are not examined on their academic knowledge by the admitting authorities. Instead, the requirements for accreditation of a law degree as qualifying a graduate for practice include a long list of areas of law that students must study. Consequently, it is currently standard practice for compulsory courses to make up two thirds of an Australian law degree.

The comparison with the US in this regard is notable. The existence of external, post-graduation Bar Examinations in the US has given law schools much greater freedom to develop degrees thematically and to minimise the compulsory core in favour of a greater emphasis on electives and later year specialisation. In Australia, a close examination of content in courses by the admitting authorities (Legal Profession Admission Board (LPAB) in NSW and the Law Admissions Consultative Committee (LACC))

and a traditional and conservative focus on legal doctrine and content have prevented law schools from minimising the doctrinal core. Electives have often been an eclectic grab bag of courses taken in the final years, adding breadth rather than specialisation for most students.

This is not to suggest that one country's model is better than the other. It does however emphasise that in Australia significant effort in curriculum design is directed to innovation around a large and defined doctrinal core of a degree that spreads across the whole of the program, not just the first year. It means that substantial innovation in curriculum design has to take place within the doctrinal core subjects, rather than around them.

One other significant factor in curriculum design is that in Australia, most law students study as undergraduates rather than as graduates, and do so concurrently with another undergraduate degree. This means that students come into the study of law gradually, with foundational courses stretched over the students' first three years of study, whilst they concurrently complete their other degree. This means that there is more scope to scaffold the learning of skills over six semesters before the final two years of (usually full-time) law study. In addition, as courses are taught sequentially rather than simultaneously, knowledge and skills can accumulate. The growing introduction of JD degrees into Australian law schools has thrown into sharp relief the advantages and disadvantages of such an approach. At UNSW, JD students make up approximately one-third of our student body. The CRWP also had to consider the needs of such students who were taking law as their sole degree, after an undergraduate degree. This meant that the planning of the core curriculum had to take into account both students doing their subjects in a slow sequence (UG) and of students doing them concurrently (JD). Both groups of course do their electives concurrently, as by that stage the LLB students have finished their first degree and are concentrating on law studies.

## School forums and program plans

Following the completion of the discipline reports, and their discussion in the CRWP, a series of School-wide forums were held where the various groups' reports were discussed. At the same time, members of the School were asked to put forward suggested whole-of-curriculum programs based on – or alternative to – the cumulative outcomes of the discipline reports. This resulted in two program alternatives being put forward. These alternatives were then presented and debated in a number of School meetings and via a set of written propositions and responses. This process culminated in a School vote on the proposals.

The two proposals differed on the space to be provided in the core for the study of criminal law and procedure. One proposal called for this to be covered in one course, rather than the previous *Criminal Laws 1 & 2*. The second called for a substantial reorganisation not just of *Criminal Laws*, but also of *Litigation* and, to a lesser extent, *Law, Lawyers and Society*: this aimed to provide a new course on criminal justice and a new course on civil procedure which gave full recognition to the significance of dispute resolution. The School voted for the second proposal.

Perhaps more important than the details of the different proposals was the process of dealing with them. There was a substantial, strongly-held difference of opinion among colleagues about the proposals. Spice was added by the fact that while the first proposal was championed by the Head of School, the second was championed by the Dean. Some colleagues feared the consequences of schism: this was just the sort of dispute which, at other law schools, has caused endless grief. However, the strength of the UNSW culture saved us from that. The argument was conducted respectfully, with an agreement to disagree, and a commitment to move on whatever the outcome of the vote. If anything, our ability to get through a problematic period of disagreement strengthened the Law School. There was another key aspect to the dispute: students played a very significant role in it. Their representatives spoke most impressively in the difficult

arena of a Law School meeting attended by all their lecturers and professors. Their votes had a significant if not decisive effect on the final decision.

Another matter of some dispute was the naming of courses. Here, the Dean was less successful in his advocacy. He had argued that, where possible, new course names should be introduced in order to signify the change, rather than putting old names on new courses. His argument that the criminal law and procedure courses should be called *Explaining Crime* and *Criminal Justice* was rejected in favour of *Crime and the Criminal Process* and *Criminal Laws*. Similarly, arguments that *Law, Lawyers and Society* should be renamed *Lawyering* rather than *Lawyers, Justice & Ethics* were unsuccessful: the latter was less original, but also less American. However, changing *Foundations of Law* to *Introducing Law and Justice* was thought to be an appropriate change in that it better encapsulated the themes of the new course.

The naming disagreement was part of a broader series of discussions about how and when to teach what would be called 'lawyering' in a US school. Should it be an early course which set the scene for students before they took substantive subjects, or should it be a later year capstone in which they could apply knowledge to the kind of problems they would soon be facing in professional life? The final curriculum allows for both: the first course, *Introducing Law and Justice* introduces students to legal work, while *Lawyers, Justice & Ethics* is a later year course in which the nature of legal professionalism is explored in depth.

A major change to the core was the introduction of *Law in the Global Context*. While some law schools take the conservative option of requiring students to study either private or public international law, we instead introduced a different kind of course, which teaches students to see law in the world through a series of case studies.

Some had expected the place of theory subjects in the compulsory core to be challenged because of pressure on students' elective choice caused by the introduction of *Law in the Global Context* and the reduction in law units of credit in most combined degree programs as a result of UNSW 'program simplification' exercise. Students had to take either *Legal Theory* (a jurisprudential course) or *Law and Social Theory*. This turned out to be a non-issue: the Law School showed strong support for the retention of compulsory theory reflecting a commitment going back to the appointment of Julius Stone in 1973 (see Marion Dixon, op.cit., pp. 76-79). The only change in this respect has been the introduction of an additional alternative, *Theories of Law and Justice*.

The approved plan was then officially transmitted through the university approval processes and work began on fleshing out the new content and approaches in the new courses.

# 5: The new core curriculum

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## Characterising the new curriculum

The new curriculum was developed as a complex and dynamic curriculum, responsive to the needs of the School, our students and our stakeholders. The emphasis is on dynamic, since it is not just concerned with content, but also with the best forms of interactive teaching – both in the classroom and in experiential learning settings, and also with the development of professional and personal values and ethics as a lifelong process of learning.

## Program Learning Outcomes

With the framework of the program finalised, attention then turned to the key learning outcomes that students would be expected to achieve in the new curriculum. In doing so, the Law School was guided by the Bachelor of Laws Threshold Learning Outcomes, newly developed by a group of Australian legal academics and endorsed by the Council of Australian Law Deans.

These Threshold Learning Outcomes informed the discussion in the CRWP and School Meetings around the shape of a UNSW student's educational experiences, and these were blended into the foundational UNSW values of social justice, doctrinal rigour, community engagement and ethical practice.

A set of eight program level learning outcomes were developed, grouped into three categories of legal knowledge, legal skills and professional values. These Program Learning Outcomes (PLOs) captured the key areas of education in which students would be assessed.

## Degree themes

In 2012 and 2013, the curriculum review working parties turned their attention to the development of vertical themes that run through the core and elective courses. The content of these themes was developed via discussions within the working parties and with the larger UNSW Law academic body and drew on the consultations with alumni and the legal profession. They are intended to capture those fundamental values, skills and attributes that all UNSW Law degrees seek to instil and foster. The themes were first envisaged as:

1. Indigenous legal issues
2. Human rights, justice and the rule of law
3. Environment, gender and disability
4. Personal and professional development and ethics
5. Experiential Learning

In June 2012, a Degree Themes Questionnaire was sent to convenors of the new LLB and JD core courses requesting additional information on the extent to which these themes would be addressed in the new curriculum through course coverage, rather than solely through assessment. In 2013, the CRWP-E followed this up with another questionnaire to elective convenors asking for similar information. The results of these questionnaires were then formulated into a Degree Themes document which is intended to serve as a guide in the ongoing development of current and new courses.

When the CRWP-E came into being in 2013, it soon came to the conclusion that some of the aims of the curriculum review process had not yet been sufficiently addressed. In particular, although a new course, *Law in the Global Context*, had been introduced into the core curriculum, the five themes which had been finalised in relation to the core did not accurately reflect what the CRWP-E thought were essential parts of the curriculum. In particular, the internationalisation of the curriculum had not been sufficiently addressed, and environmental issues had not been



given enough prominence. Further, it was thought that the themes did not reflect the reality of our curriculum which includes a very strong commercial focus. Accordingly, the committee set about re-developing the theme documents and making it clear that the PLOs and the Themes must be read together. A new document was written.

The eight themes are:

- 1. Indigenous legal issues**
- 2. Human rights, justice and the rule of law**
- 3. Gender, class, race and disability**
- 4. Environmental issues**
- 5. International, interdisciplinary and comparative perspectives**
- 6. Corporate and commercial issues**
- 7. Personal and professional development and ethics**
- 8. Experiential learning**

This process required the mapping of the themes in both the core and elective sections of the curriculum. The cluster groups were enlisted to do this, and they were asked to respond to a number of surveys asking how their courses covered the themes and in what ways.

While all of the themes cut across various courses in the curriculum, experiential learning is distinct from the other themes because it is a methodology. It is included as a theme to recognise its significance within the UNSW Law curriculum and because it can also be used across the curriculum, over the years of the degree.

The detail of the PLOs and Themes can be seen in Attachment A: UNSW Law Program Learning Outcomes and Degree Themes.

## Assessment alignment and mapping

As staff began to consider how they would be teaching the new and revised compulsory courses, they were asked to revise or re-develop learning outcomes for their courses. Descriptions of courses were to include the following:

- **Course aims:** This was a discursive description of the course that was intended to highlight what the teachers considered to be the important aspirational elements of the course. This would range beyond a listing of content topics to include broader elements of social justice, doctrine and professional values explored within the course.
- **Assessment:** This was the format of the various assessment tasks – the school policy is that this assessment should normally include three items, one of which is a variant of class participation
- **Learning Outcomes:** These were the learning outcomes associated with the assessment tasks. Staff could nominate up to eight assessment-related learning outcomes for each course.

Each learning outcome was mapped to a PLO.

Following this exercise, the resulting curriculum map was distributed to the School: colleagues were invited to reconsider their assessment choices to see whether, in light of a better sense of how students were being assessed in other courses, they might like to move to an alternative approach.

## Student and staff survey of assessment

To further assist staff re-consider their approaches to assessment in the new curriculum, a comprehensive analysis of staff and student attitudes to assessment was also undertaken. This process involved employing researchers to investigate the literature and current practices as well surveying UNSW Law students and those teaching staff who convene core courses. Overall, this process sought to develop a more explicit and programmatic approach to assessment, with staff and students becoming more aware of how each item of assessment builds on earlier assessment and how items are inter-related. Longer term, the implementation of this new programmatic approach to assessment aims to increase the development of particular skills and values throughout the degree rather than just within individual courses. It also aims to encourage the development of alternative forms of assessment that complement other assessment in different courses. These new forms of assessment are now being developed taking into account both pedagogy and efficiency for staff, by reducing redundancies in assessment of particular skills and allowing for more fine-grained quality assurance and improvement processes around learning.

## Course changes

To summarise, the major changes in the curriculum are the emphasis on the ‘vertical’ themes which are embedded throughout the curriculum and many changes to courses in response to the factors noted above. The most significant changes include:

- Dismantling of *Criminal Laws* and *Litigation* and replacing them with four new courses – *Crime and the Criminal Process*, *Criminal Laws 1 & 2*, *Resolving Civil Disputes*, and *Court Process, Evidence and Proof*;
- Creating a new compulsory course, *Equity and Trusts*;
- Giving students an expanded knowledge of contracts and property law along with a better understanding of the foundations of private law via a new compulsory course, *Principles of Private Law*, while introducing students to public law and reinforcing statutory interpretation via an expanded compulsory course, *Principles of Public Law*;
- Introducing a new core course, *Law in the Global Context*;
- Expanding offerings in relation to legal theory by including a new course on *Theories of Law and Justice*;
- Replacing *Law, Lawyers and Society* with a new course, *Lawyers, Ethics and Justice*; and
- Spreading *Legal Research and Writing* more broadly throughout the degree as online modules linked to in-class content.

These changes necessitated changes in the other core courses and in electives.

The new curriculum was introduced in Semester 1, 2013. The following table shows the new curriculum and the old equivalent where that existed. (Note that the JD code (JURD) and the LLB code (LAWS) refer to equivalent courses in which the JURD course may differ from the LAWS course in mode of delivery and assessment.) It is important to stress that the connections between old and new are often limited: the new curriculum has involved new courses, not merely re-badging.

<b>New Curriculum</b>	<b>Pre-2013 Equivalent</b>
LAWS1160/JURD7160 Administrative Law	LAWS1160/JURD7160 Administrative Law
LAWS1091/JURD7224 Business Associations	LAW 2010/JURD7224 Business Associations 1
LAWS1075/JURD7175 Contracts	LAWS1072/JURD7172 Contracts 2
LAWS2321/JURD7251 Court Process, Evidence and Proof	LAWS2351/JURD7221 Litigation 2
LAWS1021/JURD7122 Crime and the Criminal Process	LAWS1001/JURD7 Criminal Laws 1
LAWS1022/JURD7121 Criminal Laws	LAWS1011/JURD7111 Criminal Laws 2
LAWS2385/JURD Equity and Trusts (and LRW*)	LAWS2381/JURD7281 Property, Equity and Trusts 1
LAWS2150/JURD7250 Federal Constitutional Law	LAWS2150/JURD7250 Federal Constitutional Law
LAWS1052/JURD7152 Introducing Law and Justice (and LRW*)	LAWS1051/JURD7152 Foundations of Law
LAWS2383/JURD7283 Land Law	LAWS2382/JURD7282 Property, Equity & Trusts 2
LAWS2320/JURD7223 Legal Theory	LAWS2820/JURD7223 Legal Theory
LAWS2820/JURD7222 Law and Social Theory	LAWS2820/JURD7222 Law and Social Theory
LAWS2270/JURD7270 Law in the Global Context (and LRW*)	
LAWS1210/JURD7130 Lawyers, Ethics and Justice	LAWS1230/JURD7110 Law, Lawyers and Society
LAWS1150/JURD7150 Principles of Private Law	LAWS1070/JURD7223 Contracts 1 (partial equivalent) and Property, Equity and Trusts 1
LAWS1141/JURD7141 Principles of Public law	LAWS1140/JURD7140 Public law (partial equivalent)
LAWS2371/JURD7271 Resolving Civil Disputes	LAWS2311/JURD7211 Litigation 1 (partial equivalent)
LAWS2326/JURD7236 Theories of Law and Justice	
LAWS1061/JURD7161 Torts	LAWS1061/JURD7161 Torts

\*Legal Research & Writing. Each of these courses is host to a major component of the legal research and writing skills curriculum, and directly assesses legal research and writing.

## Course sequencing

Given the fundamental changes to the content and number of core courses in conjunction with the development of structured vertical themes running through the new curriculum, issues relating to the sequencing of courses became increasingly important throughout 2012. From late 2011, until the publication of the new curriculum structure in mid-2012, these issues were resolved through discussions in the CRWP, relying heavily on the input of senior students and academic services staff. To get an idea of the sequencing changes, compare the following two charts which represent the LLB degree structures in 2012 and 2013 respectively. (These represent standard progressions. Variations are common, e.g. for students who transfer into Law after completing the first year of another degree.)

### 2012 LLB Sequence – old curriculum

<b>Year 1</b>	Semester 1	Foundations of Law*	Non Law Course	Non Law Course	Non Law Course	
	Semester 2	Torts	Non Law Course	Non Law Course	Non Law Course	
<b>Year 2</b>	Semester 1	Contracts 1	Criminal Law 1	Public Law	Non Law Course	Non Law Course
	Semester 2	Contracts 2	Criminal Law 2	Non Law Course	Non Law Course	
<b>Year 3</b>	Semester 1	Administrative Law	Property, Equity & Trusts 1	Non Law Course	Non Law Course	
	Semester 2	Law, Lawyers & Society	Property & Equity 2	Non Law Course	Non Law Course	
<b>Year 4</b>	Semester 1	Litigation 1	Federal Constitutional Law	Business Associations 1	Theory Course	
	Semester 2	Litigation 2	Advanced Legal Research	Law Elective	Law Elective	Law Elective
<b>Year 5</b>	Semester 1	Law Elective	Law Elective	Law Elective	Law Elective	
	Semester 2	Law Elective	Law Elective	Law Elective	Law Elective	

## 2013 LLB Sequence – new curriculum

<b>Year 1</b>	Semester 1	Introducing Law and Justice*	Non Law Course	Non Law Course	Non Law Course
	Semester 2	Torts	Non Law Course	Non Law Course	Non Law Course
<b>Year 2</b>	Semester 1	Principles of Public Law	Crime and the Criminal Process	Non Law Course	Non Law Course
	Semester 2	Principles of Private Law	Criminal Laws	Non Law Course	Non Law Course
<b>Year 3</b>	Semester 1	Contracts	Lawyers, Ethics and Justice	Non Law Course	Non Law Course
	Semester 2	Equity and Trusts*	Administrative Law	Non Law Course	Non Law Course
<b>Year 4</b>	Semester 1	Land Law	Resolving Civil Disputes	Federal Constitutional Law	Law Elective
	Semester 2	Business Associations	Court Process and Evidence	Law in the Global Context*	Law Elective
<b>Year 5</b>	Semester 1	Law and Social Theory/Legal Theory/Theories of Law and Justice	Law Elective	Law Elective	Law Elective
	Semester 2	Law Elective	Law Elective	Law Elective	Law Elective

## 2013 JD Sequence

For comparison, the following table shows how students now study the JD.

<b>Year 1</b>	Semester 1	Introducing Law and Justice*	Crime and Criminal Process	Principles of Public Law	Principles of Private Law
	Semester 2	Administrative Law	Contract	Criminal Laws	Torts
<b>Year 2</b>	Semester 1	Equity and Trusts*	Law in the Global Context*	Resolving Civil Disputes	Court Process, Evidence and Proof
	Semester 2	Federal Constitutional Law	Business Associations	Land Law	Lawyers, Ethics and Justice
<b>Year 3</b>	Semester 1	Law and Social Theory/Legal Theory/Theories of Law and Justice	Elective	Elective	Elective
	Semester 2	Elective	Elective	Elective	Elective

## Implementation issues

The job of the CRWP went far beyond the formulation of policy for the review of the new curriculum. It was a working group, whose job was ultimately to make the new curriculum happen; which is to say, bring it into existence and make it functionally operative in Semester 1, 2013. Being a fairly large group, it was decided that it would be more appropriate to hive off a number of operational matters onto an Implementation Subcommittee made up of the Head of School, the Chair of the CRWP and two or three new members of the student and academic services staff (selected according to the issue requiring implementation).

This subcommittee had three principal tasks:

- First, it had to develop ways to communicate the changes in the curriculum to the student body. At some implementation meetings, bulletins and other information documents for students were drafted. These communications set out information crucial to determining current students' course choices and sequences for the coming year and were made accessible to them on the UNSW Law website.
- Second, it had to liaise with the head of marketing at UNSW Law to ensure that the changes to the new curriculum were being effectively communicated to future students as well as to our stakeholders and the wider public. To this end, it drafted user-friendly documentation on the new curriculum suitable for University Information days, and the media.
- Finally, the subcommittee had to concern itself with the myriad transitional issues that inevitably arise in moving from an old curriculum to a new one. These included questions connected with how changes in the units of credit for some courses affected students who had already done these courses, and the question of prerequisites for courses in a degree whose course sequences had been radically altered. When the electives were being considered, the changes to the core meant that consequential changes needed to be made in some electives.



# 6: Electives

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## A new committee

At the conclusion of the work by the CRWP on the core curriculum, a new committee, the CRWP-E, was set up to focus on the elective program in the LLB and JD.

The new committee comprised: Lyria Bennett Moses (Director of Learning & Teaching), Anna Cody, David Dixon (Dean), Andrea Durbach, Alexandra George, Michael Handler (Associate Dean, Education), Deborah Healey, Cameron Holley, Jane McAdam, Carolyn Penfold (Head of School), Amelia Thorpe, Prue Vines (Chair), Sarah Williams and Student Representatives Jacqueline Fetchet and Kara Grimsley.

## Process

The elective program of UNSW Law had grown up on an ad hoc basis, with courses usually being added to match academics' developing interests and expertise. Although they were subject to scrutiny when set up by the normal processes of the School, there had been little consideration of the congruence of the electives with the core curriculum. The CRWP-E decided to approach the electives in the light of the themes of the curriculum and the need for students to choose amongst a vast range of electives. Accordingly, convenors of electives or cluster leaders were asked to map their electives against the themes. This mapping showed that the themes needed to be revisited, and some adjustment and change to the themes was carried out.

The committee increased the themes to eight (see Attachment A). This process required consultation with clusters and then, in order to ensure congruence between the core and the electives, more mapping of themes was required. The new themes needed to be mapped in the core curriculum, making sure that we knew where and how themes operated in the core, and all the themes needed to be mapped in the electives. The cluster groups were enlisted to do this and were asked to respond to a number of surveys asking

how their subjects covered the themes. Further mapping showed that the themes continued to be as pervasive throughout the electives as in the core.

The detail of the themes can be seen in Attachment A: UNSW Law Program Learning Outcomes and Degree Themes.

The relationship of the electives to the core and to each other was another issue the committee regarded as important. The mapping process was significant for this. During the mapping process we also sought to identify which electives were foundational to a subject area and which could be regarded as 'capping' electives. The latter meant a subject which in some way drew together an area. For example, the Private Law cluster suggested that *Remedies* was a capstone elective for that area.

This also turned out to be an important issue in relation to a concern expressed by the student representatives that there was insufficient guidance in relation to student choice about electives, and consequently to career choices and possibilities.

## **Guidance for students on elective choice**

A major question for the CRWP-E was the extent to which student choice should be guided. This question was taken to the School. The student representatives had made it clear that students in their later years wished for more guidance about elective and career choice than they were currently receiving. Some members of the committee argued that students should be prevented from specialising too early and that for this reason electives should be divided into families and students should be required to choose at least one from each broad family. Others argued that students should be able to specialise or not as they chose and there should be no coercion as to choice. The School was strongly opposed to the model requiring students to spread their electives, it being seen as excessively directive. Rather, the School supported free student choice, with some guidance to assist that. The CRWP-E then considered ways to provide such guidance.

The Committee recommended that there should be guidance in several forms:

### **1. The Handbook.**

The first place students look for information about a subject is the online UNSW Handbook. However the Handbook has usually been confined to a short description of the subject matter and approach to a course. The Committee felt that it would be useful to add to this a short statement from those offering the subject about why one might choose it. Accordingly, convenors of electives were asked to add a short paragraph explaining how a course might be chosen: important for a particular area of practice; useful in a particular type of career; able to round out a particular area of law, etc. These will be incorporated into the Handbook for subjects to be offered in 2014.

### **2. List of electives in families**

The committee felt that, in the light of students' concern about elective choice, a list of families of electives, made available to students, would, at the simplest level, show how they fit together. The committee created the list on the basis that they should be inclusive rather than exclusive families; thus a subject may well appear in several families. Drafts of the list were circulated to cluster groups for comment (see Attachment B: Electives in family groupings) and final versions placed on the Law website in 2014.

### **3. Director of Senior Studies**

The level of student interest in further guidance for elective choice and consideration of career paths has been very high. The committee proposed that it would be useful, in order to ensure that this was a continuing process rather than a one-off, to have a position created, similar to that of the Director of First Year Studies. The student members of the committee had suggested that there was significant support for early year students through the Director of First Year Studies, and that a senior equivalent would be welcomed. The position was unanimously approved by the Law School and will begin in 2014.

The role of Director of Senior Studies will have oversight of the following:

- Guidance will be given to students about electives (including some input into the Surviving and Thriving website);
- General career advice in respect of legal careers in the broadest sense (while acknowledging that many students will have other types of careers which are not based on legal practice);
- Ensuring that students get to know about career opportunities not just in commercial law firms, but also more broadly e.g. including rural practice, small suburban practice, medium and smaller firms, boutique firms, in-house counsel, or legal policy advice work;
- Information about transition from law school to work;
- Information and support concerning further academic work including postgraduate coursework and PhDs;
- Information and support for obtaining scholarships for such further academic work.

The Director of Senior Studies will ensure that students have access to information, guidance and advice about elective choice and transition to careers at the time when they begin to be most concerned about this – that is, from just before fourth year for LLB students and at about the mid-point of their studies for JD students.

#### **4. Surviving and Thriving website**

Student wellness has become a significant concern in recent years. The student concerns over elective choice and employment destinations reinforced to the committee the importance of incorporating broader advice. The fourth major initiative the committee recommended was the further development of the Surviving and Thriving website which was set up in 2011 by Prue Vines, Director of First Year Studies. The website on the Current Students page of the Faculty website is available for UNSW students throughout their law studies to offer information about the challenges they might face as law students, places to go for help, etc. It also aims to assist them enrich their lives by offering material on literature, film and other things to furnish the mind, and help to build resilience.

The main sections on the website in mid-2013 were:

- Settling in
- Balancing study, work and life
- What to do when things go wrong

The committee decided that the further sections on careers and the future should now be given priority. Ensuring the website covers elective choice and future careers was considered to be the most effective way of maintaining the communication of such information to students on an on-going basis and that this should be a focus of the development of guidance for law students in this area. It was also recommended that the Director of Senior Studies, as part of the position, should take a watching brief on the development of content of this part of the website as a priority.

The Law School has adopted all of these recommendations.

# 7: Conclusion

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This is the most thorough review of the curriculum in UNSW Law's history: it appropriately began as a 40th Anniversary project. The objective was to build on the great achievements and distinctiveness of UNSW Law to produce a curriculum which sets the benchmark in Australian legal education.

The review has been a success at a number of levels. We have produced a curriculum which, by focusing on teaching law in action and in the world, is at the cutting edge of legal education, not just in Australia but internationally. We have looked at what is being proposed and being done elsewhere, notably in top US law schools. While we may not have access to the resources available to some colleagues elsewhere, we are making the best of what we have. Secondly, this curriculum review is the product of the whole Law School. While there were disagreements along the way, these were resolved collegially and (by the ultimate approval of a vote at a Law School meeting) democratically. Far from suffering the sacrifice of collegiality which can so easily happen during a contentious curriculum review, ours has strengthened the collegiality which has been a crucial characteristic of this Law School. In addition, developing the curriculum's themes has helped us to understand each other's work better and to connect our courses. Thirdly, we involved our key stakeholders. Our students contributed enthusiastically and positively to the process. Our alumni, senior members of the profession and the employers of our graduates (often overlapping categories) gave vital advice on how legal education needs to change in order to keep pace with changes in law and legal practice. Law in action and law in the world were not invented in academic isolation: they are what our stakeholders want us to teach.

The aim has been to set new benchmarks for the study of law, the experience of university and the preparation for life beyond law school. We seek to produce lawyers who are multi-skilled: people who are equally able to work in a leading commercial law firm, an Indigenous community legal service, and in an international legal organisation – and who, in the course of a career, may well do all of these. They may also work outside the law in one of the many careers chosen by our alumni, who include politicians and bankers, novelists and film-makers. UNSW lawyers are multi-skilled and adaptable. They look to reform the law, not just apply it; to improve the world, not just live off it. This is a new curriculum for a law school where law meets justice.

# Attachment A

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## **UNSW Law Program Learning Outcomes and Degree Themes**

Following an extensive curriculum review, UNSW Law identified program learning outcomes, course learning outcomes and themes which pervade its new curriculum. To gain a thorough understanding of the aims of UNSW Law in its curriculum, it is essential to consider both the Program Learning Outcomes (PLOs) and the UNSW Law Themes. Together these create the essential attributes of the law graduate we seek to produce – a person who excels in legal knowledge and skills, critical and deep thinking (including about social values), problem-solving and communication.

Program Learning Outcomes (PLOs) are the outcomes of the program as a whole; including the sum of the course learning outcomes across the curriculum. These are grouped into the three areas of knowledge, analytical skills and professional skills. Course Learning Outcomes (CLOs) are outcomes identified with a particular course, and may include outcomes specific to that topic (such as knowledge of a particular legal area), and more generic outcomes (such as problem-solving skills). CLOs and PLOs may be taught and studied in one course or multiple courses, but will all be covered by the time a student graduates from UNSW Law.

The UNSW Law themes on the other hand are intended to signify to students, staff and the broader community significant values, approaches and areas of learning to which UNSW Law is especially committed. Unlike CLOs, which are course specific, and PLOs, which are final learning outcomes, our themes are embedded throughout the curriculum from first to final year. They are not to be seen as outcomes. Rather, the inclusion of the themes across the entire curriculum is intended to signal UNSW Law's deep commitment to them. Experiential learning within these



themes is distinct. This is because it is a methodology for learning law to which UNSW Law is particularly committed, and in which UNSW Law leads legal education in Australia.

An explanation of the details of the Program Learning Outcomes and of each Theme and how it is integrated into the UNSW Law curriculum follows.

## **Program Learning Outcomes**

### **Knowledge**

Graduates of UNSW Law will understand and appreciate:

1. Legal knowledge in context
2. Indigenous legal issues
3. Principles of justice and the rule of law

### **Analytical skills**

Graduates of UNSW Law will have developed the skills of:

4. Statutory interpretation and analysis
5. Legal reasoning
6. Legal research and writing
7. Reform-oriented analysis of law and policy
8. Interdisciplinary perspectives

### **Professional skills**

Graduates of UNSW Law are professionals with:

9. Communication skills
10. Interpersonal skills
11. Professional and ethical dispositions and values
12. Self-management

# Program Learning Outcome Examples

For each Program Learning Outcome, examples are provided below.

## Knowledge

### 1. Legal knowledge in context

- Fundamental areas of legal knowledge for practice in NSW
- Understanding of the Australian legal system
- Contextual disciplinary understanding
- Theoretical perspectives underlying principles and concepts
- Major theories
- International and comparative approaches to law
- Awareness of other jurisdictions and legal systems and understanding of their impact on local jurisdictions
- Awareness of global legal practice
- Broader contexts of law and legal practice
- Environmental issues
- Race and diversity based issues
- Poverty and social inequity/class based issues
- Commercial issues
- Employer/employee power imbalances
- Gender and sexuality based issues
- Disability awareness
- Ethical and professional responsibilities and rules
- Relationship between law and ethics, and theories of ethics applicable to legal practice

## 2. Indigenous legal issues

- Colonial dispossession
- Historical and continuing impact of the law on Indigenous Australians
- Indigenous rights, sovereignty and recognition in the Constitution
- Native title
- Interactions with legal professionals and enforcement officers
- Indigenous laws and justice mechanisms
- Cross-cultural communication issues

## 3. Principles of justice and the rule of law

- Tensions between law and justice/morality
- Distributive justice, including social justice
- Corrective justice
- Justice as desert and retributive justice
- Restorative justice and ADR
- Legal protection of rights, including by the Constitution
- Legal practitioners' duties to clients, the court and society
- Due process and natural justice
- The maintenance and operation of the rule of law
- Constraints upon government power and the review and correction of government decisions
- The rule of law in context

## **Analytical skills**

### **4. Statutory interpretation and analysis**

- Navigating and applying statutory enactments in accordance with contemporary modes of statutory interpretation
- Applying knowledge of the difference between interpretation of statutes and constitutions
- Applying knowledge and ability to use extrinsic materials in the interpretation of statutes
- Developing a coherent body of knowledge and skills about the rules of statutory interpretation
- The application of statutory interpretation techniques in the context of problem-solving to generate appropriate analytical responses to statutory issues
- Analysing the relationship between statutory interpretation and human rights instruments in different jurisdictions

### **5. Legal reasoning**

- Case analysis
- Problem-solving skills
- Identifying and articulating legal issues
- Applying legal reasoning and research to generate appropriate responses to legal issues
- Engaging in critical analysis and making a reasoned choice amongst alternatives
- Thinking creatively in approaching legal issues and generating appropriate responses

## 6. Legal research and writing

- Professional research skills
- Academic research skills
- Concise writing
- Extended writing (research assessment tasks with a word length of 3,000 words or more)
- Professional writing

## 7. Reform-oriented analysis of law and policy

- Ability to critique existing law in light of broader perspectives, current legal impact and future needs
- Ability to contribute to reform processes

## 8. Interdisciplinary perspectives

- Ability to bring perspectives from other disciplines to bear on legal issues

## **Professional skills**

### 9. Communication skills

- Oral communication in adversarial and non-adversarial contexts
- Written communication in various formats and styles
- General presentation capacities
- Legal presentation capacities
- Empathetic listening skills
- Cross-cultural communication, including with Indigenous people

## **10. Interpersonal skills**

- Collaboration skills
- Ability to work as a member of a team
- Respect for diversity
- Dispute resolution
- Understanding of formal legal rules
- Appreciation of alternative and non-adversarial philosophies and practices
- Understanding of lawyers' roles in disputes
- Understanding of power dynamics

## **11. Professional and ethical dispositions and values**

- Professional disposition and values
- Developing ability to exercise professional judgment
- Ability to reflect on professional responsibilities of lawyers in promoting justice
- Understanding the law's role in serving society
- Understanding the value of community engagement
- Ethical practice
- Understanding of ethical approaches to decision-making
- Developing ability to respond to ethical issues arising in legal practice
- Working sensitively with clients from diverse backgrounds and with a range of needs
- Understanding prosecutors' and advocates' obligations both to the court and to the client, and judicial obligations to ensure a fair trial

## **12. Self-management**

- Ability to engage in independent learning
- Time management skills
- Personal and professional development
- Reflective practice
- Ability to reflect on and assess own capabilities and performance, including through self-assessment
- Ability to use feedback
- Reflection on personal values in the professional role

## **Degree Themes – LLB and JD**

Through its Curriculum Review process, UNSW Law has identified and systematised the existence of eight themes across its Bachelor of Laws and Juris Doctor programs. The purpose of this statement is to set out how those themes are embedded and developed throughout all stages of the curricula of both programs.

The eight themes that span the programs of UNSW Law are set out below. The numbering does not reflect any hierarchy of importance.

- 1. Indigenous legal issues**
- 2. Human rights, justice and the rule of law**
- 3. Gender, class, race and disability**
- 4. Environmental issues**
- 5. Interdisciplinary, international and comparative perspectives**
- 6. Corporate and commercial issues**
- 7. Personal and professional development and ethics**
- 8. Experiential learning**

## THEME 1: INDIGENOUS LEGAL ISSUES

UNSW Law has a tradition of teaching and researching in the area of Indigenous peoples and the law that goes back to its very beginnings. In 1970, the first Dean, Professor Hal Wootten AC was the founding President of Australia's first Aboriginal Legal Service (ALS) (See Marion Dixon, *op. cit.*, p.30). The ALS was initially staffed by volunteers to provide free legal advice and representation to Aboriginal people in inner-Sydney. As the ALS evolved as a client-focused service, it had less capacity to devote to law reform advocacy. UNSW Law academics, including (now Emeritus) Professor Garth Nettheim, worked to establish a legal research centre that could assist the frontline ALS and Aboriginal Land Councils fill this gap. In 1981, the Aboriginal Law Research Unit was created, which was renamed the Aboriginal Law Centre in 1986 and later the Indigenous Law Centre (the ILC).

The work of the ILC has been important to the Indigenous community. It has been involved in major High Court cases such as *Koowarta v Bjelke-Peterson* (1982) and *Mabo v Queensland [No 2]* (1992), as well as international Indigenous rights advocacy including that leading to the *United Nations Declaration on the Rights of Indigenous Peoples*. The ILC's present Director, Professor Megan Davis, is an elected member of the United Nations Permanent Forum on Indigenous Peoples. The ILC has published the *Indigenous Law Bulletin* since its inception in 1981 and in 1996 this was joined by the academic research journal, the *Australian Indigenous Law Review*. Many UNSW Law staff have published research on Indigenous legal issues in these publications as well as in books, other journals and the media.

Kingsford Legal Centre ran one of the first test cases around the issue of the 'Stolen Generations', Aboriginal children who were forcibly removed from their families, in *Joy Williams v The Minister, Aborigines Protection Board*, in 2000.



For almost the same length of time that UNSW Law has focused on researching and engaging in public debates about the law's impact on Indigenous Australians and the opportunities it presents for overcoming systemic disadvantage, we have been working to improve Indigenous access to legal education. In partnership with UNSW's Nura Gili Indigenous Programs unit, UNSW Law has been offering an alternative entry program into the undergraduate degree and the JD for many years that attracts over 20 applicants annually. The flagship of this endeavour is the four-week intensive residential pre-Law program that helps Indigenous students develop the skills and knowledge they will need to study law at University. UNSW Law has developed a range of support initiatives for Indigenous law students, including a long-lending textbook scheme and the provision of course readers. We have a staff member dedicated to teaching and coordinating these outreach and support programs. There are also specific courses such as *Foundations Enrichment 2* for first year Indigenous students, a clinical course run at Kingsford Legal Centre to enable students to develop their communication skills and gain a deep understanding of the legal aid system.

UNSW Law is proud that our alumni include Pat O'Shane (the first Aboriginal law graduate, barrister, and state magistrate); Bob Bellar (the first Aboriginal judge); and Matthew Myers (the first Aboriginal Federal Magistrate, now Circuit Court judge).

Indigenous legal issues have clearly been fundamental to UNSW Law since its inception and remain central to its contemporary practice and reputation. This is reflected in the way this theme has been woven through the courses we teach, enhancing students' understanding of both core legal principles in operation and the law's operation on First Australians. The following indicates how they are addressed throughout the curriculum studied by LLB and JD students.

Indigenous legal issues are addressed in readings and class discussions in most **introductory core courses**, being a significant focus in *Introducing Law and Justice*, *Principles of Public Law*, and *Crime and the Criminal Process*. Issues of colonial dispossession and the historical and continuing impact of the law

on Indigenous Australians are emphasised in *Introducing Law and Justice* and *Crime and the Criminal Process*. In *Principles of Public Law*, the topic of Indigenous sovereignty is squarely addressed, and there is a new focus on the value of achieving Indigenous recognition in the Constitution. Additionally, Indigenous legal issues are discussed as examples of broader legal doctrines in *Torts* and *Criminal Laws*, and in the latter course, state liability for Aboriginal deaths in custody is canvassed in the context of homicide by omission.

Contextual consideration of Indigenous legal issues continues in the **intermediate core courses** of *Administrative Law* and *Lawyers, Ethics and Justice*, where they are addressed in respect of the nature and obligations attendant upon the client-solicitor relationship. Indigenous issues are a significant focus in *Land Law*, which logically begins with native title, the first interests in land in Australia. In this course students are required to read *Mabo*, a case they have already been exposed to in *Introducing Law and Justice* and *Principles of Public Law*, though in this instance they do so focusing on the property law issues. Native title not only forms a familiar entry point into the study of *Land Law*, but is a regularly assessable part of the course.

Indigenous legal issues feature prominently across the group of later core courses. The significance of the ‘races power’ in the Commonwealth Constitution is substantially considered and assessed in *Federal Constitutional Law*, either through problem or essay questions in the final examination. In the new course of *Law in the Global Context*, the treatment of Indigenous peoples under international law is addressed as part of discussions of human rights and development.

In both *Resolving Civil Disputes* and *Court Process, Evidence and Proof*, readings and class discussions consider the different ways in which Indigenous people experience the justice system. For example, in *Resolving Civil Disputes*, students will assess whether Alternative Dispute Resolution mechanisms, such as mediation, operate to the benefit of Indigenous persons or whether they offer a diminished protection of their rights when compared to litigation. *Court Process, Evidence and Proof* prompts discussion of the

challenges posed by cross-cultural communication, as well as the admissibility of customary knowledge evidence under some evidentiary rules.

Lastly, the Indigenous theme is reflected in the prescribed readings and class discussion in all three of the theory courses (*Legal Theory, Law and Social Theory* and *Theories of Law and Justice*), though they arise under different topics in each. The theory courses draw on students' understanding of Indigenous issues to critique understandings of what constitute law and justice in modern Australian society.

LLB and JD students keen to further develop their knowledge about Indigenous peoples and the law beyond the core curriculum may select from a number of specialised **elective courses** and internships to this end. LLB students may study *Indigenous Peoples and the Law* while JD students are additionally able to take *Contemporary Indigenous Issues, Native Title Law: Policy & Practice, Indigenous People in International Law, Indigenous Women and the Law* and *Indigenous Children and the Law*. In both degrees, students are able to apply to work in the ILC for a semester through either the *Social Justice Intern Program* or as a student editor of the *Australian Indigenous Law Review* which is offered as an elective course. Students enrolled in the UNSW law internships course undertake internships at Indigenous legal services around Australia and in the social justice internships course at the Indigenous Law Centre.

## **THEME 2: HUMAN RIGHTS, JUSTICE AND THE RULE OF LAW**

A notable and characteristic feature of UNSW Law is its commitment to the understanding and furtherance of human rights, justice and the rule of law. This commitment is clearly demonstrated in all the things we do: teaching, research and service to the community. The consistency of this theme across the courses in the core curriculum is complemented by its carry over into our elective and clinical programs and also the work performed by our research and community centres.

All our programs are taught with an eye to the social and moral values that underpin the area of law under examination, and classes revolve around readings not only of legislation and legal judgments, but also broader academic and social materials. In addition to this implicit recognition of the application of broader values to law and legal practice, all the courses below either explore that connection in greater detail or directly analyse the role of values in law more generally.

In all the **introductory core courses**, justice and the rule of law are treated as central topics and are regularly addressed in various ways. *Introducing Law and Justice* provides students with a preliminary understanding of the rule of law as a set of fundamental principles and values underpinning the Australian legal system as a whole. *Principles of Public Law* then deepens and particularises this understanding in the context of our constitutional and administrative arrangements, while *Principles of Private Law* does the same in relation to our social and economic interactions. In *Principles of Private Law*, there is a focus on the values of individualism and autonomy, as well as the limits to these freedoms in the creation and protection of property and contractual rights. This lays an essential foundation for later courses in which students must understand the role of private and commercial law in protecting the rights of all citizens, and the responsibilities of lawyers in recognising those broader roles when advising clients.

All the early courses examine the relationship between specific areas of law and the ideals of justice internally related to them, albeit often quite uncomfortably. Thus corrective and distributive justice are explored in *Torts*; retributive justice, restorative justice and rehabilitation are treated in *Crime and the Criminal Process* and *Criminal Laws*; ideas of transactional fairness are examined in *Principles of Private Law*, and *Principles of Public Law* introduces students to some of the issues surrounding the legal protection of the human rights.

Many of the above aspects of justice and the rule of law are considered in greater depth or from a different perspective in the **intermediate core courses**, while new dimensions to this theme are also brought into view. One of the fundamental aspects of the rule of law is its ability to curb arbitrary state power over the individual. *Administrative Law* takes this aspect as its point of departure in its examination of the judicial review of state action. Furthermore, the effect of judicial review on the capacity of the state to deliver social justice is another important matter covered by this course. *Lawyers, Ethics and Justice* studies justice and the rule of law by way of an examination of those laws, rules and principles that govern lawyers' duties to clients, courts and society at large. In a clinical component in the course, students interview disadvantaged clients at Kingsford Legal Centre and then reflect on their interviewing practice and how 'justice' is achieved in community legal centre practices. And finally, the private law courses, *Contracts*, *Land Law* and *Equity and Trusts* investigate the principles of corrective justice, social justice and the fair and equitable legal balancing of social and economic power.

Finally, it is the **later core courses** which explore in the greatest depth the complex and often tense relationship between justice and the rule of law on the one hand, and the Australian and global legal systems on the other. All the aspects of justice and the rule of law covered in earlier public law courses are brought together in *Federal Constitutional Law*. At its core, this course examines the constitutional doctrines that impose substantive constraints upon government power, as well as those that protect our fundamental civil and political rights and freedoms. An exploration of the substantive constraints upon undue social, economic, and in particular, corporate, power underlies the approach taken in *Business Associations*, while in *Resolving Civil Disputes* and *Court Process, Evidence and Proof* the procedural constraints on governmental and social power take centre stage. Litigation is the practical way in which the rule of law is secured as it involves the application of the law and the vindication of rights through a Court process that is characterised by procedural fairness, open justice and an independent and impartial decision-maker. However, litigation can often be too costly, too slow, too

adversarial, too uncertain, too damaging to relationships and too inflexible, promoting resort to alternative dispute resolution (ADR). *Resolving Civil Disputes* examines when litigation or some form of ADR is the appropriate dispute resolution method by reference to concerns such as the impact on the rule of law. Lastly, *Law in the Global Context* investigates the effect that the globalisation of the legal order has on the operation of justice and the rule of law at the international and transnational levels. In all these courses the commitment to teaching various aspects of justice and the rule of law is reflected in assessment tasks, with a strong emphasis on gauging the students' ability to critically reflect on how justice and the rule of law complements or competes with current legal regimes.

The compulsory theory courses are designed to round out the above doctrinal and theoretical analyses of human rights, justice and the rule of law. While all three courses introduce students to advanced theoretical reflection on law, each thematises one or more aspect of human rights, justice and the rule of law in greater detail and within a particular theoretical framework. At one end of the spectrum, *Law and Social Theory* concentrates on the study of the rule of law from a social theoretical perspective, with particular attention being paid to its meaning, its genesis and the socio-historical conditions under which it can be said to do well or poorly. At the other end, *Legal Theory* employs philosophy and legal theory to focus systematically on the nature of law and its relation to morality and politics. And the third course, *Theories of Law and Justice*, investigates the contested nature of justice and its complex connections to our legal, social and political institutions from a perspective steeped in both social and legal theory.

On the basis of this rich and variegated treatment of human rights, justice and the rule of law in our core program, our **elective courses** are designed to enable students to acquire more specialised doctrinal, theoretical and practical expertise in this area. A large number of courses exist in this category so that it must suffice to name just a few: *International Human Rights*, *Law and Social Justice*, *Criminal Process: A Human Rights Framework*,

*Human Rights in the Global Economy, Transnational Business & Human Rights, Transnational Policing & Human Rights and International Law of Equality & Discrimination.*

Additionally, students can undertake experiential and clinical electives devoted to issues in the practice, protection and furtherance of human rights and justice:

- *Human Rights Internship Program*
- *Human Rights Clinic*
- *KLC Community Law Clinic*
- *KLC Employment Law Clinic*
- *Social Justice Internship Program*
- *UNSW Law Internships*
- *Australian Journal of Human Rights Internship*
- *Human Rights Defender Internship*

The last two mentioned internships also demonstrate how teaching and research in the areas of human rights and justice directly intersect in UNSW Law. Both the *Australian Journal of Human Rights* and the *Human Rights Defender* are publications of our Australian Human Rights Centre (AHRCentre). The AHRCentre aims to promote public awareness and academic scholarship about domestic and international human rights standards, laws and procedures through research projects, education programs and publications. It brings together practitioners, research fellows and student interns from Australia and internationally to research, teach and debate contemporary human rights issues. In a similar vein, our *Social Justice Internship Program* offers students a multitude of opportunities, through in-class courses and internships, while also conducting a wide array of research and consultation activities in areas including social welfare and economic development. These internships thus provide not only in depth experiential learning for students, but have also been developed to provide concrete reinforcement of the centrality of issues of justice and the rule of law in society.

### THEME 3: GENDER, CLASS, RACE AND DISABILITY

The protection of rights and a critical appreciation of the impact of the denial or abuse of rights on individuals and communities are prominent features of the teaching and research program at UNSW Law. While the phenomena and consequences of discrimination, inequality and exclusion are reflected in the preceding two themes, many of our core courses and a significant range of electives extend this focus and examine laws and practices which, in the words of Foundation Dean, Hal Wootten, 'bear harshly' on individuals for reasons of their economic status, gender, race or disability.

At the outset of our programs of study through the **introductory core courses**, the UNSW Law curriculum invites students to critically consider and evaluate the impact of law on certain social or cultural groups or sectors. Gender, race and class are discussed in *Introducing Law and Justice*, immediately establishing the importance of recognising and seeking to understand the practical operation and manifestation of law on different individuals or groups in the community, often as a result of their social, economic and/or cultural standing. For example, a detailed study of the migrant experience in the course is carried out. Feminist critiques of the law and issues relevant to people with disability are explored in the reading materials for *Torts*, and race, class and gender are examined in the context of the operation of the criminal process in *Criminal Laws*.

Race, class and gender are canvassed in *Crime and the Criminal Process*. Throughout the course, students are asked to critically consider the extent to which certain behaviours are criminalised and the profiles of people that are most often or likely to be caught up in the criminal justice system. Discussion also focuses on the large number of individuals in the system who suffer a disability, including mental illness, cognitive impairment or demonstrate histories of substance abuse. Issues of geographic and or economic disadvantage are addressed in the discussion on bail and the impact of the law on young people is also explored. The relationship between socio-economic disadvantage, Aboriginality



and criminal justice system contact are themes throughout the course, especially in the discussion of criminalisation and police powers.

Class, gender and race issues are routinely discussed in class in the **intermediate core courses**. Gender and class feature significantly in *Contracts* given the extent to which they both influence or modify equality of bargaining power in commercial and family transactions. The traditional role of equity as the protector of family assets positions gender as a key theme in *Equity and Trusts*. In discussion of contemporary cases, *Equity and Trusts* also addresses important equitable doctrines that operate to preclude transactions that are unfair or oppressive if their implementation has a discriminatory effect due to factors related to gender, disability or race. These issues are routinely explored in the course assessments.

In the readings and class discussions in *Lawyers, Ethics and Justice*, issues relating to representing clients with disabilities and/or from culturally and linguistically diverse communities are explored as are questions of gender and ethical conduct. The rights of children in legal proceedings are also canvassed. The extent to which issues of race, gender and class may influence the composition and conduct of the legal profession and judiciary are also considered. In a clinical component in the course, students interview disadvantaged clients at Kingsford Legal Centre and then reflect on their interviewing practice and how 'justice' is achieved in community legal centre practices. In this way the relevance of race, gender and complex identities in interviewing clients is also highlighted. Race, gender and prisoners' rights are regularly the subject of leading cases discussed in *Administrative Law*.

Towards the end of the LLB and JD programs, students have developed a sound appreciation of the impact of class, gender, race and disability issues as they arise in legal contexts. These issues subsequently form the underlying matrix for consideration in many of the **later core courses**. In *Federal Constitutional Law*, issues of race and gender arise in the analysis of cases

challenging the constitutional validity of statutory enactments and also feature, as do issues of class, in discussions about judicial decision-making and the role of community values. In evaluating dispute resolution options in class discussions and assessment tasks, issues of discrimination, harassment, and financial advice to elderly investors arise in *Resolving Civil Disputes*.

In *Court Process, Evidence and Proof*, race, class, gender and disability are addressed in the context of the treatment and perception of court witnesses and these issues are further examined through course assignments. Class and gender are important themes in all the *Legal Theory* courses, and students of *Law and Social Theory* and *Theories of Law and Justice* are frequently invited to develop an essay on a topic related to feminist theory as part of their assessment.

Issues pertaining to gender, class, race and disability are examined in many of the undergraduate and JD electives designed to promote experiential learning. These include the *Social Justice Internships* (where students intern at UNSW Law research centres, such as the Australian Human Rights Centre or the Indigenous Law Centre) and clinics conducted by the Kingsford Legal Centre on topics such as community law, family law and employment law and the *Police Powers Clinic* at Redfern Legal Centre. These issues are addressed in electives that specifically focus on the development and implementation of human rights in different contexts, including *Australian Bills of Rights*, *Public Interest Litigation: Origins and Strategies*, *Indigenous Peoples and the Law*, *National Security and Human Rights* and the summer school conducted at Columbia University, *Human Rights Law in Practice*. Electives on the operation of the criminal law and the study of punishment, including *Discrimination and the Law*, *Advanced Criminal Law*, *Crime and the Criminal Law Process*, *The Criminal Trial*, and *Penology* examine the influence of gender, class, race and disability and these are also significant features of *Resolving Regulatory Disputes*, *Succession* and *Advanced Torts*.

## THEME 4: ENVIRONMENTAL ISSUES

Environmental law has been part of the UNSW Law curriculum since 1982. Today, environmental issues are an increasingly prominent feature of the teaching and research program at UNSW Law. Climate change, biodiversity loss, pollution, managing the use of water and natural resources and planning for sustainable cities are just some of the many challenges faced by human societies around the world on a daily basis. Our core and elective courses examine the dynamic body of laws that provide the frameworks and tools for responding to these challenges. Our suite of courses align directly with UNSW Law's foundations in social justice, particularly through their examination of environmental justice issues and the ways in which laws impact on our health, quality of life and natural environment. Teaching and research in environmental law is also increasingly connected with environmental scholarship across the university and supports UNSW's research strength in *Water, Environment and Sustainability*.

Students are invited to critically evaluate the impact of the law upon the environment at numerous points across the law curriculum. Environmental issues are first introduced through the **introductory core courses**. Nuisance and intentional torts are discussed in *Introducing Law and Justice*, and in *Torts* inviting students to consider the effectiveness of such approaches in comparison to regulatory controls. This is followed by consideration of environmental issues in the case law relating to strict liability, actus reus by omission, and corporate liability in *Criminal Laws* and in *Crime and the Criminal Process*.

In *Principles of Private Law*, the impact of law on the environment is considered in discussions of licences for use of land, airspace trespass, and disputes between neighbours. There is a focus on the values of individualism and autonomy, as well as the limits to these freedoms in the creation and protection of property and contractual rights. This lays an essential foundation for later courses in which students must understand the role of private and commercial law in shaping both the environment and our relationship to it.

Environmental issues are considered in many of the **intermediate core courses**. *Land Law* has a specific focus on private regulation of land-use and its limits in environmental matters: compulsory assignments on strata and community title teach students the primary legal structure for eco-communities in Australia. Class discussions of leases, easements and covenants introduce students to the far-reaching implications of private regulation of land and the importance of public oversight. Environmental cases are included in several other courses. Environmental cases relating to the terms, performance or breach of a contract are included in *Contracts*, standing for environmental (and other) organisations is considered in *Administrative Law*, and ethical issues around environmental compliance are used as an example in *Lawyers, Ethics and Justice*.

**Later core courses** in the LLB and JD programs provide further opportunities for students to consider environmental issues. The effect of corporations on the environment as an example of a 'stakeholder' interest, and the duties and ability of directors to consider environmental issues are discussed in *Business Associations*. Theories of the corporation, which would allow a wider group of interests than simply those of shareholders to be considered are also examined. Students examine cases on the constitutional validity of statutory enactments for environmental protection in *Federal Constitutional Law*. The relationship between the law and the environment arises in the evaluation of dispute resolution options in class discussions and assessment tasks in *Resolving Civil Disputes*, and in consideration of environmental issues such as asbestos litigation and judicial notice in *Court Process, Evidence and Proof*.

Environmental law forms a significant part of the new course, *Law in the Global Context*. One of the five case studies concerns whaling in the Southern seas. Students consider the operation of international and domestic environmental law, including the International Whaling Commission, the Law of the Sea, the Antarctic Treaty, and the case law involving whaling within Australian courts and the International Court of Justice. Case studies will be replaced every few years to maintain currency; it

is anticipated that this case study would be replaced with another environmental matter (for example, involving the World Trade Organization).

In the **elective courses** students have the chance to consider domestic and international environmental law in more detail. *Environmental Law* provides an overview of the field, introducing students to a wide range of laws related to the environment at the International, State and Federal levels. *Cities, Planning, Law and Justice* focuses on environmental law as it relates to the built environment, exploring the implications of urban planning, heritage and environmental assessment laws for social and environmental justice. *Energy Law, Environment and the Global Economy* considers energy and environmental law at the international level and in a global context. JD electives provide further opportunities to explore legal approaches to environmental issues, including both domestic environmental law (*Development and Planning Law, Climate Law, Environmental Markets, Natural Resources Law, Renewable Energy Law* and *Water Rights and Contemporary Policy*) and international environmental law (*International Climate Law, International Environmental Law* and *Law of the Sea*).

Students can also examine environmental law through UNSW Law's experiential programs. In the *Land and Environment Court Clinic*, students examine and gain direct experience in the practice of environmental law in NSW. In the *Australasian Journal of Natural Resources Law and Policy Internship*, students gain experience of current environmental issues through an academic lens. Students also explore the practice of environmental law through *UNSW Law Internships* and *Social Justice Internships*; for example, these often include student placements with the Environmental Defenders Office NSW.

Environmental issues are also covered in a number of other courses. *People, Land and Community* explores the laws governing eco-communities, as well as broader environmental issues related to cities such as density and urban sprawl. Other courses that consider environmental issues include *Public*

*International Law, Advanced Torts, Public Interest Litigation: Origins and Strategies, Indigenous Peoples and the Law, and International Trade Law: the Law and Policy of the WTO.*

At UNSW Law we regard environmental issues as a very significant part of the curriculum and seek to maintain and develop the scope of consideration of these issues in the curriculum in the future.

## **THEME 5: INTERDISCIPLINARY, INTERNATIONAL AND COMPARATIVE PERSPECTIVES**

Awareness of law in context is fundamental to the UNSW Law curriculum and has always been a part of it. The new UNSW Law curriculum injects a further dimension of international and comparative outlook into the core courses, as well as a great degree of interdisciplinarity. Although these are present in many of the same courses, they will be considered here one by one for the sake of clarity.

### **International perspectives:**

In the **introductory core courses**, students are introduced in *Introducing Law and Justice* to the relationship between international and municipal law and in broad terms to how international law develops. In *Contracts* treaties on the sale of goods, electronic communications and private international law matters are discussed. *Principles of Public Law* examines international human rights treaties in the context of protecting rights.

In the **middle and later core courses**, *Law in the Global Context* examines various areas of law with an international dimension, such as public international law, private international law, comparative law and transnational law. It also considers the interaction of 'global law' with the domestic legal systems studied in other core courses and how the international legal system impacts upon national law. A number of other core courses have entire classes devoted to an international law issue. For instance, in *Theories of Law and Justice* one class considers international justice (through the prism of migration). In *Legal Theory*, one class examines the theory and practice of immigrant multiculturalism.

In *Federal Constitutional Law*, international law is relevant to two classes on the Commonwealth's external affairs power, and to a class on constitutional interpretation. The whole course is premised on the understanding that constitutional interpretation is influenced by the contextual setting in which cases arise. In *Law and Social Theory*, two classes are devoted to the effects of globalisation on the rule of law. Issues relating to international arbitration, the World Trade Organization, the International Monetary Fund, the World Bank and international financial instruments are discussed.

Other courses draw on international law issues at relevant points. For example, in *Resolving Civil Disputes* the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters is examined. There is also discussion of *forum non conveniens* and conflicts of law (private international law) in the context of cross-vesting legislation and challenges to service. In *Lawyers, Ethics and Justice*, certain international human rights treaties are examined in relation to children's rights, access to legal representation, and anti-discriminatory practices.

In the **elective program**, *Public International Law* builds on foundational issues covered in the core course *Law in the Global Context*. It provides students with a solid grounding in the key areas of the law regulating the conduct of and between States. The suite of public international law electives enables students to acquire in-depth knowledge of particular areas of international law:

- *Forced Migration and Human Rights in International Law*
- *International Criminal Law and Transitional Justice*
- *International Human Rights Law and Advocacy*
- *International Humanitarian Law*
- *International Law Competitive Moot*
- *International Trade Law: The Law and Policy of the WTO*
- *Settlement of International Disputes*

Amongst other electives, *Public Interest Litigation: Origins and Strategies* considers a variety of international mechanisms and procedures, such as the use of Optional Protocols, UN special procedures or communications, and Alien Torts Acts. *Media Law: General Principles* contains elements of international law in the areas of free speech and privacy.

### Comparative perspectives:

In the **introductory core courses** students are exposed to the place of Australia in the global legal context. *Introducing Law and Justice* examines a range of different legal systems across the world, as well as how international law is created and reflected in domestic legal systems. Students consider different legal traditions, such as Islamic law, Hindu law, Roman law, hybrid legal systems, etc, and there are constant comparisons made between civil law and common law throughout the course. In *Principles of Public Law* Australia's system of government is explained as a hybrid system that draws on the constitutional traditions of the UK and the US. Accordingly, there is some analysis of the constitutional arrangements, cases and methods of legal reasoning from both these systems. Passing references are made to the UK Human Rights Act and UK cases on the prerogative power. In establishing an intellectual framework on constitutionalism and the rule of law, the course acknowledges the global nature and variety of the rule of law concept. References are made to contemporary examples of constitution-making in other countries. Students are invited to contribute news items at the beginning of each class that are relevant to public law themes, and they typically draw on examples from all over the world. In *Contracts*, civil law concepts, principles and cases are referred to in materials relating to the formation, performance and termination of contracts, and choice of jurisdiction and law cases identify alternative jurisdictions and laws for adoption. Comparative and international law issues are frequently raised to demonstrate the scope of the law in its global context. In the introductory criminal courses, *Crime and the Criminal Process* and *Criminal Laws*, UK case law is drawn on relatively frequently, and approaches taken



in other jurisdictions to social issues dealt with by the criminal law (eg the approach to decriminalisation of drugs in the Netherlands) are engaged with in both courses.

In the **middle and later core courses**, a comparative approach is a key component of the legal theory courses. *Theories of Law and Justice*, *Law and Social Theory* and *Legal Theory* use contemporary and historical examples from other jurisdictions and legal cultures in almost every class. For example, in *Legal Theory*'s discussion of liberalism versus communitarianism, concrete examples are drawn from Québec where the government has tried on numerous occasions to legislate for the priority of the French language in public and private institutions, including businesses. In *Law and Social Theory*, Weber's categorisation of legal systems is used to compare common law, civil law and Sharia law systems.

In courses such as *Resolving Civil Disputes*, there is a brief analysis of the methodology of comparative civil procedure. Sometimes comparative examples are used in *Federal Constitutional Law* to illustrate particular points, such as freedom of political communication. In *Court Process, Evidence and Proof*, comparative examples are sometimes used to draw points of similarity or distinction with Australian approaches. *Administrative Law* examines many UK cases as comparators to Australian material. *Business Associations* draws heavily on UK and Canadian materials, and to a lesser degree on New Zealand and US examples, to highlight similarities and differences with Australia.

*Lawyers, Ethics and Justice* relies on comparative materials and cases, especially when examining the impacts of commercialisation and globalisation on legal institutions and ethical. It compares the regulation of the Australian legal profession and the role of legal institutions with those in other jurisdictions

Amongst **electives**, *Land, People and Community* draws on comparative property law from the US, UK, China and Singapore. In *Succession*, students look at comparative succession law. It is the focus of one class, and it is followed through in an assessment requiring students to apply NSW law and another area of law, such as Talmudic, Islamic, civil or Indigenous customary law to a problem scenario. *Media Law: General Principles* contains elements of comparative law, especially in the areas of free speech and privacy. *Advanced Torts* compares the law of the US, Europe and the UK with that of Australia in relation to matters such as privacy and product liability.

### Interdisciplinary perspectives:

In the **introductory core courses**, interdisciplinary perspectives are introduced in *Introducing Law and Justice* with contextual and sociological material on the legal system. This includes, for example, a sociological study of migrants in the courtroom. In *Torts* economic analysis of torts is considered as one form of analysis. *Principles of Public Law* draws on some political science literature to explain the practical operation of responsible government. *Contracts* draws on different disciplines to the extent that these are relevant to understanding the cases and topics under discussion. For example, religion is examined to understand whether, and to what extent, a bishop ‘concludes’ contracts with the congregation. In *Equity and Trusts*, ethics and morality feature in the examination of fiduciary duties. *Criminal Laws* introduces students to sociological and theoretical perspectives on the law to help them develop a sense of how law impacts on people in a social context. This approach continues in *Torts*, which includes an economic analysis of law and readings drawn from history and feminist theory. A number of discussions place tort law in its social, economic and cultural context. In *Principles of Private Law*, students learn about law in context by examining how certain practical developments have rendered some doctrinal principles out-of-date, such as basic contract law being at odds with social and commercial practice. *Introducing Law and Justice* draws on sociological and philosophical materials, especially in discussing the way the law operates in relation to migrants and Indigenous peoples.

The **core legal theory subjects**, *Theories of Law and Justice*, *Legal Theory* and *Law and Social Theory* are highly interdisciplinary courses, drawing on materials from law, philosophy, sociology, psychology, anthropology and linguistics. Their raison d'être is to examine law in context. Similarly, *Lawyers, Ethics and Justice* is grounded in an interdisciplinary approach and draws on materials from socio-legal studies, sociology, psychology, medicine, business management and organisational theory. For instance, when the course looks at managing the pressures of legal practice (relating to clients and colleagues, dealing with volatility in business, the impact of depression, etc), materials from medicine, psychology and business are considered. The course has a particular focus on enhancing critical engagement with socio-legal studies as a discipline, which requires an understanding of the methods and epistemology of socio-legal research.

In *Court Process, Evidence and Proof*, interdisciplinary perspectives and materials are in a number of topics, such as witness testimony, expert evidence, identification evidence, warnings and directions. The course draws on materials from disciplines such as psychology and linguistics, and incorporates critical materials that address cross-cultural communication issues. The course proceeds from the starting point that the rules of evidence and trial processes should be analysed taking into account relevant interdisciplinary knowledge and that critical analysis of the rules requires attentiveness to empirical and other research on the effectiveness of the rules. The court observation assignment requires students to evaluate the rules in operation and encourages this evaluation to take into account interdisciplinary critique. This extends to encouraging students to consider critical materials that reflect on such things as the gendered nature of aspects of the rules.

*Business Associations* draws on literature from law and economics, law and social theory, and political theory. *Land Law* is taught in its social and economic context. One of the two questions on the final take home exam requires students to find a media article dealing with material in the course and to 'discuss the legal and social/economic significance of the Land Law issues

raised in the story'. Students have the entire semester to find the article so that they are encouraged to think about the social and economic context of land law, as well as its practical function, as they move through the course.

In the **elective** program, *Land, People and Community* uses interdisciplinary material from the fields of urban planning, sociology, history, urban geography and urban economics. *Public Interest Litigation: Origins and Strategies* examines the political, social, cultural and economic factors in different jurisdictions (eg the US, Canada, Brazil, Israel, South Africa, Nigeria and France) that give rise to public interest litigation. In *Succession* psychological issues are considered in the context of family provision law as well as philosophical, anthropological and sociological material in considering the nature of succession law

As is clear from the above discussion, many **elective courses** contain international law, comparative or interdisciplinary material. Many are listed here:

- *Alternative Dispute Resolution in Practice* (interdisciplinary)
- *Advanced Criminal Law* (comparative; interdisciplinary)
- *Advanced Intellectual Property Policy and Practice* (international; comparative; interdisciplinary)
- *Australian Bills of Rights* (international; comparative)
- *Cities, Planning, Law and Justice* (international, interdisciplinary)
- *Climate Law* (international, interdisciplinary, comparative)
- *Competition Law* (international; interdisciplinary)
- *Complex Civil Litigation* (comparative)
- *Crime and the Criminal Process* (comparative; interdisciplinary)
- *Criminal Fraud and Dishonesty* (comparative; interdisciplinary)
- *Economic Analysis of Law* (interdisciplinary)
- *Environmental Markets* (interdisciplinary, comparative)
- *Forced Migration and Human Rights in International Law* (international; comparative; interdisciplinary)

- *Global Legal Systems* (comparative; comparative)
- *Human Rights Clinic* (international; comparative; interdisciplinary)
- *Human Rights Law in Practice – Columbia New York Summer School* (international; comparative)
- *Intellectual Property 1* (international; comparative; interdisciplinary)
- *Intellectual Property 2* (international; comparative; interdisciplinary)
- *International Criminal Law and Transitional Justice* (international)
- *International Environmental law* (international)
- *International Human Rights Law and Advocacy* (international)
- *International Humanitarian Law* (international)
- *International Law Competitive Moot* (international; comparative)
- *International Trade Law: The Law and Policy of the WTO* (international)
- *Introduction to the American Legal System* (comparative)
- *People, Land and Community* (international; interdisciplinary)
- *Law of the Sea* (international)
- *Media Law: General Principles* (international; comparative)
- *Penology* (interdisciplinary; comparative)
- *Police Powers Clinic* (interdisciplinary)
- *Policing* (interdisciplinary)
- *Public Interest Litigation: Origins and Strategies* (international; comparative)
- *Public International Law* (international; comparative)
- *Settlement of International Disputes* (international)
- *Succession* (comparative; interdisciplinary)
- *The Criminal Trial* (interdisciplinary; comparative)
- *The Politics of Human Rights* (international; interdisciplinary)

## THEME 6: CORPORATE AND COMMERCIAL LAW ISSUES

Economic activity permeates the whole of Australian society and shapes its material conditions, resources and opportunities, and its culture and values. The facilitation and regulation of economic activity is the broad concern of the corporate and commercial law curriculum at UNSW Law.

UNSW Law has had a strong focus on corporate and commercial law from its inception. The founding professorial appointee with particular expertise in this area, Professor Don Harding, served as legal adviser to the Senate Select Committee on Securities and Exchange whose seminal report, *Australian Securities Markets and Their Regulation* was published in 1974. From the outset the UNSW Law curriculum embodied two independent but related general themes or approaches to the core enterprise of this disciplinary area—the close study of legal rules and regulation. These themes are:

1. Sensitivity for the wider public and social welfare purposes that business law and regulation are intended to serve, and
2. Concern for the practical, “real world” contexts in which legal rules operate and the forms of judgment, including commercial judgment, which practitioners may be called upon to contribute to commercial advising and decision-making.

The first theme, consideration for the commercial environment while maintaining concern for the public policy and social welfare dimensions of the subject, is expressed through a pervasive concern for:

- the purpose of, and policy underlying, legal rules and regulation and the functions they are intended to serve, including the facilitation of commercial activity and economic activity
- the public interest and beneficial purposes of regulation and related governance, so that they are not seen simply as forms of commercial and corporate compliance
- the complexity of modern forms of corporate and commercial regulation and the distinctive roles, practices, powers and responsibilities of specialist regulatory bodies in the business sector

- the plurality of legal norms, from formal legal rules to the bodies of administrative decision-making and soft law and social norms that shape much business activity
- the claims and interests of those affected by corporate and commercial activity, such as stakeholders including employees, communities and suppliers who may be affected by corporate conduct but are not formally represented in corporate structures and may have little or no voice in corporate governance
- the power wielded by large commercial enterprises and their actors, and possibilities for using law to increase accountability, transparency and legitimacy of the exercise of corporate power and its exercise.

The second general theme of the corporate and commercial law curriculum is sensitivity to the 'law in action' as well as the 'law in the books'. This wider focus is expressed in a concern for the contexts in which legal rules operate, the discrete roles of individual actors in business enterprises, and the particular skills, judgments and responsibilities each is called upon to exercise. These responsibilities include those of a public character applying to and beyond that of the immediate parties to a commercial transaction. This focus is reflected in:

- a concern for the practical effect, application and operation of legal rules, principles and regulation so that policy outcomes are more clearly seen and appraised
- where applicable, using a *transactional* focus taking into account other areas of law that bear in practice upon legal transactions or doctrines under consideration
- consideration of wider socio-economic and political contexts, and the global dimensions of modern business activity and its regulation
- attention to the professional responsibilities of commercial actors and their professional advisers to those affected by their decision-making, and the development of norms for responsible and ethical conduct by business, its practitioners and advisers.

In the **introductory core courses** *Contracts* and *Torts* lay the foundations for understanding the interactions which form the basis of commercial law. In *Principles of Private Law*, there is a focus on the values of individualism and autonomy, as well as the limits to these freedoms in the creation and protection of property and contractual rights. This lays an essential foundation for later courses in which students must understand the role of private and commercial law in protecting the rights of all citizens, and the responsibilities of lawyers in recognising those broader roles when advising clients.

In **later core courses** this is taken further. In *Land Law* and in *Equity and Trusts* a fundamental understanding of the equitable doctrines which form the basis of many commercial transactions is established. The mid-semester assignment for *Equity and Trusts* is set in a transactional, rather than dispute-driven, context. In *Business Associations* commerce and public policy is taken up in consideration of theories of the corporation and the role of directors and other officers. It is pursued in the study of directors' duties, especially the duty of directors to act in the best interests of the company which may encompass a wider group of interests than those of shareholders and creditors. Limited liability, its abuse and the effects on those whom the limited liability doctrine touches adversely are considered at length. The second theme is primarily noticeable in the critique of meetings procedure and how the board's imperative to manage the company conflicts with ideas about shareholder democracy, and the practical reality that boards of modern companies have overwhelming power. The legal versus practical divergences are also observed in discussions of corporate routines and problem-solving throughout the course and in shareholder remedies and the realities of ASIC regulation.



In the **elective courses** there is a large selection of commercial options, continuing these themes. *Takeovers and Capital Markets Law* applies the first theme in two main ways. First, this elective examines the purposes and effect of the mandatory disclosure regimes applying to corporate takeovers and fundraising, and the continuous disclosure of information to securities markets. Secondly, it focuses on the regulation of conduct in such markets, including prohibitions on market manipulation and insider trading. In both cases, this involves consideration of the competing interests of the different market players, the impact on investors and economic activity generally, and the need to balance economic and shareholder protection objectives. The second theme is explored through class exercises, discussion and assessment involving practical scenarios and contemporary issues.

*Securities and Financial Services Regulation* has two main objectives: exploring the regulation of financial products and services in Australia and the techniques and problems of modern post-industrial regulation. Exploring the techniques and problems of modern post-industrial regulation should enable a student doing the course to understand regulation not just in financial services but to recognise similar techniques employed in the multitude of regulatory regimes that dominate modern legal systems. This objective addresses the wider public and social welfare purposes of business regulation, as most regulation has a public welfare purpose. It also addresses the 'law in action' theme, for the challenges of regulation transparency, legitimacy and accountability, often result in divergences between the law 'on the page' and 'in action'. The regulation of financial products and services is taught at the same time through considering the legal details of financial disclosure, licensing, duties of licensees and their representatives, and criminal, civil and administrative enforcement. There is contrasting treatment of the legal and practical implications of traditional and online investing modes. Some coverage of transnational and cross-border financial regulation is also included. Here, as well as learning the rules, their practical effect in action is constantly referred to.

*Corporate Governance* deals with the governance of corporations and the intersection of governance techniques with regulation and corporate law. It is not a course about directors' duties and liabilities, although these play an important role in shaping corporate governance. The course begins with a study of some corporate governance failures, which we refer back to throughout. It continues with a study of various techniques that have been employed in the pursuit of good corporate governance at board level and in the areas of shareholder and stakeholder activity. Here the course mostly addresses the first theme of the wider public and social welfare purposes of business regulation. We also consider corporate governance at the supra-national level, especially through the strengthening link with human rights and corporate social responsibility. Various theories or purposes of the corporation and its decision-makers are considered as we pass through the topics. The course concludes by looking at corporate governance and the financial markets and the remedial and sanctioning implications for corporate governance failures. Throughout, the theme of how the governance rules operate in practice is constantly referred to and discussed.

*Commercial Law* studies the ways in which general principles of common law, equity and statute law have developed to deal with the needs of basic commercial transactions. The course takes a problem-solving approach to subject matter but it also considers the broader policy dimensions of commercial law doctrines and practices. The problem solving approach investigates the way traders structure transactions to take best advantage of the protection offered by existing legal doctrines, and so illuminates the creative ways in which legal models or concepts are adapted to achieve pragmatic goals. The policy approach poses questions about the legitimacy of the strategic manipulation of legal models for commercial purposes and the interaction between private ordering and public regulation in commercial activity. *Commercial Finance* introduces students to the financing of transactions entered into by Australian businesses, including securities over personal property including the new Personal Property Securities Act regime.

*Law of Banking* explores the laws that govern banks and their relations to customers and then examines some of the basic transactions that have become fundamental to banking today. The subject explores the first theme through sensitivity to the impact of laws upon customers and an exploration of the importance of banking services to customers. In this context, a comparison is drawn between Australia and the US where many people cannot obtain a bank account and as a result payday lenders thrive. The second theme is explored through the analysis of financial transactions and why they are structured as they are and how they could be structured differently.

*Competition Law* applies the themes in a number of ways. It examines the economic background to the law and the assumptions made about the benefits of competition to the economy and to consumers as a whole. It focuses on the application of the statute to market participants against the background of economic assumptions underlying the statute. By use of case law methodology, reading and discussion, including of the documents and views of the regulator, the Australian Competition and Consumer Commission, the course material is placed in a real world context. This is heightened by the extensive use of problem-solving in class and in assessment.

*Australian Consumer Law* examines regulation against assumptions as to its benefits to consumers and community. It focuses on the application of regulation from the perspectives of both consumers and business as market participants against these assumptions.

Courses such as *Advanced Contracts, Private International Law, Criminal Fraud and Dishonesty, Intellectual Property 1 and 2, International Trade Law, Advanced Torts and Economic Analysis of Law* all incorporate significant commercial issues in their subject matter.

## **THEME 7: PERSONAL AND PROFESSIONAL DEVELOPMENT AND ETHICS**

UNSW Law has a strong focus on personal and professional development and ethics which ranges from simple time management to complex ethical problems. In doing this we aim to develop students' abilities to deal with difficulties which arise in personal and professional life, including dealing with ethical dilemmas and developing self-understanding to enhance professional competence and personal resilience by the ability to tolerate and manage stress, and evaluate one's own behaviour and the conduct of others on an objective basis. This stems primarily from our understanding of the stresses on all law students and lawyers and our concern about the prevalence of depression and anxiety in the legal profession.

All law courses require students to manage their time and workloads, and comply with assessment instructions and deadlines. Effective class participation also requires students to exercise a degree of self-management before and during class. The use of class participation throughout the degree also allows the development and understanding of the protocols and civility of the profession and the important role they play. There are, however, additional, specific pedagogical strategies, such as reflective practice, self-assessment and activities related to personal and professional development, which facilitate the growth of students' ability to independently learn and manage their lives in a way that enhances their well-being and competence. In the early core subjects discussion of ethical dilemmas is done mostly through consideration of cases, with an understanding that there will be a detailed examination of professional ethics in *Lawyers, Ethics and Justice*.

The development of independent learning and tolerance of uncertainty in the academic environment is discussed extensively in class in the introductory core course of *Introducing Law and Justice*. The need to develop resilience as a law student and lawyer and the concomitant need to develop personal strategies such as stress management and mindfulness as well as useful study strategies are considered. Students are also encouraged to

conduct some self-assessment and assessment of others (which does not count towards formal assessment) in order to develop the ability to evaluate self and others. This includes the ability to evaluate their own and others' ethical positions and to articulate that position. Similarly they are encouraged to understand and analyse their own learning styles so that they are able to convert what is 'delivered' to them into the form in which they learn best.

In *Torts*, the development of self-evaluation is a major focus which is reflected in the extensive use of various forms of reflective writing throughout the course. Students also participate in assessing each other's tasks as exercises to develop their skills of evaluation. These tasks, which contribute to students' class participation marks are intended to develop the skills of self-evaluation and meta-analysis so that students can stand back and see their own development. They also require the student to analyse the ethical and moral positions taken and their relationship to the law. *Principles of Public Law* directly applies self-management in respect of students' class participation marks: students' are encouraged to self-assess their preparation for, and performance in, class and this is taken into account in determining their final grade for this aspect of the course.

In *Crime and the Criminal Process* students are required to engage in reflective practice as part of the mid-semester court report assignment. This has a strong element of self-management in that they must choose what to observe, determine how to behave appropriately, take relevant documentation and seek admittance in some instances, for example in the Children's Court. The process of reflecting on what happened in the court room is intended to develop their 'meta-analysis' skills – that is, the skills of standing back from oneself and evaluating the experience.

The capacity to self-evaluate is further developed through the **intermediate core courses**. In *Contracts*, personal and professional development strategies include the development by students of reflective self-management strategies in simulated interactions with clients, lawyers and judges in different contractual settings. These strategies are part of class participation. In *Lawyers, Ethics and Justice*, students have many

opportunities to develop their self-management capacities through group presentations, writing a reflective assignment as part of their analysis of the solicitor-client interviews they conduct at Kingsford Legal Centre, and role plays involving law firm-based fact scenarios that require them to articulate 'an ethical response to a number of fairly challenging perspectives put to them by their colleagues'. In their interviews at Kingsford Legal Centre, students' responsibility to individually interview a real client with a legal problem and be part of the team of staff on an evening advice clinic further develops their personal and professional responsibility for legal work. Personal and professional development in this context aims at developing a sophisticated ability to deal with ethical dilemmas, in the form of the ability to engage with and reflect upon the conduct of self and others in a difficult situation.

In *Resolving Civil Disputes* and in *Court Process, Evidence and Proof*, both later core courses, professional development in the form of the ability to co-operate and work with colleagues is addressed through group assessment tasks. In the former course, this entails students placing themselves in the position of legal practitioners to advise on dispute resolution options and undertake a drafting and assessment exercise, and in the latter course, the group assessment task provides an opportunity for students to observe and reflect upon professional dispositions witnessed during court observations. This is critical as group work shows students how a person's ability to meet deadlines and attend meetings impacts on themselves, others and the work done, and they need to develop strategies to deal with personal and ethical conflicts if they arise. *Equity and Trusts* also assesses the ability to work in small groups, and requires students to write a reflective note on the experience.

In *Law in the Global Context*, a reflective journal may be used as a component of the course assessment. This draws on the development of the skills of evaluation and analysis that have been developed in earlier parts of the curriculum.

By their completion of the **core curriculum** courses students have developed a range of skills which will ensure they are independent and able to self-manage most of the strategies for learning and study, as well as recognise and manage stress, discuss and manage ethical dilemmas and take responsibility in a way that facilitates a strong, healthy, well-balanced approach to a career.

These skills can be drawn on and enhanced in the **elective program** which follows, particularly in those courses with a strongly experiential component as outlined in the Experiential Learning theme. Other subjects in the elective program also allow further personal and professional development. For example *Alternative Dispute Resolution*, *Advanced Torts*, *Succession* and *Trusts* all incorporate issues requiring a student to consider and resolve ethical issues faced by the practitioner, as do *The Criminal Trial*, *Resolving Regulatory Disputes*, *Children and the Law*, *Complex Civil Litigation* and *Media Law*. The particular ethical issues that must be kept in mind by the legal practitioner when advising corporations is a particular focus of the course *Competition Law*.

This theme, which runs through the entire curriculum, plays a significant role in preparing a student for professional life, whether in legal practice or not, and its focus on ethics and the development of the ability to self-reflect means it is also important for the development of the personal resilience needed by most people in the long term.

## **THEME 8: EXPERIENTIAL LEARNING**

Experiential learning is a fundamental aspect of the new UNSW Law curriculum. Students' exposure to law and legal practice outside the classroom occurs throughout the LLB and JD programs. Experiential learning is a type of legal education where the reality of legal practice, policy and lawyering skills become the focus of the educational experience. Students will have direct, designed, managed and guided encounters with the law and legal system and will learn by reflecting, writing and researching on the experience with expert academic staff supervising and guiding them. The experiential learning occurs in a staged manner. It has

two strands in the core courses, one which emphasises situated learning inside the classroom and the other that exposes students to real world practice outside the classroom. Through their elective courses students are then able to learn deeply through practice and reflection.

### Situated learning inside the classroom

In a number of **introductory core courses**, students are asked to engage with the role of lawyers in developing the law beyond a client's immediate needs. This may take the form of drafting and delivering hypothetical oral submissions to parliamentary committees in *Principles of Public Law* or providing written advice to Attorney-General's Departments on law reform in *Criminal Laws*.

In their **middle and later core courses** students develop their skills of legal drafting, drafting a formal trust deed according to instructions in *Equity and Trusts* and written legal advice to a hypothetical client in *Land Law*. In *Equity and Trusts*, and in *Court Process, Evidence and Proof* students are encouraged to complete their mid-session assignment in pairs or small groups – to work as a team, to negotiate different perspectives, and to argue their point of view.

This is supplemented by a range of hypothetical dispute situations in *Resolving Civil Disputes* and *Law in the Global Context* where students combine their understanding of the needs of clients from *Lawyers, Ethics and Justice* with their drafting skills in *Equity and Trusts* and *Land Law*. In *Resolving Civil Disputes* students draft two major client advices. The first is based on authentic litigious fact scenarios and require students to develop their professional understanding of the broader implications of different forms of dispute resolution and to craft an advice that addresses which forms are in the client's best interests. This is further developed by the drafting of a client mediation position paper based on authentic scenarios, requiring use of professional skills to best select facts and arguments. In *Law in the Global Context* students are formed into negotiating parties and are asked to attempt to negotiate state-to-state ad hoc arbitration agreements in relation to present day real world disputes.



## Situated learning outside the classroom

Outside the classroom there is also a staged approach to experiential learning. In their first semester of law, through the **introductory core course**, *Introducing Law and Justice*, all students will attend a Local Court to see civil law in action, and will link that experience to their learning in the classroom through discussion, and a formal reflective paper. This experience is designed to expose them particularly to the reality of Australian courts (as opposed to their assumptions from popular culture) and to see the extent to which the lower courts' 'small' and 'insignificant' cases can impact on people's lives. It is also aimed to foster students' growing sense of identity as legal professionals who have the capacity to understand their clients' perspectives on engaging with legal institutions.

In *Crime and the Criminal Process*, students spend three days in criminal courts at different levels (Local, District or Supreme) and write a paper drawing together scholarly research and their own reactions to the courtroom. That paper explores how procedures and environment have significant, and not always intended, impacts on people in real situations and that these can be as important as the substantive law itself.

By the stage of the **intermediate core courses**, all students move from being spectators to participants and in *Lawyers, Ethics and Justice* they interview real clients under the supervision of lawyers at UNSW Law's own community legal centre, Kingsford Legal Centre. Students are taught the practical skills of legal interviewing and then attend the Centre, where they take client details and conduct legal interviews on their own. They then have the opportunity to work with experienced barristers and solicitors, researching the law relevant to the client's issue and helping formulate legal advice for the client, which is given to the clients by the Centre's volunteer lawyers. Reflecting on the client's experience and their own ability to interview effectively are key parts of their learning.

Moving from this client-based focus, all students in the **later year core** course of *Court Process, Evidence and Proof* draw these experiences together, spending two days observing the court-based resolution of a legal dispute. Students shift their focus to the complexities of evidence and procedural law and how the law is applied in the heat of a case. A good proportion of these students will sit beside the trial judge's Associate and have the opportunity to discuss points of evidence law from the case with the judge in chambers. Alongside the formal curriculum students are also encouraged to engage in mooting and witness examination competitions organised by the UNSW Law Students Society and supported by the academic staff. These competitions provide safe environments to develop the skills of issue specific legal research and persuasive oral argument to build confidence for later legal practice.

In the **elective courses** students are encouraged to build on this strong experiential base by taking courses that further develop their understanding of legal practice in a broader context. They further build their research and analytical skills, their communication and team work skills and a range of other core learning aims. UNSW Law has developed Australia's widest range of clinical courses, and can guarantee every student an immersive experiential elective experience. If students' interests lie in the role of lawyers as advisers and policy developers they can undertake a range of internships or clinical subjects – either with external organisations, or with law research centres on campus. During internships students use their legal knowledge in a range of professional ways, often with a strong policy development or law reform focus. In the *Social Justice Internship Program* students are placed in Centres based in UNSW Law such as the National Children and Youth Law Centre or the National Pro Bono Resource Centre. The *UNSW Law Internship Program* places students in an extraordinary array of diverse organisations from the NSW Attorney General's Department, the NSW Bar Association, Football Federation Australia, the Aboriginal Legal Service, with magistrates in the Local Courts in New South Wales, Aboriginal legal services in Darwin, the community legal centre in Vanuatu to human rights organisations in London, New York, Singapore

and elsewhere. Students attend regular classes with experienced clinical lecturers to analyse notions of lawyering and how the legal and policy systems work both domestically and internationally to deliver presentations and written assignments on their placements.

If a student's interests lie in understanding how lawyers can assist individuals as well as reform the system to make it fairer, there are a range of legal clinics in which they can enrol. In clinics at Kingsford Legal Centre or the Human Rights Clinic students work with practising lawyers, providing advice and tailoring solutions for the individual legal needs of clients. They then draw from their individual based work to devise systemic responses to entrenched issues. The concurrent classes are designed to enable students to analyse the law and legal system as it affects disadvantaged clients and communities. UNSW Law staff spend time working with students and discussing aspects of law and practice in a way that is not typically feasible in legal practice. As an Australian leader in clinical and experiential learning UNSW Law offers eight in-house clinical courses as well as human rights clinics involving rights violations beyond Australia's borders such as the *Hong Kong Refugee Clinic* the *Human Rights Clinic* and the *South African Human Rights Clinic*. If students are particularly interested in specific areas of law then they can pursue a clinical elective which allows them to develop an expertise in that area of law, representing clients, drafting submissions and potentially representing them in tribunals or in legal proceedings. The Housing Law clinic, the Land and Environment clinic, the KLC Employment Law clinic and the Police Powers clinic all allow students to specialise in a particular area of law.

If students' interests lie in developing the skills of oral legal argument, a range of international competitive moot courses can be enrolled in. UNSW Law offers students the chance to enrol and compete in the *Jessup International Law Moot*, *Vis International Commercial Arbitration Competition*, *Pictet International Humanitarian Law Competition*, *International Criminal Court Moot* and the *International Commercial Mediation Competition*. At the domestic level, *The Essential Advocate* provides students with skills in criminal case preparation and the fundamentals of

advocacy. Students' skills are built through hands-on exercises culminating in students deploying their criminal law, evidence and procedural law knowledge in mock trial situations.

Students who want to focus on research and publications may do one of the many Journal internships which allow them to write for and assist in production of recognised law journals produced by UNSW Law, including the *UNSW Law Journal*, the *Australian Indigenous Law Review*, and the *Australian Journal of Human Rights*.

Many other electives have a strong experiential focus alongside traditional modes of instruction and learning. As just one example, in *Succession* students carry out a will-drafting exercise which requires them to take instructions. The will-drafting exercise itself is a comprehensive process where they must do the draft to the point of engrossment and then write a clause by clause justification of why each clause is there. This involves their assessment both of the law and also of likely developments in the client's family and business and the need to foresee and attempt to avoid problems.

As a result of this emphasis on experiential learning, UNSW Law graduates have a range of experience and ability that gives them flexibility and maturity to practise skillfully as lawyers, or legally trained professionals, in a rapidly changing work environment.

# Attachment B

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## Electives in family groupings

Note: these elective families are inclusive rather than exclusive, so a course may be in more than one group. Those electives which are regarded as foundational for their family grouping are marked (F). Those which are regarded as capstone electives are marked (C).

### Private Law

- Advanced Contract Law
- Advanced Tort Law
- Animal Law
- Children and the Law
- Complex Civil Litigation
- Conflict of Laws
- Development and Planning Law
- Discrimination and the Law
- Family Law
- Health and Medical Law
- Housing Law
- Insolvency Law
- Interpretation of Contracts
- Intellectual Property
- Issues in Equity
- KLC Employment Law Clinic
- Land Dealings, Residential and Commercial Contracts
- People, Land and Community
- Remedies (c)
- Restitution (f)
- Sport and the Law

- Succession
  - Trusts
  - Unfair Contracts

### **Intellectual Property and Media Law**

- Advanced Intellectual Property and Practice
- Communications Law
- Criminal Threats from Cyberspace
- Cybercrime, Security and Digital Law Enforcement
- Cyberspace Law
- Foundations of Intellectual Property (F)
- Information Technology Law
- Intellectual Property 1 (F)
- Intellectual Property 2 (F)
- Media Law: General Principles (F)

### **Commercial and Corporate Law**

- Advanced Debt Capital and Securitisation
- Advanced Contract Law
- Advanced Topics in Taxation
- Asian Competition Law
- Business Entity Taxation
- Advanced Tort Law
- Commercial Finance
- Commercial Law (F)
- Competition Law
- Competition Law and Intellectual Property
- Conflict of Laws
- Corporate Governance
- Commercial Property Transactions
- Development and Planning Law
- Doping in Sport: Global Issues

- Employment Law
- Environmental Markets
- Elements of Income Tax Law
- Funds Management, Superannuation and Insurance
- Global Issues in Competition Policy
- Housing Law
- Insolvency Law
- Insurance Law
- Interpretation of Contracts
- International Commercial Mediation
- International Trade Law: the Law and Policy of the WTO
- Issues in Space Law
- Knowledge Management in Legal Services
- Law of Banking
- Land Dealings
- Natural Resources Law
- Securities and Financial Services Regulation
- Sovereign Debt and the Law
- Sport and the Law
- Sports Sponsorship and Marketing
- Takeovers and Capital Markets Law
- Unfair Contracts
- Water Rights and Contemporary Policy
- Workplace Law
- Work Health and Safety Laws

## **Public Law**

- Australian Bills of Rights and Protection of Rights (C)
- Advanced Administrative Law
- Discrimination and the Law
- Local Government Law
- National Security Law and Human Rights
- Administrative Law (Housing) Clinic
- Housing Law
- Workplace Law

## **Criminal Law, Evidence and Advocacy**

- Advanced Criminal Law (C)
- Criminal Fraud and Dishonesty
- Criminal Threats from Cyberspace
- International Criminal Law and Transitional Justice
- International Human Rights
- International Human Rights Law and Advocacy
- National Security Law and Human Rights
- Penology
- Policing
- The Essential Advocate
- The Criminal Trial (C)

## **Comparative and International Law including Human Rights**

- Australian Journal of Human Rights
- Chinese Legal System
- Forced Migration and Human Rights in International Law
- Human Rights Clinic
- Human Rights Defender
- Human Rights in Practice – Columbia New York Summer School
- Indonesian Law
- Human Rights in Asia



- Indigenous Peoples in International Law
- International Climate Law
- International Environmental Law
- International Commercial Mediation
- International Criminal Law and Transitional Justice
- International Humanitarian Law
- International Law Competitive Moot
- Introduction to the American Legal System
- Introduction to the Australian Legal System
- Issues in Space Law
- Jewish Law
- Law of the Sea
- National Security Law and Human Rights
- Public International Law (F)
- Public Interest Litigation: Origins and Strategies
- Roman Law
- Settlement of International Disputes
- Sovereign Debt and the Law
- Special Elective: Hong Kong Refugee Law Clinic
- The Politics of Human Rights: Theory and Critique
- Understanding Human Rights
- Vietnamese Legal System

### **Experiential learning**

- Administrative Law (Housing) Clinic
- Australian Journal of Human Rights
- Complex Civil Litigation
- KLC Community Law Clinic (1 day)
- KLC Community Law Clinic (2 days)
- KLC Employment Law Clinic
- Human Rights Clinic

- Human Rights Defender
- Indigenous Law Centre Student Editor
- Land and Environment Court Clinic
- UNSW Law Journal (Editors)
- Social Justice Intern Program
- KLC Family Law Clinic
- Hong Kong Refugee Law Clinic
- UNSW Law Internship
- International Law Competitive Moot
- Mediation Competition
- Police Powers Clinic

### **Civil Litigation and ADR**

- Alternative Dispute Resolution in Practice (C)
- Complex Civil Litigation (c)
- Conflict of Laws
- Dispute Resolution: Principles, Processes and Practices (C)
- Dispute Resolution in Family Law
- International Commercial Dispute Resolution
- Foundations of Facilitation
- Judging and the Judiciary
- Concepts and Controversies in Dispute Resolution
- Managing Workplace Conflict and Change
- International Commercial Mediation Competition
- Principles Negotiation
- Resolving Regulatory Disputes
- Public Interest Litigation: Origins and Strategies
- Settlement of International Disputes
- Strategic Public Advocacy for Civil Society

## **Environmental Law**

- Cities, Planning, Law and Justice
- Climate Law
- Development and Planning Law
- Energy Law, Environment and the Global Economy
- Environmental Law (F)
- Environmental Markets,
- International Climate Law
- International Environmental Law
- Land and Environment Court Clinic
- Law of the Sea
- Natural Resources Law
- People, Land and Community
- Water Rights and Contemporary Policy

## **Indigenous Law**

- Indigenous Law Centre Student Editor
- Indigenous People and the Law (F)
- Indigenous Peoples in International Law
- Native Title Law, Policy and Practice

## **Theoretical approaches to Law**

- Economic Analysis of Law
- Gender and Law
- Legal Theory (C)
- Law and Social Theory (C)
- Legal History
- Theories of Law and Justice (C)

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