



THE UNIVERSITY OF
AUCKLAND
Te Whare Wānanga o Tāmaki Makaurau
NEW ZEALAND

Auckland Law School

Course Descriptions 2018



2018

Auckland Law School Course Descriptions

Contents

2018 Academic Timetable	4
Course Descriptions	9
Compulsory Courses for LLB Part I	9
LAW 121G – Law and Society	9
LAW 131 – Legal Method	10
LAW 141 – Legal Foundations	11
Compulsory Courses for LLB Part II	12
LAW 201 – Criminal Law	12
LAW 211 – Public Law	13
LAW 231 – Law of Torts	14
LAW 241 – Law of Contract	15
LAW 298 – Legal Research, Writing and Communication	16
Compulsory Courses for LLB Part III	18
LAW 301 – Land Law	18
LAW 306 – Equity	19
LAW 316 – Jurisprudence	20
LAW 399 – Legal Research 2	21
Compulsory Requirements for LLB Part III and IV	23
LAW 498 – Advanced Legal Research, Writing and Communication	
OR LAW 499 – Legal Practice	23
LAW 458 – Legal Ethics	24
Law Elective Courses for Part III and IV for 2018	25
LAWCOMM 401 – Commercial Law	25
LAWCOMM 402 – Company Law	26
LAWCOMM 403 – Tax Law	27
LAWCOMM 404 – Intellectual Property	28
LAWCOMM 407 – Conflict of Laws	29
LAWCOMM 420 – Advanced Tax Law	30
LAWCOMM 421 – Commercial Arbitration	31
LAWCOMM 422 – Competition Law	32
LAWCOMM 426 – Law and Information Technology	33
LAWCOMM 427 – Vendor and Purchaser	34
LAWCOMM 428 – Maritime Law	35
LAWCOMM 442 – Law of Personal Property	36
LAWCOMM 444 – Financial Markets Law	37
LAWCOMM 445 – Takeovers	38
LAWCOMM 451 – ST: Construction Law	39
LAWCOMM 454 – ST: Trade Mark Law	40
LAWENVIR 401 – Resource Management Law	41
LAWENVIR 420 – Global Environmental Law	42

LAWGENRL 401 – Evidence	43
LAWGENRL 405 – Community Law Internship	44
LAWGENRL 421 – Civil Procedure	45
LAWGENRL 422 – Women and the Law	45
LAWGENRL 423 – Legal History	46
LAWGENRL 424 – Negotiation, Mediation, and Dispute Resolution	46
LAWGENRL 428 – South Pacific Legal Studies	48
LAWGENRL 429 – Law of Family Property	48
LAWGENRL 432 – Health Care Law	49
LAWGENRL 433 – Family Law	50
LAWGENRL 434 – Trial Advocacy	51
LAWGENRL 443 – Introduction to Common Law	52
LAWGENRL 447 – Community Law Project	53
LAWGENRL 452 – Appellate Advocacy	53
LAWPUBL 401 – Administrative Law	54
LAWPUBL 402 – International Law	55
LAWPUBL 403 – Advanced International Law	56
LAWPUBL 422 – Contemporary Tiriti/Treaty Issues	57
LAWPUBL 425 – Employment Law	57
LAWPUBL 428 – Rights and Freedoms	58
LAWPUBL 430 – Criminal Procedure	59
LAWPUBL 443 – Refugee Law	60
LAWPUBL 446 – Indigenous Peoples in International Law	61
LAWPUBL 453 – Privacy Law	62
LAWPUBL 454 – International Disputes Settlement	63
LAWPUBL 458 – Comparative Indigenous Law Topics	63
LAWPUBL 461 – Human Rights Theory and its Application	64
LAWPUBL 462 – Law of the Sea	65
LAWPUBL 463 – Advanced Topics in Criminal Law	66
LAW 456 – Supervised Research	67
Research Paper in Lieu of an Examination (PILO)	67
Masters courses available for LLB Part IV	68
Honours Seminars	68
LAWHONS 716 – Legal History	68
LAWHONS 722 – Medico-Legal Problems	69
LAWHONS 728 – Studies in Public Law	70
LAWHONS 733 – Studies in Contract Law	70
LAWHONS 734 – Issues in Insurance Law	71
LAWHONS 736 – Topics in International Law	72
LAWHONS 746 – Concepts in Law and Security	72

Disclaimer

Although every reasonable effort is made to ensure accuracy, the information in this document is provided as a general guide for students and is subject to alteration.

2018 Academic Timetable

An electronic copy of all course descriptions can be viewed at www.law.auckland.ac.nz/course-descriptions

Notes:

1. The Faculty reserves the right to withdraw or substitute courses, and alter the timetable.
2. You are not necessarily guaranteed a place in the stream of your choice or the classes of your choice.
3. When enrolling in full-year compulsory courses, enrol for first and second semester at the beginning of the year.

SUMMER SCHOOL – ELECTIVES						
Subject	Cat	Title	Pts	Day	Time	Class Notes
LAWCOMM	432	Corporate Transactions	15	Tu, Th F, W	Tu,Th: 9-1pm on 16/01-8/02 F: 9-1pm on 2/02 W: 9-1pm on 7/02	Starting Tuesday 16 January and ending Thursday 8 February 2018.
LAWPUBL	425	Employment Law	15	M, W, F	M, F: 9-12pm W: 1-4pm	Starting Friday 5 January and ending Monday 5 February 2018.
LAWPUBL	443	Refugee Law	15	Tu, W, Th	Tu, Th: 1-4pm W: 9-12pm	Starting Tuesday 9 January and ending Thursday 1 February 2018.
LAWPUBL	446	Indigenous Peoples in International Law	15	M, W, F	1-4pm	Starting Friday 12 January and ending Friday 9 February 2018.

COMPULSORY COURSES – FIRST SEMESTER						
Subject	Cat	Title	Pts	Day	Time	
LAW	121G	Law and Society (i)	15	M, W, F	9-10am	
LAW	121G	Law and Society (ii)	15	M, W, F	2-3pm	
LAW	201	Criminal Law (i)	15	M, W, F	9-10am	
LAW	201	Criminal Law (ii)	15	M, W, F	11-12pm	
LAW	201	Criminal Law (iii)	15	M, W, F	2-3pm	
LAW	211	Public Law (i)	15	M, W, F	10-11am	
LAW	211	Public Law (ii)	15	M, W, F	1-2pm	
LAW	231	Law of Torts (i)	15	M, W, F	11-12pm	
LAW	231	Law of Torts (ii)	15	M, W, F	3-4pm	
LAW	241	Law of Contract (i)	15	M, W, F	8-9am	
LAW	241	Law of Contract (ii)	15	M, W, F	12-1pm	

COMPULSORY COURSES – FIRST SEMESTER

LAW	298	Legal Research, Writing and Communication	5	Two-hour Workshops	
LAW	301	Land (i)	10	Tu, Th	10-11am
LAW	301	Land (ii)	10	Tu, Th	2-3pm
LAW	306	Equity (i)	10	Tu, Th	11-12pm
LAW	306	Equity (ii)	10	Tu, Th	3-4pm
LAW	316	Jurisprudence (i)	15	M, W, F	11-12pm
LAW	399	Legal Research 2 (i)	10	M, W	12-1pm
LAW	458	Legal Ethics (i)	10	Th	4-6pm

ELECTIVE COURSES – FIRST SEMESTER

Subject	Cat	Title	Pts	Day	Time
LAWPUBL	401	Administrative Law	20	Tu, Th	9-11am
LAWCOMM	421	Commercial Arbitration	15	M, W	M 1-3pm, W 1-2pm
LAWCOMM	402	Company Law	20	Tu, Th	10-12pm
LAWPUBL	458	Comparative Indigenous Law Topics	10	M	2-4pm
LAWGENRL	401	Evidence	20	M, W	2-4pm
LAWGENRL	433	Family Law	15	M, Th	M 4-6pm, Th 4-5pm
LAWCOMM	444	Financial Markets Law	10	M, Tu	8-9am
LAWGENRL	432	Healthcare Law	15	Tu, F	Tu 9-11am, F 1-2pm
LAWPUBL	461	Human Rights Theory and its Application	15	M, W	M 3-4pm, W 2-4pm
LAWPUBL	402	International Law	20	W, F	W 8-10am, F 12-2pm
LAWCOMM	442	Law of Personal Property	10	W, F	2-3pm
LAWPUBL	462	ST: Law of the Sea	15	M, W	M 9-11am, W 10-11am
LAWCOMM	428	Maritime Law	15	Tu, F	Tu 5-6.30pm, F 8-9.30am
LAWGENRL	424	Negotiation, Mediation and Dispute Resolution	15	M, Th	9-11am
LAWPUBL	453	Privacy Law	10	Th	2-4pm
LAWPUBL	428	Rights and Freedoms	15	M, W	M 11am-1pm, W 11-12pm
LAWCOMM	445	Takeovers	10	Tu, W, Th	8-9am
LAWCOMM	403	Tax Law	20	W, F	9-11am
LAWCOMM	454	ST: Trade Mark Law	10	W, F	9-10am
LAWGENRL	434	Trial Advocacy	15	M, W	5.30-7.30pm

ELECTIVE COURSES – FIRST SEMESTER

LAWCOMM	427	Vendor and Purchaser	15	Tu, Th, F	2-3pm
LAWGENRL	422	Women and the Law	15	M, Th, F	M1-2pm, Th,F 11-12pm
LAWGENRL	443	Introduction to Common Law	10	W, Th, F	9-5pm (21,22,23 February)

*LAWGENRL 443 is an intensive course which is offered to international exchange students only

COMPULSORY COURSES – SECOND SEMESTER

Subject	Cat	Title	Pts	Day	Time
LAW	121G	Law and Society	15	M, W, F	12-1pm
LAW	131	Legal Method (i)	15	M, W, F	9-10am
LAW	131	Legal Method (ii)	15	M, W, F	2-3pm
LAW	141	Legal Foundations (i)	15	M, W, F	10-11am
LAW	141	Legal Foundations (ii)	15	M, W, F	1-2pm
LAW	201B	Criminal Law (i)	15	M, W, F	9-10am
LAW	201B	Criminal Law (ii)	15	M, W, F	11-12pm
LAW	201B	Criminal Law (iii)	15	M, W, F	2-3pm
LAW	211B	Public Law (i)	15	M, W, F	10-11am
LAW	211B	Public Law (ii)	15	M, W, F	1-2pm
LAW	231B	Law of Torts (i)	15	M, W, F	11-12pm
LAW	231B	Law of Torts (ii)	15	M, W, F	3-4pm
LAW	241B	Law of Contract (i)	15	M, W, F	8-9am
LAW	241B	Law of Contract (ii)	15	M, W, F	12-1pm
LAW	298B	Legal Research, Writing and Communication	5	Two-hour workshops	
LAW	301B	Land (i)	10	Tu, Th	10-11am
LAW	301B	Land (ii)	10	Tu, Th	2-3pm
LAW	306B	Equity (i)	10	Tu, Th	11-12pm
LAW	306B	Equity (ii)	10	Tu, Th	3-4pm
LAW	316	Jurisprudence	15	M, W, F	11-12pm
LAW	399	Legal Research 2 (i)	10	M, W	9-10am
LAW	399	Legal Research 2 (ii)	10	M, W	12-1pm
LAW	399	Legal Research 2 (iii)	10	M, W	2-3pm
LAW	458	Legal Ethics	10	Th	8-10am

ELECTIVE COURSES – SECOND SEMESTER

Subject	Cat	Title	Pts	Day	Time
LAWCOMM	420	Advanced Tax Law	15	W, F	W 11-12pm, F 10-12pm
LAWPUBL	403	ST: Advanced International Law	20	W, F	10-12pm
LAWPUBL	463	ST: Advanced Topics in Criminal Law	10	Tu	3-5pm
LAWGENRL	452	Appellate Advocacy	15	Tu, Th	5.30-7.30pm
LAWGENRL	421	Civil Procedure	15	Tu, Th	5-7pm
LAWCOMM	401	Commercial Law	20	Tu, Th	9-11am
LAWCOMM	402	Company Law	20	M, W	8-10am
LAWCOMM	422	Competition Law	15	W, F	W 1-2pm, F 2-4pm
LAWCOMM	407	Conflict of Laws	20	M, W	4-6pm
LAWCOMM	451	ST: Construction Law	15	M, Th	M 4-6pm, Th 4-5pm
LAWPUBL	422	Contemporary Tiriti/ Treaty Issues	15	M, Tu, Th	M 3-4pm; Tu,Th 2-3pm
LAWPUBL	430	Criminal Procedure	15	Tu, Th	Tu 2-3pm, Th 2-4pm
LAWPUBL	425	Employment Law	15	Tu, F	Tu 8-9am, F 8-10am
LAWGENRL	401	Evidence	20	M, F	12-2pm
LAWENVIR	420	Global Environment Law	15	W, F	W 4-6pm, F 4-5pm
LAWCOMM	404	Intellectual Property	20	M, W	2-4pm
LAWPUBL	454	International Disputes Settlement	10	F	12-2pm
LAWCOMM	426	Law and Information Technology	15	Tu, Th	3-5pm
LAWGENRL	429	Law of Family Property	15	M, W	M8-10am, W 9-10am
LAWGENRL	423	Legal History	15	W, F	M 10-12pm, W 10-11am
LAWENVIR	401	Resource Management Law	20	M, W	12noon-2pm
LAWGENRL	428	South Pacific Legal Studies	15	W, F	W 3-4pm, F 2-4pm
LAWCOMM	403	Tax Law	20	M, W	4-6pm
LAWGENRL	443*	Introduction to Common Law	10	W, Th, F	9am-5pm (11,12,13 July)

*LAWGENRL 443 is an intensive course which is offered to international exchange students only

HONOURS SEMINARS – DOUBLE SEMESTER

Subject	Cat	Title	Pts	Day	Time
LAWHONS	716AB	Legal History	20	Tu	3-5pm
LAWHONS	722AB	Medico-legal Problems	20	Tu	3-5pm
LAWHONS	728AB	Studies in Public Law	20	F	12-2pm
LAWHONS	733AB	Studies in Contract Law	20	Tu	3-5pm
LAWHONS	734AB	ST: Issues in Insurance Law	20	F	9-11am
LAWHONS	736AB	Topics in International Law	20	Tu	9-11am
LAWHONS	746AB	Concepts in Law and Security	20	Tu	3-5pm

Course Descriptions

Compulsory Courses for LLB Part I

LAW 121G – Law and Society

Credit points: 15 points

Offered: First and Second Semester

Contact hours: Lectures – 3 hours per week, 4 tutorials – 1 hour per fortnight

Course Directors: Professor David Williams (Semester One), Professor Jane Kelsey (Semester Two)

Prerequisites: None

Course description:

The course is an introduction to the nature, functions, origins and contemporary questions relating to law in its social context. The focus is on law and society in New Zealand, including its sources of law, its institutions, and its operation historically and today. Māori concepts of law and justice, and their relationship to the New Zealand legal system, are also addressed.

Content outline:

The course materials are divided into five parts:

- Branches of Government – the origins of New Zealand’s flexible constitution, the balance of powers and the relationship to each other of the legislative, the executive and the judicial branches of government;
- Concepts of law – a brief comparative perspective on approaches to law in society;
- Laws and Rights – a study of definitions of crime, due process in criminal justice, human rights and the Bill of Rights Act 1990;
- Law, colonisation and the Treaty of Waitangi – changing views on the legal status of the Treaty of Waitangi, Treaty settlement processes, and options for constitutional change;
- Overview of the global context of New Zealand law and transnational law.

Assessment:

1 hour closed-book test

2 hour closed-book exam

Plussage is applicable to LAW 121G. Plussage is a system that enables the best possible final mark for a course providing the requirements are met.

Students must achieve a minimum of 45% in the examination for plussage to apply.

All coursework must be completed for plussage to apply.

If a student does not achieve a minimum of 45 in the examination, and/or does not complete the test, plussage will not apply. The mark for the course will be based 100% on the exam.

If a student completes the test, and achieves at least 45 in the exam, they are eligible for plussage.

The mark will be calculated by: EITHER test (20%) and exam (80%); OR exam (100%); whichever results in the higher grade.

Recommended (but not prescribed) texts:

J Ruru, K Sanders and D Webb, *The New Zealand Legal System* (6th ed, 2016)

G Morris *Law Alive: The New Zealand Legal System in Context* (3rd ed 2015)

LAW 131 – Legal Method

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week, 5 tutorials – 1 hour per fortnight

Course Director: Associate Professor Teresa Dunworth

Prerequisites: LAW 121G with a minimum C+ grade

Course description:

An introductory study of how law is made and applied in New Zealand – an overview of the law-making roles of the legislative, executive and judicial branches of government; an introduction to case law, including judicial reasoning and the doctrine of precedent; an introduction to statute law, including the techniques of statutory interpretation and application; the interaction between case law and legislation.

Content outline:

- An introduction to the structure of government and the sources of law
- An introduction to case law and the hierarchy of courts
- An introduction to judicial reasoning and the doctrine of precedent
- An introduction to statute law and statutory interpretation
- The interaction between case law and statute law

Assessment:

1 hour closed-book test

2 hour closed-book exam

Plussage is applicable to LAW 131. Plussage is a system that enables the best possible final mark for a course providing the requirements are met.

Students must achieve a minimum of 45% in the examination for plussage to apply.

All coursework must be completed for plussage to apply.

If a student does not achieve a minimum of 45 in the examination, and/or does not complete the test, plussage will not apply. The mark for the course will be based 100% on the exam.

If a student completes the test, and achieves at least 45 in the exam, they are eligible for plussage.

The mark will be calculated by:

EITHER test (20%) and exam (80%);

OR exam (100%); whichever results in the higher grade.

Recommended texts:

S Penk and M Russell *New Zealand Legal Method Handbook* (2014)

J Ruru, K Sanders and D Webb, *The New Zealand Legal System* (6th ed, 2016)

LAW 141 – Legal Foundations

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week, 5 tutorials – 1 hour per fortnight

Course Director: Rob Batty

Corequisite: LAW 131

Prerequisites: LAW 121 or 121G with a minimum B- grade

Course description:

The core substantive components of the New Zealand legal system, with particular emphasis on the relationship between public and private law. Concepts of property and obligations. Introduction to concepts of tikanga Māori, international and comparative law. Differences between common law and civil law systems. Introduction to different modes of legal analysis and different approaches to legal theory.

Content outline:

The course comprises six modules:

- Classification of the law and its sources – the main differences between a common law and civil law legal system and an introduction to the domain and sources of private law compared to public law in a common law system.
- Property law in comparative perspective – an introduction to the basic concepts and principles of property law, including comparisons with other jurisdictions and/or legal systems.
- Law of obligations in comparative perspective – an introduction to the basic concepts and principles of the law governing the obligations between individuals, including comparisons with other jurisdictions and/or legal systems.
- Key legal concepts in theoretical perspective - an introduction to principled explanations for the operation of private law such as law and economics and corrective justice.
- Law in a global context – an introduction to international law and the ways in which international and transnational law impact on New Zealand law.
- Māori jurisprudence - an introduction to tikanga Māori.

Assessment:

Plussage applies to the online test component of LAW 141.

Plussage is a system that enables the best possible final mark for a course providing the requirements are met. Students must achieve a minimum of 45% in the examination for plussage to apply.

All coursework must be completed for plussage to apply.

If a student does not achieve a minimum of 45 in the examination, and/or does not complete the test, or does not complete both essays, plussage will not apply.

If plussage does not apply the mark for the course will be calculated as:

Exam (70%), 1000 word essay (15%), 750 word essay (15%).

If a student completes all coursework (two essays and the online test) and achieves at least 45 in the exam, plussage will apply.

The mark will be calculated by:

EITHER exam (65%), 1000 word essay (15%), 750 word essay (15%), online test (5%);

OR exam (70%), 1000 word essay (15%), 750 word essay (15%); whichever results in the higher grade.

Recommended texts:

There is no recommended text. Students may find J Ruru, P Scott and D Webb *The New Zealand Legal System* (6th ed, 2016) a good general reference text for the course.

Compulsory Courses for LLB Part II

LAW 201 – Criminal Law

Credit points: 30 points

Offered: Full-year

Contact hours: Lectures – 3 hours per week, 8 tutorials – 1 hour per fortnight

Course Director: Associate Professor Julia Tolmie

Prerequisites: LAW 121G & LAW 131

Corequisite: LAW 298 or 299

Course description:

This is an introduction to the principles and practice of the New Zealand criminal law.

Content outline:

This course considers the purposes of criminal law and punishment. The principles of criminal responsibility are analysed, together with an examination of the defences to criminal charges, also known as the doctrines of criminal law. A selection of serious offences is examined in detail, including homicide, sexual violation and selected property offences.

Assessment:

45 minute open-book test: 20%

Oral submission: 10%

Written submission: 10%

3 hour open-book exam: 60%

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Students are required to attend 6 one hour tutorials plus an oral submission. Students are required to submit a court observation which is marked on a pass/fail basis (no marks attached).

Prescribed text:

Simester and Brookbanks *Principles of Criminal Law*, 4th edn, Thomson/Reuters, 2012

Credit points: 30 points

Offered: Full-year

Contact hours: Lectures – 3 hours per week, 8 tutorials – 1 hour per fortnight

Course Director: Professor Janet McLean

Prerequisites: LAW 121G & LAW 131

Corequisite: LAW 298 or 299

Course description:

The principles and workings of the New Zealand constitution; the powers, privileges and immunities of the three branches of government; the exercise and control of public power; the Māori dimension and the Treaty of Waitangi; the relationship between the individual and the state.

Content outline:

- An introduction to key concepts and principles.
- The Legislative branch: evolution of the law-making power of the New Zealand Parliament, the nature of legislative power, the concept of parliamentary supremacy, the impact of factors suggesting limits on that supremacy; the interpretation of enactments in light of individual rights including those affirmed in the New Zealand Bill of Rights Act 1990, the doctrine of parliamentary privilege.
- The Executive branch: an introduction to Cabinet, responsible government and the formation of governments, the concept of the Crown, the powers of the executive including royal prerogative powers, the role and powers of the Governor-General. May also include introduction to the Official Information Act 1982, public interest immunity.
- The Judicial branch: source and nature of judicial power, judicial independence, contempt of court, judicial immunity, accountability of the judiciary.
- The New Zealand Bill of Rights Act 1990: its basic operation and selected case studies concerning particular rights.
- Introduction to administrative law: legal controls on the power of public bodies and agencies, including the principles of natural justice, and delegated legislation.
- The Māori dimension: common law doctrine of aboriginal title, the Treaty of Waitangi, the UN Declaration on the Rights of Indigenous Peoples; and their implications in the field of Public Law.

Assessment:

Assessment in this course consists of:

- tutorial quizzes
- first semester test
- second semester tutorial essay/opinion
- final exam

Plussage applies to the test and essay components in LAW 211.

Plussage is a system that enables the best possible final mark for a course providing the requirements are met. Students must achieve a minimum of 45% in the examination for plussage to apply.

All coursework must be completed for plussage to apply.

If a student does not achieve a minimum of 45 in the examination, and/or does not complete the test, or does not complete the essay, plussage will not apply.

If plussage does not apply the mark for the course will be calculated as: Exam (95%), tutorial quizzes (5%).

If a student completes all coursework (the test and the essay) and achieves at least 45 in the exam, plussage will apply.

The mark will be calculated by:

EITHER exam (70%), test (15%), essay (10%), tutorial quizzes (5%);

OR exam (95%), tutorial quizzes (5%);

whichever results in the higher grade.

Please note the tutorial essay is a compulsory course requirement. Students must receive a passing mark for the tutorial essay to pass the course, regardless of whether plussage applies. Students will not receive a grade for this course unless a passing essay is completed.

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Advice will be given at the commencement of the course.

LAW 231 – Law of Torts

Credit points: 30 points

Offered: Full-year

Contact hours: Lectures – 3 hours per week, 8 tutorials – 1 hour per fortnight

Course Director: Professor Jo Manning

Prerequisites: LAW 121G & LAW 131

Corequisite: LAW 298 or 299

Course description:

The law of torts, a private law subject, is part of the law of civil obligations and covers personal wrongs (not including breaches of contract) that can be compensated by way of an action for damages. The law is largely to be found in decisions of the court rather than in statute. The most important exception to this in New Zealand is the Accident Compensation Act 2001. This Act bars all claims for damages arising directly or indirectly out of personal injury or death where the personal injury is caused by an accident, treatment injury or an occupational disease. This means that in New Zealand tort actions are generally concerned with loss, such as damage to property or financial damage, that is not personal injury.

Content outline:

There are numerous torts, not all of which can be covered. The emphasis is on those torts that best illustrate the general principles and which arise most frequently in practice.

Approximately one half of the course is devoted to the law of negligence. This tort is the principal means by which the law provides compensation for loss caused by another's carelessness. A study is made of the essential features of the tort: the duty of care, breach, issues of causation, foreseeability, remoteness of damage – and then its application in specific instances is considered.

Other torts that are covered include the land based torts and the intentional torts of assault, battery and false imprisonment and the related torts of intentional infliction of emotional distress, privacy and defamation.

Assessment:

Final Exam 60%, compulsory test 20%, compulsory essay 10%, preparation and attendance at tutorials and moot 10%.

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Procedures are in place for exceptional cases where students need to attend an alternative tutorial (for example, for medical reasons). The procedure will be outlined in the 2018 handbook.

Recommended text:

A useful text is Todd (General Editor) *The Law of Torts in New Zealand* (7th ed, Brookers Ltd, Wellington, 2016).

LAW 241 – Law of Contract

Credit Points: 30 points

Offered: Full-year

Contact hours: Lectures – 3 hours per week, 8 tutorials

Course Director: Professor Francis Dawson

Prerequisites: LAW 121G & LAW 131

Corequisite: LAW 298 or 299

Course description:

The law of contract is concerned with the basic issues of formation, performance and enforcement of agreements that are recognized in law as “contractual” in nature. The course covers the general principles of contract law, including the formation of contracts at common law, contract legislation in Aotearoa/New Zealand, breach of contract and remedies for breach, including damages.

Content outline:

In the first semester, we begin with the issues relating to contract formation – i.e. with the making of contracts. We will consider the formal contract and its creation and also find out when the law will recognize a simple contract as legally binding. Next, we will look at what the contract says that the parties are expected to do. The obligations in the contract are contained in the contract terms. We will look at different types of terms and how the courts will interpret these.

In the second semester, we first look at damages and then the right to withhold performance if the counterparty fails or refuses to perform its part. We find out what a client can do when faced with a breach of contract, i.e. when the other party has not fulfilled their side of the agreement. Finally we look at mistaken assumptions and how the law regulates this area.

Assessment:

The assessment scheme for the course consists of four items:

1. A first-semester test;
2. An essay assignment; and
3. The final examination
4. Tutorial attendance is compulsory. A deduction of 1 mark will be made for each tutorial missed.

Procedures are in place for exceptional cases where students need to attend an alternative tutorial (for example, for medical reasons). The procedure is outlined in the 2018 handbook.

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Plussage applies to the test and essay components in LAW 241.

Plussage is a system that enables the best possible final mark for a course providing the requirements are met. Students must achieve a minimum of 45% in the examination for plussage to apply.

All coursework must be completed for plussage to apply.

If a student does not achieve a minimum of 45% in the examination, and/or does not complete the test, or does not complete the essay, plussage will not apply.

If plussage does not apply the mark for the course will be based 100% on the exam.

Please note the tutorial essay is a compulsory course requirement. Students must receive a passing mark (i.e. 50%) for the tutorial essay to pass the course, regardless of whether plussage applies. Students will not receive a grade for this course unless a passing essay is completed.

If a student completes all coursework (the test and the essay) and achieves at least 45% in the exam, plussage will apply.

The mark will be calculated by:

EITHER exam (60%), test (30%), essay (10%);

OR exam (100%); whichever results in the higher grade.

Please note tutorial attendance is compulsory. 1 mark will be deducted from the final mark for each tutorial missed, regardless of whether plussage applies.

Recommended text:

Burrows, Finn & Todd *Law of Contract in New Zealand* (6th ed, LexisNexis NZ, Wellington, 2017) is the main New Zealand text, although other useful texts include those by Chitty, Treitel, and Greig and Davis, all of which are held on reserve in the Law Library.

LAW 298 – Legal Research, Writing and Communication

Credit points: 10 points

Offered: Full-year

Contact hours: One Introductory Lecture; Compulsory workshops – 2 hours a fortnight

Course Director: Bronwyn Davies

Prerequisites: LAW 121G & LAW 131

Restriction: LAW 299

Course description:

LAW 298 is designed to help you transition into your law studies. It is designed as an interactive, skills-based course in which you will conduct tasks designed to help you build confidence in handling legal materials and to prepare for your assessments in all subjects on the LLB.

Part 1: Legal research within New Zealand's jurisdiction

The course starts by looking at the language and structure of legal information, case law, legislation, textbooks and journal articles and the systems and processes involved in doing legal research. You will use legal materials in both print and electronic format.

Part 2: Legal Writing

Most assessments on the LLB will involve some element of writing. Therefore in this part of the course you will consider the different forms of legal writing required for law school and you will learn good writing practises, strategies and habits. We will first cover general principles of effective writing before looking at the specifics of how to write essays for law school. In semester two, the course focuses on learning how to write answers to problem questions in exams and how to draft legal memoranda of advice.

The final part of the course focuses on the skills of argument and persuasion within the context of a simulated legal negotiation.

Learning how to navigate your way through law school is a skill all by itself so in addition to learning skills for legal research, writing and communication, LAW 298 has a strong focus on student well-being. In this course we encourage you to discuss with your classmates and tutors the issues that you may be facing with your law studies.

Assessment

100% on-course assessment. More information about the assessment will be provided at the beginning of the course.

Procedures are in place for exceptional cases where students need to attend an alternative tutorial (for example, for medical reasons). The procedure will be outlined in the 2018 handbook.

Prescribed text:

Geoff McLay, Christopher Murray and Jonathan Orpin, *New Zealand Law Style Guide* (2nd ed, Thomson Reuters, Wellington, 2011).

Available at <http://www.lawfoundation.org.nz/style-guide/index.html>

Compulsory Courses for LLB Part III

LAW 301 – Land Law

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week, 8 tutorials – 1 hour per fortnight

Course Directors: Katherine Sanders

Prerequisites: LAW 201, 211, 231, 241

Course description:

This course examines the legal principles relating to real property in New Zealand. The main topics covered include: the nature of title to land, estates and interests in land, the physical extent of a landowner's rights, the effects of registration and indefeasibility of title, concurrent ownership, leases, methods of ownership of flats and offices, easements and profits a prandre, covenants, the use of land as security, and Māori land issues including an introduction to tikanga Māori concepts and customary title claims.

Content outline:

The course commences with an examination of the nature of real property rights and interests in land, including the historical development of land law and the concept of estates and interests in land. It also explores fundamental principles of New Zealand land law including a comparison of legal and equitable interests in land, the doctrine of tenure, the physical extent of a landholder's rights in her or his land, and the concept of title in New Zealand. We will cover in some detail the Torrens system of registration of title to land. A principal focus of our discussions will be how the law deals with competition between interests in land. Concurrent ownership is considered in the context of acquisition, exercise and disposition of estates and interests in land. An examination of leasehold estates and an examination of methods of flat and office ownership explores further the concepts of estates in land and equitable interests. Rights or interests in the land of another will also be considered, including easements, covenants and mortgages. As part of the course the key concepts of tikanga (Māori custom), how these concepts relate to land law in New Zealand, and the impacts of colonisation are explored. The course examines the application of Māori customary title, the Te Ture Whenua Māori 1993 (Māori Land Act 1993), and recent legislative developments in the area of Māori land law.

Assessment:

Final Examination 60%, Mid-year Test 25%, Tutorial Essay (10%), Tutorial Attendance (5%).

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Procedures are in place for exceptional cases where students need to attend an alternative tutorial (for example, for medical reasons). The procedure will be outlined in the 2018 handbook.

Recommended text:

The recommended texts for the course are:

G W Hinde, D W McMorland, N R Campbell, P Twist, T N Gibbons, S Scott and J L Foster *Principles of Real Property Law*, (2nd ed. 2014, LexisNexis, Wellington); and

E Toomey (ed.) *New Zealand Land Law* (3rd ed. 2017, Brookers, Wellington).

You should purchase or download the statutes below for the course. A compilation of the relevant statutes will be available for purchase at the University Bookshop. If you choose to compile your own legislation please ensure you have the latest reprint and any amendments.

Land Transfer Act 1952

Land Transfer Act 2017

Property Law Act 2007

Unit Titles Act 2010

More information about the recommended texts will be given in class and on CANVAS.

LAW 306 – Equity

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week, 8 tutorials – 1 hour per fortnight

Course Director: Professor Peter Devonshire (Semester One) / Rohan Havelock (Semester Two)

Prerequisites: LAW 201, 211, 231, 241

Course description:

This course introduces and develops the central principles of equity and its principal remedies. It is largely taught through case law. In order to acquire a fundamental understanding of the subject it is necessary to consider the history of equity and its evolution to the present day. The law of trusts is examined in depth. This includes private trusts and charitable (public) trusts. Private trusts are particularly analysed in terms of the requirements for their creation and the duties of trustees. Trusts arising by operation of law are also examined.

The fiduciary principle and leading judgments in this area are analysed, as well as the core fiduciary obligations. Attention is directed to equitable remedies and their philosophical foundations together with accessory and recipient liability. In addition, this course examines the principles of the law of succession.

Content outline:

The course begins with a study of the history of equity and its eventual formalisation, maxims of equity and the Judicature Acts. Then attention is directed to trusts arising by operation of law (constructive trusts and resulting trusts), and express trusts. The latter includes fixed and discretionary trusts, the three certainties, sham trusts and the status of powers of appointment. This is followed by a discussion of fiduciary obligations and equitable remedies, including equitable compensation, account of profits and proprietary claims. The liability of third parties is addressed with respect to knowing receipt and dishonest assistance. The course includes discussion of charitable trusts, the duties of trustees, wills and succession, including restrictions on testamentary freedom.

Assessment:

Final grade: 5% for attendance at all 8 tutorial rounds AND either (i) Final Examination 95%, or (ii) plussage calculated as follows: test 15%, essay 10%, final examination 70%.

Completion of one tutorial essay, with a pass grade (regardless of whether plussage applies), is compulsory. In exceptional circumstances, students who fail the essay may be permitted to take a second essay. The second essay will only be marked as pass or fail. Students who fail the second essay will be deemed to have not completed the course.

Procedures are in place for exceptional cases where students need to attend an alternative tutorial (for example, for medical reasons). The procedure will be outlined in the 2018 handbook.

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Plussage

Plussage applies to the test and essay components in LAW 306.

Plussage is a system that enables the best possible final mark for a course providing the requirements are met. Students must achieve a minimum of 45% in the examination for plussage to apply.

All coursework must be completed for plussage to apply.

If a student does not achieve a minimum of 45 in the examination, and/or does not complete the test, or does not complete the essay, plussage will not apply.

If plussage does not apply the mark for the course will be calculated as: Exam (95%), tutorial attendance (5%). Completion of one tutorial essay, with a pass grade (regardless of whether plussage applies), is compulsory. In exceptional circumstances, students who fail the essay may be permitted to take a second essay. The second essay will only be marked as pass or fail. Students who fail the second essay will be deemed to have not completed the course.

If a student completes all coursework (the test and the essay) and achieves at least 45 in the exam, plussage will apply.

The mark will be calculated by:

EITHER exam (70%), test (15%), essay (10%), tutorial attendance (5%);

OR exam (95%), tutorial attendance (5%); whichever results in the higher grade.

LAW 316 – Jurisprudence

Credit points: 15 points

Offered: First and Second Semester

Contact hours: Lectures – 3 hours per week, 4 tutorials – 1 hour per fortnight

Course Director: Dr Arie Rosen

Prerequisites: LAW 201, 211, 231, 241

Course description:

This course offers an introduction to legal theory and the philosophy of law. It surveys a range of theoretical questions pertaining to law, focusing on the relations between law, politics, economics and morality. Building on the students' acquaintance with the basics of public law, contracts and torts, the course examines the theoretical foundations of these fields, their internal logic and underlying justifications. It also examines tikanga Māori from jurisprudential and doctrinal perspectives.

Content outline:

The course consists of five parts, each focusing on a set of related questions:

1. **The foundations of public law** – What is the role of law in overcoming differences and disagreements in modern societies? Which institution is best suited for developing the law today? Which institution can we trust to protect the rights of minorities?
2. **Adjudication and legal reasoning** – What is the proper role of the judge? What are the main techniques

she employs in decision-making? Do judges simply promote their own political agenda? Do they exercise arbitrary discretion?

3. **Law and morality** – What is the relationship between law and morality? Can grossly immoral law still be valid? How should lawyers and judges deal with wicked law?
4. **The logic of private law** – What is the underlying logic of private law? What legal rules are appropriate for economic life? What is the relationship between economic growth and individual freedom? What are the limits of liberal law? Does it have a dark side?
5. **Māori jurisprudence** – What is tikanga Māori? Is the Māori conception of law radically different from the European conception of it? How is tikanga received into New Zealand law? What are the underlying principles of tikanga Māori and how do they apply in practice?

Assessment:

4 out of 5 concept reviews (20%)

Tutorial attendance (5%)

2 hour open-book exam (75%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Materials will be distributed at the beginning of class.

LAW 399 – Legal Research 2

Credit points: 10 points

Offered: First and Second Semester

Contact hours: Lectures – 2 hours per week

Course Director: Stephanie Carr

Prerequisites: LAW 298 OR LAW 299, and LAW 201, 211, 231, 241

Course description:

An introduction to advanced research skills and multi-jurisdictional legal information sources.

Content outline:

- New Zealand Legislation including extrinsic resources, legislative histories, secondary and tertiary legislation
- Case Law including New Zealand historical resources, citators, indexes and digests
- Legal Research frameworks for conducting research, research trails
- Secondary sources
- Research in other common law jurisdictions, United Kingdom, Canada, Australia and United States of America
- International law research
- Researching in legal practice
- Self-paced online instruction for major law databases

Assessment:

100% on-course Assessment comprising:

- 2 research exercises, each worth 15% of the final mark
- 70% research trail

Note:

Students are strongly recommended to link their research trails for this course with the formal writing requirement for an opinion, elective or honours dissertation. If students are unable to link their research trail to a writing requirement for another course, then an assigned topic is available.

Prescribed text:

Geoff McLay, Christopher Murray and Jonathon Orpin *New Zealand Law Style Guide* (2nd ed, Thomson Reuters, Wellington, 2011)

Available at <http://www.lawfoundation.org.nz/style-guide/index.html>

Compulsory Requirements for LLB Part III and IV

LAW 498 – Advanced Legal Research, Writing and Communication OR LAW 499 – Legal Practice

Students enrol for either LAW 498 (0 points) or LAW 499 (0 points) usually in the semester in which they are completing their LLB requirements. LAW 498 and LAW 499 involve participation in a moot (above Part II) and the fulfilment of certain writing requirements in connection with the elective courses in Parts III and IV.

Prior to 2017 students had the choice of LAW 400 or LAW 499. LAW 400 has now been discontinued, and LAW 498 introduced in its place.

LAW 498 – Advanced Legal Research, Writing and Communication

LAW 498 will be required of all students admitted to LLB Part III in 2017 or a later year. It will be an option for students admitted to Part III before 2017. The requirements for LAW 498 are as follows:

1. Obtaining a pass in a moot above Part II; any moot that is optional (not part of course requirements) will qualify. This will not be limited to the General, Family, Māori Issues or Pacific moots, but includes some competition moots.

AND

2. Satisfactory completion of a sustained piece of legal writing of at least 4000 words in connection with an elective course. This could be satisfied in various ways, including: Supervised Research; a PILO (so long as it is at least 4000 words); the report for LAWGENRL 405 or 447; the research essay for a 15- or 30-point masters course taken for LLB; Honours seminar papers and dissertations; any other single piece of writing of the required length.

LAW 499 remains available for students who were admitted to Part III before 2017. However, it will be discontinued at the end of 2018. Any student who has not completed the requirements of LAW 499 by December 2018 will be required to pass LAW 498.

LAW 499 – Legal Practice

The requirements for LAW 499 are:

1. Obtaining a pass in a compulsory Part III moot (General, Family, Māori Issues or Pacific Islands)

AND

2. Obtaining a pass in each of five single pieces of legal writing of at least 1500 words written in association with law elective courses.

A single piece of legal writing of at least 1500 words for LAW 499 may include:

- Opinions, research essays or other written assignments in 10-pt, 15-pt and 20-pt law elective courses
- Research essays or other written assignments
- Research papers in lieu of examinations (PILO)
- Supervised Research papers (LAW 456)

As long as three pieces of legal writing are completed, students may substitute for one or two of the remaining two pieces of legal writing:

- A Community Placement; or
- A subject-related or competitive moot (including Stout Shield); or
- Two subject-related or competitive moots (including Stout Shield) if no Community Placement has been counted.

The following do not qualify for an opinion credit towards LAW 499:

- (a) AULR editorial work or other roles
- (b) EJP
- (c) Participation in competitions such as Model UN, World Client Interviewing
- (d) Honours seminar papers and dissertations
- (e) External or international mooting competitions.

LAW 458 – Legal Ethics

Credit points: 10 points

Offered: First and Second Semester

Contact hours: Lectures – 2 hours per week

Course Coordinator: Professor Ron Paterson

Course description:

This 10-point course has been introduced to fulfil a requirement imposed by the Council of Legal Education (CLE).

New Zealand law graduates must obtain a pass in a CLE approved Legal Ethics course, in addition to post-graduate professional legal studies, in order to be admitted as a barrister and solicitor of the High Court of New Zealand.

Although an elective course for the LLB, students intending to be admitted to the bar are required to take this course.

A student, who does not intend to go on to admission to the bar and does not wish to take Legal Ethics, will need to take an additional elective course. Overseas law graduates will generally be required to pass this course prior to admission in New Zealand.

The CLE has stipulated that the course involves teaching (a) the philosophical basis of legal professional ethics; and (b) the practical application of legal professional ethics; that the examination should appropriately test both components; and that at least one problem question is used in the examination to focus on the practical application of professional ethics.

Content outline:

- (a) A study of legal ethics and professional responsibility including an introduction to ethical analysis which examines various theories of ethics; the applicability of ethical analysis to legal practice; the concept of a profession and the ethical and professional duties of practitioners; and the wider responsibilities of lawyers in the community.

- (b) A consideration of some of the most significant of the rules provided for in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008. Major topics include conflicts of interest (including information barriers/“Chinese walls”), rules on confidentiality, duties to the court over and above those owed to one’s client, duties of loyalty and fidelity, the “cab rank” rule, and the obligations imposed on prosecuting counsel.

Assessment:

2000 word assignment (40%)

2 hour open-book exam (60%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Law Elective Courses for Part III and IV for 2018

LAWCOMM 401 – Commercial Law

Credit points: 20 points

Offered: Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Dr An Hertogen

Prerequisites: LAW 231, 241

Corequisite: LAW 301, LAW 306

Restriction: LAW 415

Course description:

“Commercial law” as known to practitioners covers a great range of common law and statutes, and there is no single law that can be labelled “commercial law”. The present course focuses on four statutes that affect both consumers and businesses. We start with an in-depth study of Part 3 of the Contract and Commercial Law Act 2017 (the old Sale of Goods Act 1908). With the advent of consumerism, a significant number of new statutes have arisen whose primary purpose is consumer protection. We will study the Consumer Guarantees Act 1993 and the Fair Trading Act 1986. In the second half of the course, we will examine how the Personal Property Securities Act 1999 governs security interests in personal property.

Content outline:

The first half of the semester is devoted, first, to a detailed study of the legal regime governing the sale of goods in the Contract and Commercial Law Act 2017 and, complemented by, the Consumer Guarantees Act 1993 and, second, to an overview of the Fair Trading Act 1986. The Personal Property Securities Act 1999 is studied in the second half of the semester.

Assessment:

Best 4 out of 6 reading quizzes (20%)

2000 word assignment (20%)

3 hour open book exam (60%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Students may find the following texts useful:

- Henry Holderness (ed) *Butterworths Introduction to Commercial Law* (5th ed, LexisNexis NZ, Wellington, 2016);
- Kate Tokeley (ed) *Consumer Law in New Zealand* (2nd ed, LexisNexis NZ, Wellington, 2014);
- Linda Widdup *Personal Property Securities Act: Concepts in Practice* (4th ed, LexisNexis NZ, Wellington, 2016);
- Barry Allan *The Law of Secured Credit* (Thomson Reuters, Wellington, 2016);
- Mike Gedye et al *Personal Property Securities in New Zealand* (Thomson Brookers, Wellington, 2002).

LAWCOMM 402 – Company Law

Credit points: 20 points

Offered: First and Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinators: John Land/Professor Susan Watson

Prerequisites: LAW 231, 241

Course description:

Companies are the most common and important form of business organisation. Company law is concerned with the rules relating to and regulating the formation of companies, the relationships internal to companies (such as relations between shareholders and directors), and the relationships between companies and the outside world.

The course does not consider in any detail related topics such as securities regulation, takeovers and mergers, or company finance. Nor does the course deal with company liquidations.

Content outline:

The course focuses on the practical, theoretical and historical aspects of company laws. Topics include:

- Formation of companies
- The concept of legal personality
- The idea of limited liability
- Organisation of decision-making within companies
- Use of corporate constitutions
- The making of contracts by companies
- The issuing of, and the rights attaching to, shares
- Rules regulating dividends and other company distributions
- Statutory and common law duties of directors
- Shareholders' rights and remedies

Assessment:

1500 word assignment (15%)
3 hour open book exam (85%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Prescribed text:

A copy of the *Companies Act 1993*.

LAWCOMM 403 – Tax Law

Credit points: 20 points

Offered: First and Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Professor Michael Littlewood

Prerequisites: LAW 211, 241

Course description:

This course is designed to introduce students to New Zealand tax law and practice. The course begins with an introduction to the theory of taxation. This is followed by an examination of New Zealand's system of income tax, to which most of the course is devoted. The course also covers GST (Goods and Services Tax), tax administration and tax disputes procedures.

Content outline:

This course covers some or all of the following topics:

1. Aspects of Tax Theory (examined by reference to the works of a number of important tax theorists)
 - 1.1. Adam Smith's four canons of taxation
 - 1.2. Henry Simons' definition of income
2. Income Tax
 - 2.1. The structure of New Zealand's system of income tax
 - 2.2. Jurisdiction to tax: residence and source
 - 2.3. The definition of income; the distinction between income and capital gains; business income; transactions in land; transactions in securities; income in kind
 - 2.4. Deductions; the distinction between capital and revenue expenditure; the deductibility of interest; losses; business expenditure (entertainment, etc); timing
 - 2.5. Depreciation; depreciation rates; calculating depreciation
 - 2.6. The taxation of companies, trusts and partnerships
 - 2.7. Withholding obligations
 - 2.8. Tax avoidance; tax evasion; tax planning; general anti-avoidance rules
3. Goods and Services Tax
 - 3.1. The structure of New Zealand's system of GST

- 3.2. Exempt supplies
 - 3.3. Zero-rated supplies
 - 3.4. Taxpayers' obligations
 - 3.5. GST avoidance
4. Tax administration, rulings and disputes

Assessment:

2000 word assignment (20%)

3 hour open book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Prescribed text:

CCH New Zealand Tax Legislation for Students (republished annually) OR Thomson Reuters *New Zealand Taxation Legislation Handbook* (republished annually). *CCH New Zealand Master Tax Guide for Students* (republished annually) OR *New Zealand Taxation* (Thomson Reuters, republished annually).

LAWCOMM 404 – Intellectual Property

Credit points: 20 points

Offered: Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Paul Sumpter

Prerequisite: LAW 231

Restriction: LAW 432

Course description:

Intellectual Property law refers to a group of laws which protect “creations of the mind” and is increasingly significant in the digital age. Some are statutory. These are the Copyright Act 1994 and its amendments, the Trade Marks Act 2002, the Patents Act 2013, the Designs Act 1953 and some other legislation, for example the Plant Variety Rights Act 1987. Intellectual property rights which are common law based are passing off and breach of confidence (which protects confidential information).

Content outline:

Intellectual property is now such a large body of law that it would be impossible to cover all aspects in a single semester. The emphasis is, therefore, on those aspects which both illustrate the major principles and which are most commonly encountered in general practice.

After an initial introductory lecture on the nature of intellectual property, a significant period of time is spent on the law of copyright. This is followed by a study of the Trade Marks Act 2002 and the related tort of passing off (including reference to the Fair Trading Act). There is then some, fairly brief, coverage of patent and design law followed by lectures on breach of confidence.

Assessment:

1000 word assignment (10%)
3 hour open book exam (90%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

PC Sumpter *Intellectual Property Law: Principles in Practice* (CCH, 3rd edition).

LAWCOMM 407 – Conflict of Laws

Credit points: 20 points

Offered: Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Anastasia Telsetksy

Prerequisites: LAW 211, 231, 241

Course description:

An introduction to private international law (ie, the body of law dealing with civil and commercial issues that have an international element or aspect), including a study of the jurisdiction of the New Zealand courts, conflicts theory and choice of law.

Content outline:

The first section of the course covers the general principles of jurisdiction in transnational litigation, including the bases of jurisdiction, protest to jurisdiction, limitations on jurisdiction, as well as forum non convenienc and reference to recognition and enforcement of judgments.

The second part of the course deals with choice of law. This section of the course comprises an introduction to choice of law methodology (with specific emphasis on multilateral conflict rules), as well as an analysis of problems associated with conflicts methodology, such as characterisation, the interpretation of connecting factors (with an in-depth discussion of domicile), renvoi, the incidental question and intertemporal conflicts. This theoretical section forms the basis for an intensive study of the application of choice of law rules in specific areas of private international law, such as property, contract and tort. This section also includes a discussion of evidential and procedural matters with specific reference to the substance/procedure dichotomy (as it applies to statutes of limitation and ACC) and proof of foreign law in New Zealand courts. The section concludes with a brief analysis of mandatory statutes and the role of public policy of the forum.

Assessment:

2 x 1000 word take-home tests (10% each)
6000-8000 word case note and presentation (80%)

Recommended text:

Recommended readings to be advised in the course outline.

LAWCOMM 420 – Advanced Tax Law

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 2 hours per week

Course Coordinator: Professor Michael Littlewood

Prerequisites: LAWCOMM 403

Restriction: COMLAW 311, LAW 409

Course description:

This course builds on LAWCOMM 403 (Tax Law) and covers a selection of topics designed to consolidate and add to students' understanding of the theory and practice of taxation, both in New Zealand and elsewhere. The course consists of three main parts: (1) tax policy; (2) the taxation of companies; and (3) international tax.

Content outline:

This course covers some or all of the following topics:

1. Aspects of tax policy, examined by reference to the works of important tax theorists; proposals for tax reform; international tax competition; base erosion and profit shifting; tax history; the merits and design of capital gains taxes;
2. Company taxation; the problem of corporate income; theoretical solutions to the problem; corporate income; imputation; the tax treatment of dividends, liquidations, returns of capital, bonus issues, hybrids and intercompany dividends; withholding obligations; losses; groups; consolidation; amalgamation; look-through companies;
3. International taxation; international tax planning; profit reduction techniques; foreign tax credits; transfer pricing; controlled foreign companies (CFCs); foreign investment funds (FIFs); tax treaties; thin capitalization.

Assessment:

1500 word assignment (20%)

2 hour open-book exam (60%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Prescribed text:

CCH New Zealand Tax Legislation for Students (republished annually) OR

Thomson Reuters *New Zealand Taxation Legislation Handbook* (republished annually).

CCH New Zealand Master Tax Guide for Students (republished annually) OR

New Zealand Taxation (Thomson Brookers, republished annually).

Aditya Basrur, Christopher Jenkins, James Ruddell and Sehj Vather, eds, *Ten Years of Tax: A Celebration of Professor Michael Littlewood's First Decade at the University of Auckland Faculty of Law, 2003-2013* (Centre for Commercial and Corporate Law, University of Canterbury, Christchurch, 2016)

LAWCOMM 421 – Commercial Arbitration

Credit points: 15 points

Offered: First Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Associate Professor Amokura Kawharu

Prerequisites: LAW 211, 231, 241

Restriction: LAW 414

Course description:

Arbitration is the method of dispute resolution most frequently chosen by lawyers involved in international business transactions. Arbitration is also increasingly popular as a means of resolving commercial disputes at the domestic level.

Students will examine domestic and international law and practice relating to commercial arbitration. The course is taught comparatively with reference to national laws, international instruments and international institutional rules.

These include the Arbitration Act 1996 and the New York Convention on the Recognition and Enforcement of Arbitral Awards. Special attention will also be given to the arbitration rules and practice of leading arbitral institutions such as the International Chamber of Commerce.

Content outline:

The course covers topics such as the enforcement of the arbitration agreement; choice of law issues; appointment and authority of arbitrators; the conduct of arbitration proceedings; recognising, enforcing and setting aside awards; and the particular issues arising in investment arbitrations against sovereign states.

Assessment:

Multi-choice Canvas quiz (20%)

2 hour open book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Williams & Kawharu on Arbitration (2nd edition, 2017)

LAWCOMM 422 – Competition Law

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Associate Professor Chris Noonan

Prerequisites: LAW 241 or COMLAW 201 and 203

Restriction: LAW 419

Course description:

LAWCOMM 422 will give you a thorough general understanding of New Zealand competition law and policy. The course explains the legal and economic principles which underpin and continue to shape competition law here and abroad.

The course does not consider in any detail related topics such as the regulated goods and services provisions in Part IV of the Commerce Act or the sector specific regulations applied to the dairy, electricity or telecommunications industries.

Content outline:

The course covers:

1. Competition law's role in a free-market economy;
2. Restrictive trade practices (where the focus is on cartel behaviour, arrangements which substantially lessen competition, and the misuse of market power through abusive conduct and practices);
3. The regulation of mergers and acquisitions; and
4. Commerce Act practice and procedure.

The course will familiarise you with a selection of cases drawn from Australasian jurisprudence and Commerce Commission determinations. We also comparatively assess New Zealand law against the position in the United States and Europe.

Assessment:

2250 word assignment (30%)

2 hour open-book exam (70%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Prescribed text:

A copy of the *Commerce Act 1986*.

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Judge David Harvey

Prerequisites: LAW 201, 231

Course description:

This course examines the impact of new technologies upon law and behaviour with a focus upon new information technologies embodied in digital information systems and the internet. The principle focus of the course will be upon the various ways in which information systems may be regulated and governed by legal institutions and methodologies.

The course will encompass the following modules:

1. Introductory – including
 - a) Some of the general challenges posed by new technologies and particularly new information systems
 - b) Authenticating information on the internet – the use of various research tools available with an emphasis upon some of the problems authenticating free legal information. In addition, legal expert systems will be considered
2. Internet Governance – this module will provide a road map for the rest of the course and comprises two sub-parts
 - a) Internet Governance theory and fact
 - i) Technical governance including consideration of the “layers theory” of governance
 - ii) Content governance – regulating what is available in a global world without borders
 - b) ICANN and Domain Name Regulatory Structures
 - i) ICANN as a governance structure for the Internet
 - ii) The ICANN\WIPO UDRP
 - iii) The Common Law approach to Domain Name problems
 - iv) The New Zealand Disputes Resolution Process
3. Content Regulation and the way in which the law deals with information in the on-line space. Included in this module are considerations of harassment, Harmful Digital Communications, defamation and reputational harms
4. Jurisdiction – which court and which law may deal with civil disputes arising in cyberspace
5. Evidence – how the rules of evidence apply in cases involving technology
 - a) Admissibility
 - b) Expert testimony
 - c) Preserving evidence in civil proceedings
 - d) Technology and evidence gathering
6. The High Tech Courtroom – using technology to facilitate the hearing and adjudicative process
7. Computer Crimes – criminal behaviour using technology and in the on-line environment including an examination of liability and sentencing for computer crime

8. Intellectual property – preserving intellectual property principles in an environment where copying is an imperative – including issues such as the use by copyright owners of technological protection measures for digital material and liability for peer-to-peer file sharing
9. On-line Torts – Cyber-trespass, and spamming
10. Contract and E-Commerce Issues involving the formation of contracts, the Electronic Transactions Act and the disruptive technologies of blockchain and smart contracting
11. Privacy – the problems of the “document that does not die” “the right to be forgotten” and approaches to social networking

Content outline:

This course will be conducted in a slightly different style from other courses. It will use many of the norms of the on-line or digital environment. It will introduce students to the informational environment and its unique properties so that they will understand not only the legal issues but also the technical and social issues that surround or underlie them. It will suggest that some of our assumptions about the applicability of the law may be challenged by the properties of on-line or digital information. Access to a computer and an internet connection is assumed.

The course assumes a basic knowledge of core law subjects. It is helpful if students are also familiar with principles of evidence, jurisdiction and intellectual property all of which will be examined in the context of new communications technologies

Assessment:

Assessment to be confirmed.

Prescribed text:

Harvey, D "*internet.law.nz – Selected Issues*" (4th ed) Wellington; LexisNexis; 2005.

LAWCOMM 427 – Vendor and Purchaser

Credit points: 15 points

Offered: First Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Professor Francis Dawson

Corequisite: LAW 301

Restriction: LAW 454

Course Description:

A study of the law relating to contracts for the sale and purchase of land, including the formation of the contract, the application of relevant statutes, the basic terms of such contracts and their significance, matters of title, settlement and completion, and remedies for breach.

Content Outline:

The course will begin by considering what differentiates the contract for the sale of land from other contracts of sale. It will be suggested that the major distinguishing feature is that the contract for the sale of land was historically regulated by courts of equity and in particular by reference to the remedy of specific performance.

The course will then proceed to consider the vendor's liability for pre-contractual statements, issues relating to formation of contracts, especially the role of writings and the admissibility of parol evidence to add to, vary or contradict the writing, the doctrine of part performance, issues raised by nominees, trusts and companies, options, the function of deposits, their recovery and their forfeiture, specific performance with compensation for mis-descriptions, the vendor's duty to make good title and the risk allocation in the ADLS contract in respect of matters prior to the completion of contract, (including making time of the essence) and remedies for breach including Lord Cairns damages.

Assessment:

1500 word assignment (20%)

2 hour open book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

D W McMorland, *Sale of Land*, 3rd ed., 2011. There will be a case book prepared for this course.

LAWCOMM 428 – Maritime Law

Credit points: 15 points

Offered: First Semester

Contact hours: 3 hours per week

Course Coordinator: Matthew Flynn

Prerequisites: LAW 211, 231, 241

Course description:

Maritime law has developed out of the extensive nature of activities relating to the use of the sea, in particular from the early development of trading between nations. The law of contract forms the basis for a significant amount of the important principles and practical applications of maritime law, and the course will have a strong focus on contracts. It will include a study of a major maritime casualty, which allows students the opportunity to see how the wide ranging aspects of maritime law are applied in a very practical way. The course will also explore the unique jurisdiction of the Admiralty Court, how that has evolved, and why that remains relevant to today's commercial maritime activity.

Content outline:

The course is designed to introduce students to a basic understanding of maritime law both as it is applied in the context of New Zealand domestic law, and how it interplays with maritime law in a global context. The course will be taught in seven parts over 12 weeks of lectures. These parts are:

Part 1: Introduction to maritime law, and why it exists;
Part 2: Contracts for maritime activity, including ship owning, carriage of goods, passengers and commercial maritime activity;
Part 3: Legal regimes in place to govern maritime activity;
Part 4: Maritime risk and the interplay with marine insurance;
Part 5: Carriage of goods and people;
Part 6: Practical application to maritime activity, including dispute resolution;
Part 7: A detailed analysis of a major marine casualty to demonstrate how all the principles are applied in a practical way.

The course will also consider the practical work of being a maritime lawyer, including evidence, using experts, and dispute resolution.

Assessment:

1500 word assignment (20%)
2 hour open book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

There is one recommended text on New Zealand maritime law, and a course book will be made available containing the relevant resources.

LAWCOMM 442 – Law of Personal Property

Credit points: 10 points

Offered: First Semester

Contact hours: Lectures – 2 hours per week

Course Coordinator: Professor Peter Devonshire

Prerequisites: LAW 231

Restrictions: LAW 311, 471

Course description:

This course introduces the concepts and legal rights associated with personal property. Personal property interests are identified and contrasted with real property. Attention is directed to the implications of possession and the rights and competing claims that flow from this. The principal elements of the law of bailment are analysed. Other topics include security over personal property and the transfer and acquisition of personal property.

Content outline:

Personal property is defined and classified. It is contrasted with real property with particular reference to the chattels-fixtures distinction. Different forms of possession are discussed and possessory interests are specifically considered in the context of the law of finds.

Bailment is addressed in detail. The nature of bailment and its distinct features are identified. Particular emphasis is placed on the rights and obligations of bailor and bailee and the relevant standard of care for the latter. Modifications of the bailee's duty, vicarious liability and sub-bailment are also studied.

Security over personal property, particularly the operation of the Personal Property Securities Act 1999 is reviewed. Finally, the transfer and acquisition of personal property is considered including the disposition of gifts, assignments and transfers on death.

Assessment:

1000 word case note (20%)

2 hour exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Garrow & Fenton's Law of Personal Property in New Zealand, (7th ed vol 1)

LAWCOMM 444 – Financial Markets Law

Credit points: 10 points

Offered: First Semester

Contact hours: 2 hours per week

Course Coordinator: Nick Williams

Corequisites: LAW 417 or LAWCOMM 402

Course description:

An examination of sources of corporate finance, and types of financial markets, the laws regulating the primary and secondary capital markets in New Zealand, and the role of the Financial Markets Authority.

Content outline:

Topics covered may include:

1. Possible types and sources of finance in New Zealand
2. Aspects of corporate finance regulation, including corporate governance and disclosure theory
3. The historical and present context of corporate finance regulation in New Zealand
4. Types of financial products
5. Fundraising under the Financial Markets Conduct Act 2013
6. Licensing
7. Fair dealing and enforcement
8. Regulation of the secondary capital market – insider trading, market manipulation, and continuous disclosure

Assessment:

1000 word essay (20%)

2 hour open book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

LAWCOMM 445 – Takeovers

Credit points: 10 points

Offered: First Semester

Contact hours: Lectures – 2 hours per week

Course Coordinator: Peter Hinton, Special Counsel Simpson Grierson

Corequisites: LAWCOMM 402 Company Law – waivable for qualified COP students

Course description:

This course considers the role of takeovers in the economy and the manner in which they are regulated. The principal focuses will be upon the Takeovers Code and upon the workings of the Takeover Panel. Comparisons will be drawn with overseas practice; especially in Australia and the UK.

The objective is that, having completed the course, students will have a sound appreciation of the context within which they will be operating and be able to make immediate and valuable contributions as practitioners.

The course will involve lecture formats combined with case studies. The course does not lend itself to Powerpoint-based lessons but students will be provided with a course note-book which they can populate based on their research and in-class discussions. Students are required to attend all classes. Industry experts will likely make guest appearances.

Assessment:

Whilst still under review, a final exam will likely account for 80% of the overall grade. A few students who perform well in the initial period may be eligible for a 4,000 word PILO in lieu of that exam. That should satisfy the sustained piece of legal writing requirements of LAW 498 Advanced Legal Research, Writing and Communication.

The balance of grades will likely be based on in-class concept reviews. There may be 5-6 such reviews with each review taking up 10-15 minutes of class time.

Students are also encouraged to address the class for 5-7 minutes on a chosen topic. PILO students will be expected to share their learning in this sense. Others may volunteer. Volunteers have traditionally received 5% uplifts in overall grades.

Recommended text:

Rodd Levy *Takeovers Law & Strategy* (4th edition) – available in the Davis Law Library.

Credit points: 15 points

Offered: Second Semester

Contact hours: 3 hours per week

Course Coordinator: Stephen Price

Prerequisites: LAW 231, 241

Course description:

Construction law is a specialised area of law concerned with construction and infrastructure projects. It draws from concepts and principles in contract and tort and is overlaid by a statutory and regulatory framework and its own jurisprudence and terminology (there are even construction contract dictionaries). This course is intended to give students an introduction to the field of construction law, then drill down into its unique jurisprudence and the legal issues that arise during the life-cycle of a construction or infrastructure project (and beyond).

Content outline:

The course will be broken into three parts:

Foundational concepts

Foundational concepts underpinning construction law. In particular, we will focus on “the holy trinity” of time, cost, and quality/scope, the risk issues these present and how they are influenced by the common law and the statutory/regulatory framework. The latter includes aspects of the Construction Contracts Act 2002, Building Act 2004, Fair Trading Act 1986, Health and Safety at Work Act 2015 and Government Rules of Sourcing.

The project

With the foundational concepts of the first part of the course in mind, issues will be discussed in depth in the context of various stages of a construction/infrastructure project including:

- Procurement (including procurement rules, the tender process and procurement models);
- Construction (delay, variations, extensions of time, remedies);
- Practical completion;
- Defects liability; and
- Dispute processes (including adjudication under the Construction Contracts Act 2002 and contractual processes).

Particular focus in this part of the course will be placed on common New Zealand standard form contracts (eg. NZS 3910:2013 and IPENZ CCCS 3rd edition).

Post-project claims and latent defects

In this part of the course, we will examine issues that arise after a project is complete including common claims under the contract, latent defects, and the development of negligence in the context of defective buildings.

Assessment:

1500 word assignment (20%)

2 hour open-book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

No text is prescribed, however students will find the following texts helpful and reference will be made to these in the course (additional course materials will also be made available):

Nicholas Dennys and Robert Clay (eds) *Hudson's Building and Engineering Contracts* (13th ed, Sweet & Maxwell, London, 2015)

Stephen Furst and Vivian Ramsay (eds) *Keating on Construction Contracts* (10th ed, Sweet & Maxwell, London, 2016)

Tomas Kennedy-Grant and Michael Weatherall *Construction Contracts and Dispute Resolution* (Lexis Nexis, Wellington, 2016)

LAWCOMM 454 – ST: Trade Mark Law

Credit points: 10 points

Offered: First Semester

Contact hours: 2 hours per week

Course Coordinator: Rob Batty

Prerequisites: LAWCOMM 404

Course description:

An in-depth examination of the law related to the protection of trade marks, including the history of, and justifications for, trade mark protection, the operation of the registration system, the commercial exploitation of trade marks, infringement of registered trade marks, and the protection of unregistered trade marks.

Content outline:

This course is for students who have already established a foundational understanding of trade mark law. Building on such foundations, this course explores more advanced topics which arise under New Zealand and overseas trade mark law. The first part of the course examines the methods of protecting trade marks, and the rationale for doing so. The second part of the course considers key issues relating to the creation of registered trade marks rights. The third part of the course explores issues with the enforcement and exploitation of registered trade marks. The fourth and final part of the course examines the loss of registered trade mark rights.

Learning Outcomes:

Students who complete this course successfully will be able to:

1. Identify the different methods of protecting trade marks and the underlying theoretical justifications for trade mark protection;
2. Articulate the key legal principles and concepts that relate to the creation, exploitation, enforcement and cessation of registered trade mark rights to different factual scenarios;
3. Apply relevant key legal principles to a factual scenario through the completion of written assignment; and
4. Demonstrate effective written communication skills through a written examination and a written assignment.

Assessment:

1200 word assignment (20%)

2 hour open book exam / 4000 word PILO (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

There is no prescribed text, but the following text is recommended:

Paul Sumpter *Trade Marks in Practice* (3rd ed, LexisNexis NZ Ltd, Wellington, 2015).

LAWENVIR 401 – Resource Management Law

Credit points: 20 points

Offered: First Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Associate Professor David Grinlinton

Prerequisites: LAW 211

Restrictions: LAW 349, 450, 457

Course description:

The course focuses on the Resource Management Act 1991 (RMA) and the powers and procedures for policy-making, planning and decision-making in respect of land, air and water. The purpose of sustainable management in New Zealand will be assessed in the context of environmental history and reform, current policy and the law. The regulatory powers of central and local government, and the role of government in respect of Māori will be addressed. Natural resource use and development will be examined in the context of the RMA. Resource management issues under regional and district plans, and the Auckland Council Unitary Plan, will be covered. Resource consent applications, appeals, and practice and procedure before the Environment Court will be studied. Enforcement powers are considered. The course may include several guest lectures.

Content outline:

- Historical UK and contemporary New Zealand environmental issues
- Resource management policy and reform
- The Resource Management Act 1991 structure
- Sustainable management, purpose and meaning
- Functions of central and local government
- Māori and resource management, foreshore and seabed issues
- National environmental standards, national policy statements, NZ coastal policy
- Regional policy and plans, district and unitary plan preparation and content
- Heritage protection, public works requirements
- Natural resource use and development
- Resource consents, hearing procedures, Environment Court appeals
- Enforcement, hazardous substances
- Environmental Protection Authority functions

Assessment:

4000 word assignment (40%)

2 hour open-book exam (60%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Prescribed text:

Environmental Law casebook.

LAWENVIR 420 – Global Environmental Law

Credit points: 15 points

Offered: Second Semester

Contact hours: 3 hours per week

Course Coordinator: Professor Klaus Bosselmann

Prerequisites: 30 points at Stage II in Global Environment and Sustainable Development or LAW 211

Course description:

The course examines environmental law and governance from the international, regional and national levels. The global coverage includes international environmental law and draws on experiences from the EU, USA, Canada, South America, Australia and New Zealand highlighting environmental policy innovations from around the world. The topics include state sovereignty, the UN system, principles and sources of international environmental law, climate change, biodiversity, trade, indigenous peoples, human rights and current and future developments in global governance.

Content outline:

Part one of the course covers factual, political and legal issues surrounding protection of the global environment including history and concept of Public International Law, principles and guiding ideas of International Environmental Law, developments since the 1992 Earth Summit and emerging issues since the Rio+20 Summit 2012.

Part two covers specific areas of international environmental law including climate change, biodiversity, oceans, indigenous peoples, human rights, trade, and the emerging concept of sustainability law and governance.

Assessment:

2250 word assignment (30%)

2 hour closed book exam (70%)

Prescribed text:

Bosselmann, K., Grinlinton D. and Taylor, P. (eds.) *Environmental Law for a Sustainable Society*, 2nd ed., 2013, NZCEL Monograph Series, Auckland/NZ.

LAWGENRL 401 – Evidence

Credit points: 20 points

Offered: First and Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Scott Optican (First Semester), Nina Khouri and Jack Oliver-Hood (Second Semester)

Prerequisites: LAW 201, 231

Restriction: LAW 425

Course description:

Evidence can be defined as the means by which any alleged matter of fact, the truth of which is submitted to investigation, is established or disproved. The law of evidence comprises the legal rules regulating those means in a courtroom or tribunal setting. In general, there are four principal areas with which the law of evidence is concerned:

1. The kind of evidence that will be acceptable in court;
2. How the trier of fact may use evidence to make findings in civil and criminal proceedings;
3. The manner in which evidence can be presented;
4. The persons who may or must give evidence – and how they may be questioned in court proceedings.

This course examines the legal rules of evidence in New Zealand relating to the four general areas outlined above and as set out in the Evidence Act 2006. The aim of the class is to give students a basic grounding in significant rules of evidence applicable to civil and/or criminal trial practice in New Zealand courts.

Content outline:

The evidence course deals with a number of sub-topics grouped into seven general areas:

- Relevance and prejudice;
- The eligibility and compellability of witnesses;
- Opinion evidence;
- Examination in chief;
- Cross-examination;
- Hearsay; and
- Privilege.

Within these general areas, the course examines various legal rules dealing with the presentation of evidence by parties in civil and criminal proceedings. Specific topics covered include: definitions of relevance; relevance v weight; the exclusion of evidence as unfairly prejudicial; the eligibility and obligation of witnesses to testify at trial; expert and non-expert opinion evidence; the rule against prior consistent statements; refreshing memory; hostile and unfavourable witnesses; the rules of cross-examination (including the rules relating to the cross-examination of complainants in sexual offence trials); the rules of privilege (lawyer-client privilege; litigation privilege; privilege for settlement negotiations and mediation; religious clergy privilege; doctor-patient privilege; the privilege against self-incrimination; the protection of confidential communications); and the hearsay rules. The focus of the course is on understanding key and selected provisions of the Evidence Act 2006 and its associated case law.

Assessment:

First Semester:

2000 word assignment (20%)

3 hour open-book exam (80%)

Second Semester:

750 word case brief (10%)

1 hour test (30%)

2 hour open-book exam (60%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

A highly recommended text which contains a complete copy of the Evidence Act and its relevant rules/ amendments is:

Mahoney, McDonald, Optican & Tinsley, *The Evidence Act 2006: Act & Analysis* (3rd ed) (Brookers: 2014).

Recommended additional reading is:

- (a) The volume on "Evidence" in Robertson, *Adams on Criminal Law* (Brookers, looseleaf, 1992) and the online version at Brookers OnLine;
- (b) The updates on "Evidence" written yearly by Associate Professor Scott Optican in the *New Zealand Law Review*. *The New Zealand Law Journal* and *Capital Letter* are also good, current sources of cases and articles dealing with evidence law.

LAWGENRL 405 – Community Law Internship

Credit points: 20 points

Offered: First and Second Semester

Course Coordinator: Dr Suranjika Tittawella

Prerequisites: LAW 201, 211, 231, 241

Restrictions: LAWGENRL 447

Students in LLB Part III and IV may participate in an approved community internship for academic credit. The internship should involve at least 150 hours of supervised work. The internship must be completed without receipt of compensation, should be in a law-related field in a Law School approved non-profit or government entity, under the supervision of a legal professional or a qualified supervisor. At the conclusion of the internship the student will submit a 10,000-word report based on the community law work they have undertaken during the internship.

Further information is available from the Student Academic and Experience Adviser at the Law Student Centre.

LAWGENRL 421 – Civil Procedure

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Julian Long

Prerequisites: LAW 231

Course description:

TBC

Content outline:

TBC

Assessment:

To be finally confirmed. Likely to include class presentations and practical assessment exercises involving drafting documents, a PILO, and/or a final examination.

Recommended text:

Bleak House by Charles Dickens (freely available in e book format on line). *The Bleak House* (2005) BBC series is another excellent way to experience the most famous case in Chancery of Jarndyce v Jarndyce (<http://www.dailymotion.com/video/xy32gt>).

McGechan on *Procedure* (Thomson Reuters New Zealand) and *Sim's Court Practice* (Lexis-Nexis) deal with High Court, Court of Appeal and Supreme Court practice and procedure.

Brookers' *Civil Procedure: District Courts & Tribunals* (Thomson Reuters) and Lexis-Nexis' *District Courts' Practice* are the District Court equivalents.

Beck's *Principles of Civil Procedure* (3rd edition, Thomson Reuters) is also very useful.

LAWGENRL 422 – Women and the Law

Credit points: 15 points

Offered: First Semester

Contact hours: 3 hours per week

Course Coordinator: Professor Julia Tolmie

Prerequisites: LAW 201, 211

This is a limited-entry course.

Course description:

A study of the dual role of the law in addressing and maintaining gender inequality, feminist thought on the gendered nature of law, and specific legal issues relevant to the status and interests of women in society.

Content outline:

The course will provide an introduction to and overview of general feminist legal history. Liberal feminism, radical feminism, post-modern feminism and 'anti-essentialist' (including indigenous and Maori) feminism will all be examined as they impact upon the practice and theorising of the law.

Key guest speakers will also be invited to speak on topical issues pertaining to women and the law at different critical junctures in the course.

Assessment:

4000 word journal entry (70%)

2 x 1000 word journal entries - best 2 out of 3 (30%)

LAWGENRL 423 – Legal History

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Katherine Sanders

Prerequisites: LAW 211

Course description:

TBC

Content outline:

TBC

Assessment:

2 x 750 word reflection papers (10% each)

Take-home exam (80% - no more than 6000 words) OR research paper comprising 750 word research plan (10%) and 5250 word research paper (70%)

LAWGENRL 424 – Negotiation, Mediation, and Dispute Resolution

Credit points: 15 points

Offered: First Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Nina Khouri

Restriction: LAW 447

Course description:

Disputes are an inevitable feature of human society. Traditionally, litigation was the default method for resolving legal disputes. Over recent decades, however, there has been exponential growth in the awareness and use of so-called "alternative" dispute resolution processes, both in New Zealand and internationally. The best lawyers

now take a more strategic approach to dispute resolution, selecting the most appropriate process for any given dispute and adapting their model of client representation to suit that process.

This course covers the legal framework and theoretical aspects of non-litigation dispute resolution processes, primarily negotiation and mediation, together with experiential learning through role play exercises, group exercises and self-reflection.

Content outline:

The topics covered are:

- The dispute resolution processes commonly used in New Zealand and the advantages and disadvantages of each;
- Negotiation theory and practice, including different approaches to negotiation, how to prepare for negotiation, negotiation tactics and strategies;
- Understanding conflict dynamics and the implications for dispute resolution;
- The mediation process, including assessing suitability for mediation and effective client representation in mediation;
- Legal framework issues in mediation, including enforceability of mediation agreements and remedies for breach, privilege and confidentiality, and when settlement agreements can be set aside;
- jurisprudential debates about the proper place of mediation in the civil justice system; and
- through a group blog assignment, specific topics in dispute resolution theory such as cultural and ethical issues in negotiation, power issues in mediation, restorative justice and online dispute resolution.

Assessment:

Attendance and participation (10%)

1500 word negotiation plan and reflective report (20%)

Group blog assignment (15% individual grade; 15% group grade)

3000 word research essay (40%)

Prescribed text:

R Fisher, W Ury and B Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (3rd ed, Penguin, London, 2011)

Enrolment:

This is a limited-entry course. A maximum of 52 students may enrol.

Students can add their name to the ballot from 1 November when enrolments open. 8 December is the closing date to have indicated interest by enrolling on the waitlist.

Following enrolment on the waitlist, we will check the pre-requisites have been met, and will conduct the ballot around 12 December.

The outcome of the ballot will be advised a few days thereafter; those students who have not had their enrolment confirmed will be placed on a new waitlist. If any of the selected students withdraw from the course, the class will be topped up from the waitlist.

LAWGENRL 428 – South Pacific Legal Studies

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Helena Kaho

Prerequisites: 30 points at Stage II in International Relations and Business or LAW 211

Course description:

The Pacific region, or Oceania, contains many different nations with different societies, cultures, and also different legal systems. This course will introduce these legal systems and the variety of legal issues they face. We will be looking at Pacific legal systems in context and will bring together a range of experts to focus on selected topics. The course will explore the relationship between culture and law, and give a real picture of how law operates in the context of developing Pacific Island nations. It also gives an important insight into the regional context of New Zealand's own law and policy.

Content outline:

The course will begin with an introduction to the historic, economic, social and cultural context of the region and an outline of the legal frameworks. From there it will look at a variety of selected topics in more depth including Pacific constitutional law, leadership and governance, human rights, dispute resolution, land law, environmental issues, international law, and the role of New Zealand in the Pacific region.

This course will be run in a seminar format. Students will be expected to contribute to class discussion and share their research.

Assessment:

Assessment to be confirmed.

Recommended text:

Jennifer Corrin Care and Don Paterson (eds) *Introduction to South Pacific Law* (3rd edition, Palgrave Macmillan, South Yarra, 2011)

LAWGENRL 429 – Law of Family Property

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Nikki Chamberlain

Corequisites: LAW 306

Course description:

The law of family property is an important and interesting area of law that is relevant to general practitioners as well as family law specialists. This course will provide preliminary study in relation to front-end issues (asset protection measures) and advanced study on back-end issues (asset disputes) in the family law context.

In particular, we will discuss law and policy issues that arise in the interpretation and application of the Property (Relationships) Act 1976 such as pre-nuptial agreements, relationship property disputes, family trust disputes and estate disputes. We will examine the recent developments in ‘trust-busting’ as it pertains to family trusts.

We will also cover the law and policy behind spousal maintenance and re-settlement of family trusts under the Family Proceedings Act 1980 and estate disputes under the Family Protection Act 1955 and the Law Reform (Testamentary Promises) Act 1949.

Content outline:

The law of family property covers a number of specific areas, including:

1. Asset Protection: Pre-nuptial Agreements, Wills and Family Trusts
2. Asset Disputes:
 - Defining Relationship Property and Separate Property
 - Division of Relationship Property
 - Provision of Economic Disparity
 - Provision of Spousal Maintenance
 - Trust-Busting Mechanisms and Defenses
 - Succession under the Property (Relationships) Act
 - Estate disputes

Assessment:

2000 word essay (25%)

2 hour open-book exam (75%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Please ensure that you have a copy of the Property (Relationships) Act 1976 (updated with amendments). A casebook will be provided containing cases and excerpts from additional statutes.

LAWGENRL 432 – Health Care Law

Credit points: 15 points

Offered: First Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Professor Joanna Manning and Professor Ron Paterson

Prerequisites: LAW 211, 231

Restriction: LAW 427

Course description:

Health Care Law has grown into a discrete area of specialist study in approximately the last thirty years. Once dominated by medical negligence, it now encompasses the study of the principles of law that govern medical practice, the health professional–patient relationship, and the delivery of health care services.

Content outline:

Some topics are covered in some years and others in other years. The course is likely to include an examination of the following topics, time permitting: an introduction to medical ethics as an underpinning for legal decision-making in the field, with application to selected recent, relevant cases; a study of the Code of Health and Disability Services Consumers Rights, with interpretations of the Code by the Health and Disability Commissioner, disciplinary tribunals and courts. Important also is examination of the new jurisdiction of the Health and Disability Commissioner, as well as a short introduction to the disciplinary process and the Human Rights Review Tribunal jurisdiction. The central aspect of the course is a study of the fundamental concepts of competence to decide and consent to medical treatment and the lawfulness of providing treatment to patients who are incompetent to consent, which may include consent to treatment by or on behalf of children. Another possible topic is the duty of medical confidence, and its limits. We may also examine the law and ethics of rationing of health care. This is followed by a study of the legal issues arising from passive euthanasia and futile treatment. There may be some change in these topics to accommodate new legal developments.

Assessment:

30 minute in-class test (20%)
2 hour open book exam (80%)

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Prescribed text:

There is no prescribed text for this course, but photocopied materials prepared by the lecturer will be distributed to the class for reading for lectures, forming the focus of lectures and class discussion.

LAWGENRL 433 – Family Law

Credit points: 15 points

Offered: First Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Dr Henry Kha

Prerequisites: LAW 211

Restriction: LAW 426, LAWGENRL 402

Course description:

Family law is about the legal formation of family relationships, the resolution of family disputes and the influence of public policy on family affairs. The course covers the non-financial aspects of family law. In particular, this course will explore how the family justice system attempts to resolve parenting and relationship disputes. The focus of the course is on the theory and practice of family law in New Zealand. Family law is a major area of legal practice. A key outcome of this course is the appreciation of the challenges that arise for parents and children in family law disputes.

Content outline:

The course covers the following topics:

- **Law of Marriage and Dissolution**
Legal definition of marriage, civil unions and de facto relationships; New Zealand families; dissolution; domestic violence.
- **Family Justice System**
Family Court of New Zealand; family dispute resolution; paramountcy principle.
- **Child Law**
Adoption law; surrogacy law; child welfare; mature minor doctrine.
- **Parenting Disputes**
Day-to-day care and contact; overseas relocation of children; international child abduction.

Assessment:

1500 word assignment (20%)

2 hour open-book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

The principal study resource for this course is the casebook. There is no prescribed textbook for family law, but these textbooks are recommended:

Mark Henaghan et al *Family Law in New Zealand* (18th ed, LexisNexis, Wellington, 2017).

Mark Henaghan and Bill Atkin (eds) *Family Law Policy in New Zealand* (4th ed, LexisNexis, Wellington, 2013).

LAWGENRL 434 – Trial Advocacy

Credit points: 15 points

Offered: First Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Jo Murdoch

Prerequisites: LAW301, 306

Corequisites: LAWGENRL 401

Restriction: LAWHONS 707, LAWGENRL 420

Course description:

An introduction to trial advocacy. Course will include practical components for assessment. Students will have an understanding of the role of the advocate and the running of a criminal trial.

Content outline:

Topics covered will be: the conduct of the advocate; theory of the case; opening addresses; examining witnesses; expert witnesses; closing addresses.

Assessment:

Assessment to be confirmed.

Recommended text:

Introduction to Advocacy, Sir Bruce Robertson (editor-in-chief), New Zealand Law Society CLE Ltd (July 2014)

LAWGENRL 443 – Introduction to Common Law

Credit points: 10 points

Offered: First and Second Semester

Contact hours: This is an intensive course which is offered to international exchange students only.

Course Coordinator: Edward Willis

Prerequisites: LAW 201, 211, 231, 241 (or equivalents)

Restriction: LAWPUBL 702

Course description:

The history, nature and evolution of the Common Law; common law reasoning; the interaction of case law and legislation in a common law system.

Content outline:

Legal research methodology

- The structure of government
- The sources of law
- The Treaty of Waitangi
- The system of courts in New Zealand
- Common law method
- Judicial reasoning
- The doctrine of precedent
- Statutory interpretation

Assessment:

This will be by way of research essay. The final grade for the course will be the grade for the essay.

Recommended text:

R. Scragg, *The Principles of Legal Method in New Zealand* (3rd ed, 2016)

J. Ruru, K. Sanders and D. Webb, *The New Zealand Legal System* (6th ed, 2016)

R. Scragg (ed), *Legal Writing: A Complete Guide for a Career in Law* (2015)

LAWGENRL 447 – Community Law Project

Credit points: 10 points

Offered: First and Second Semester

Course Coordinator: Dr Suranjika Tittawella

Prerequisites: LAW 201, 211, 231, 241

Restriction: LAWGENRL 405

Students in LLB Part III and IV may participate in an approved community project for academic credit. The project should involve at least 75 hours of supervised work. The project must be completed without receipt of compensation, should be in a law-related field in a Law School approved non-profit or government entity, under the supervision of a legal professional or a qualified supervisor. At the conclusion of the project the student will submit a 5,000-word report based on the community law work they have undertaken during the internship.

Further information is available from the Student Academic and Experience Adviser at the Law Student Centre.

LAWGENRL 452 – Appellate Advocacy

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: TBC

Prerequisites: LAW 301, 306

Corerequisite: LAWGENRL 401

Course Description:

Advocacy is the art of persuasion. This course is a study in effective written advocacy and the skills of courtroom advocacy. It also includes guest lectures from judges and leading practitioners.

Content Outline:

The primary focus of the course will be on a practical guide to the art of effective oral and written advocacy. Additional topics covered will include the professional obligations of advocates, the theory of advocacy, and the preparation of written submissions. The course is especially designed for those with an interest in courtroom advocacy, but will be useful to all law students, whether or not you ultimately practise in the courts.

Assessment:

Assessment to be confirmed.

Credit points: 20 points

Offered: First Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Associate Professor Hanna Wilberg

Prerequisites: LAW 201, 211, 231, 241

Restriction: LAWPUBL 426

Course description:

This course concerns the law governing decision-making in the public administration. There is a wide range of particular administrative regimes governing areas such as immigration, social welfare, resource management and competition matters. In this course, we will focus on the general principles of judicial review of administrative action that apply across all of these regimes, but we will pay attention to the particular regimes as providing the context for these principles. We will also explore the range of grievance resolution processes beyond judicial review, and evaluate these through an administrative justice lens. In relation to judicial review, the course goes beyond addressing the principles themselves. It will also introduce you to the theoretical and political underpinnings of judicial review, and the debates surrounding the appropriate scope of judicial review.

Content outline:

This course will address the following:

- the traditional grounds of judicial review: procedural impropriety, illegality, irrationality;
- the nature and availability of judicial review remedies;
- debates about the availability of judicial review (the public nature and justiciability tests);
- debates about the proper scope of substantive merits review;
- the theoretical and political underpinnings of judicial review that inform the above debates;
- the range of grievance resolution processes beyond judicial review;
- an administrative justice assessment of the full range of grievance resolution processes.

Assessment:

There will be a final take-home examination, and probably a compulsory short piece of writing during the semester – details tba.

Credit points: 20 points

Offered: First Semester

Contact hours: Lectures – 4 hours per week

Course Coordinator: Dr Caroline Foster

Prerequisites: LAW 211, LAW 231 and LAW 241 or 30 points at Stage II in Global Politics and Human Rights

Restriction: LAW 435

Course description:

This course teaches the basics of international law. The course begins with an overview of international law, demonstrating how international law governs relations between States in an extraordinarily diverse range of fields. You will become familiar with the sources of international law, the law of treaties, and the subjects of personality, jurisdiction and responsibility in international law. We then examine the role of international courts and tribunals, and move on to consider sanctions in international law and the law on the use of force (studied with reference to the wars in Iraq, Afghanistan, Syria and Ukraine). Understanding international law is increasingly foundational to an education in law in today's transnational world. This course will equip you with a solid grounding in the rules and skills of public international law that will be important for you as a member of the legal profession, essential for advanced research or a career in this field, and helpful if you plan to study more advanced international law electives.

Content outline:

Overview, Sources, Treaties, Personality, Jurisdiction, Responsibility, International Courts and Tribunals, Sanctions, Use of Force

Assessment:

1 hour test (25%)

2 hour open-book exam (75%)

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Jan Klabbers *International Law* (6th ed, Cambridge University Press, 2013)

Malcolm Shaw *International Law* (7th ed, Cambridge University Press, 2008)

LAWPUBL 403 – Advanced International Law

Credit points: 20 points

Offered: Second Semester

Contact hours: 4 hours per week

Course Coordinator: Dr Caroline Foster

Prerequisites: Students must have completed International Law (LAWPUBL 402) before enrolling in this course. International students are welcome. A high level of conversational English language comprehension is needed.

Course description:

This course will extend your knowledge and skills in public international law, including your capacity for conceptual thinking, policy-based reasoning and legal analysis. The material in the course is of an advanced nature and the assessment is designed to be challenging. An emphasis is placed on student commitment to readings before class, and on class participation. Students successfully completing the course are expected to come away with enhanced international legal knowledge and skills which should be useful in seeking employment in the public or private sector in related fields, or as a prelude to postgraduate academic work.

Content outline:

The course will be anchored in concrete studies each spanning selected areas of public international law including international environmental law, trade law, investment law, human rights law, and the place of private commercial actors within international law.

Conceptual themes may include:

- a. the tension between unity and fragmentation in international law;
- b. the meaning of sovereignty in international law today;
- c. pursuit of the 'community interest' in international law.

Assessment:

Class participation (10%)

1 hour test (30%)

2 hour exam (60%)

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

LAWPUBL 422 – Contemporary Tiriti/Treaty Issues

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Natalie Coates and Tracey Whare

Prerequisites: LAW 211

Restriction: LAW 421

Course description:

This 15-point course aims to provide students with an understanding of contemporary Treaty/Tiriti issues based on its place under New Zealand and international law, and in the light of comparative jurisprudence on treaties between indigenous peoples and states in post-colonial settings. Contemporary issues to be examined include racial discrimination, claims to flora and fauna, fisheries, water, post-settlement challenges and constitutional reform.

It is our hope that the classes will be interactive and include careful personal and group consideration of the role that the Treaty/te Tiriti plays in our society and national and international politics more generally.

Assessment:

4000 word essay (55%)

3500 word take-home exam (45%)

LAWPUBL 425 – Employment Law

Credit points: 15 points

Offered: Summer School and Second Semester

Contact hours: Summer School starts 5 January, ends 5 February; Second Semester - 3 hours per week

Course Coordinator: Bill Hodge

Prerequisites: LAW 231, 241

Course description:

This course surveys the law of employment in New Zealand.

Content outline:

The first part of the course is devoted to an examination of the individual employment agreement at common law and under the Employment Relations Act 2000.

In the second part attention turns to the law relating to trade unions and collective bargaining under the Employment Relations Act 2000 and earlier legislation. The course will then focus on the law of unjustifiable dismissal and recent developments such as the 90-day trial period and the changing definition of justification.

Recent cases on redundancy will be considered.

The final part of the course reviews the statutory framework relating to such topics as:

- Pay equity
- Equal employment opportunity
- Occupational health and safety, including the new Health and Safety at Work Act 2015, which came into force in April 2016.

Assessment:

1500 word assignment (20%)

2 hour open book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Brookers *Employment Law Handbook* (current edition, Thomson Reuters) which includes all relevant statutes and amendments, is strongly recommended.

LAWPUBL 428 – Rights and Freedoms

Credit points: 15 points

Offered: First Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Dr Jane Norton

Prerequisites: LAW 211

Restriction: LAW 342, 452, LAWHONS 702

Course description:

This course is about human rights protection in New Zealand. It focuses on rights and freedoms in the New Zealand Bill of Rights Act 1990 other than those relating specifically to criminal procedure (the subject of a different course). The course will look at rights protection from a theoretical perspective and through a series of problems and case studies arising out of particular human rights controversies. The discussions will examine the theoretical foundations of human rights protection and draw on case studies from both New Zealand and other jurisdictions (including the United States, Canada, South Africa, the United Kingdom, and the European Court of Human Rights) such as those relating to:

- The rights to life and security of the person in ss 8 to 11, and the issues of assisted dying, deaths for which the state may have responsibility, and rights against cruel or disproportionately severe punishment;
- Freedom of thought and expression in ss 13 and 14, in the context of expression-restricting laws and practices (eg obscenity, "hate speech", dress code/uniforms etc);
- Freedom of religion in ss 13 and 15 and the separation of church and state, prayers at public events, religion in schools, whether exceptions ought to be allowed from laws to permit religiously-motivated actions; the interaction of religious freedom with anti-discrimination law; "hate speech" and religious offence;
- Rights against discrimination under the Bill of Rights and the Human Rights Act 1993.

Assessment:

2 x 750 word reflection papers (20% - highest mark applies)

2 hour open book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Rishworth, Huscroft, Optican and Mahoney, *The New Zealand Bill of Rights*, OUP, 2003

Donnelly, *Universal Human Rights in Theory and Practice* (Cornell, 2013).

LAWPUBL 430 – Criminal Procedure

Credit points: 15 points

Offered: Second Semester

Contact hours: Lectures – 3 hours per week

Course Coordinator: Associate Professor Scott Optican

Prerequisites: LAW 201

Restriction: LAW 482

Course description:

Criminal procedure is the set of rules governing the conduct of criminal trials and the investigation of crime by the police. Criminal procedure tells police how they may investigate criminal activity, outlines for accused persons the rights they possess in the face of criminal prosecution, and provides a set of rules for prosecutors, defence lawyers and judges with respect to the conduct of criminal trials. The aim of this course is to study selected topics in criminal procedure, both at the trial level and with respect to pre-trial investigative processes.

Content outline:

The course covers selected and significant aspects of criminal procedure focusing on police investigative processes and criminal trial practice. Specifically, the course explores the law relating to: the exclusion of evidence obtained improperly by the police; search and seizure; the rights to counsel and silence; the right of police detainees to be charged promptly or released; the right of police detainees to be brought to court as soon as possible after arrest or detention; concepts of arrest and detention; arbitrary detention; the right to adequate time and facilities to prepare a defence; the right to a speedy trial; and various other fair trial rights. The emphasis will be on the law of criminal procedure under ss 21-25 of the New Zealand Bill of Rights Act 1990 – with other complimentary rules studied from the Evidence Act 2006, the Search and Surveillance Act 2012 and the Criminal Procedure Act 2011.

Assessment:

1500 word assignment (20%)

2 hour open-book exam (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Course materials to be distributed.

A useful text (which is not completely up to date) discussing many of the issues covered in class is Rishworth, Huscroft, Optican & Mahoney, *The New Zealand Bill of Rights* (Oxford University Press: 2003).

Students are also referred to Optican, "Criminal Procedure", in Tolmie & Brookbanks (eds) *Criminal Justice in New Zealand* (LexisNexis: Wellington) (2007) Ch 7.

Other useful texts are Young, Trenderle & Mahoney, *Search and Surveillance Act & Analysis* (Brookers: 2012) and Finn, Mathias & Mansfield, *Criminal Procedure In New Zealand* (Brookers: 2013).

Various chapters ("Criminal Procedure", "Rights and Powers" & "Evidence") of *Adams on Criminal Law* (Brookers, looseleaf, 1992 and the online version at Brookers OnLine) are also good sources for the discussion and analysis of various aspects of criminal procedure.

The updates on "Evidence" written yearly by Associate Professor Scott Optican in the *New Zealand Law Review*, articles in the *New Zealand Law Journal* and case law summaries in *Capital Letter* are also good current sources of criminal procedure law.

LAWPUBL 443 – Refugee Law

Credit points: 15 points

Offered: Summer School

Contact hours: Lectures – 9 hours per week

Course Coordinator: Dr Anna Hood

Prerequisites: LAW 211 or 30 points at Stage II in Global Politics and Human Rights

Restrictions: LAW 428, LAWPUBL 424

Course description:

This subject offers students the opportunity to undertake specialised study in a very important area of law that combines both public law and international law. Refugee law is a subject that is frequently discussed in the media and raises a range of interesting tensions and questions. It also provides important insights into the intersection of international and public law in the New Zealand legal system.

The course will start with an historical introduction to international refugee law as well as the development of refugee law in New Zealand. We will then spend a number of classes looking at the law that determines who is entitled to refugee status in New Zealand. Particular emphasis will be placed on the role that international law has in shaping the New Zealand jurisprudence on who is a refugee. In the final section of the course, we will look at a number of important contemporary issues in refugee law including climate change refugees and the detention of asylum seekers in Pacific nations by Australia. During the course, there will be some guest lectures.

Throughout the course there will be an emphasis on understanding the key legal principles in refugee law but also on understanding what factors and forces have created refugee law, whose interests the law serves, whose interests it harms and what the short comings of it are.

Assessment:

1.5 hour in-class open book test (40%)

2 hour open book exam (60%)

Both the test and the final exam are open book. This means that you may, if you wish, bring into the test and exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

TBA

LAWPUBL 446 – Indigenous Peoples in International Law

Credit points: 15 points

Offered: Summer School

Contact hours: Starts Friday 12 January, ends Friday 9 February 2018

Course Coordinator: Dr Fleur Te Aho

Prerequisites: 30 points at Stage II in Global Environment and Sustainable Development or Global Politics and Human Rights, or LAW 211

Course description:

This course will introduce students to international law, especially human rights law, relevant to Indigenous peoples.

Content outline:

The course begins with consideration of who Indigenous peoples are, the international legal framework (in particular the United Nations Declaration on the Rights of Indigenous Peoples of 2007), and the justifications for Indigenous peoples' rights.

We will then explore the international bodies relevant to Indigenous peoples, what they have said about the Indigenous rights situation in Aotearoa New Zealand and the Pacific, and their impact.

In the final part of the course we will examine some core rights issues, including Indigenous peoples' rights to their lands and states' duties to obtain Indigenous peoples' free, prior and informed consent to matters affecting them.

Assessment:

Group presentation (20%)

1500 word reflective essay (20%)

2 hour open book exam (60%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

A coursebook will be available at the start of the course and will be your day-to-day resource for classes.

S James Anaya *Indigenous Peoples in International Law* (2ed, Oxford University Press, 2004) is a recommended text.

Teaching Delivery:

The course is run with the University of the South Pacific (USP) Law School and will include students from USP. The first two weeks of the class will be taught from Auckland with video-link to USP. The last two weeks will be taught in Port Vila, Vanuatu, with video-link to Auckland.

LAWPUBL 453 – Privacy Law

Credit points: 10 points

Offered: First Semester

Contact hours: Lectures – 2 hours per week

Course Coordinator: Nikki Chamberlain/Associate Professor Stephen Penk

Prerequisites: LAW 211, 231

Course description:

An examination of the law relating to privacy in New Zealand with special reference to the common law protection of privacy; the protection of privacy under statute, including the Broadcasting Act 1989 and the NZ Bill of Rights Act 1990, and the scope and application of the Privacy Act 1993.

Content outline:

- The concept of “privacy”
- Privacy and related interests; competing interests
- Sources of privacy law
- Key privacy issues
- The tort of invasion of privacy and other possible common law remedies — recent developments in New Zealand and comparable jurisdictions
- Related torts
- International privacy developments of relevance to New Zealand privacy law
- Statutory protection of aspects of privacy in New Zealand
- The Privacy Act 1993 — scope and application
- Codes of practice
- Protection of privacy under the Broadcasting Act 1989
- New Zealand Bill of Rights Act 1990 — extent of recognition of privacy interests
- Selected applications (including privacy in employment; surveillance; privacy of health information; privacy, publicity and the media; data matching; transborder data flows)

Assessment:

1000 word assignment (20%)

2 hour open book exam / 4000 word PILO (80%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

S Penk and R Tobin (eds), *Privacy Law in New Zealand* (2nd ed, 2016).

LAWPUBL 454 – International Disputes Settlement

Credit points: 10 points

Offered: Second Semester

Contact hours: Lectures – 2 hours per week

Course Coordinator: Associate Professor Amokura Kawharu

Prerequisites: LAW 211

Corequisite: LAW 435 or LAWPUBL 402

Course description:

The course will cover the international law obligation to settle disputes involving States peacefully; legal and political mechanisms for settling international disputes; principles of international dispute settlement including the admissibility of claims and jurisdiction; core procedures such as the appointment of adjudicators and interim measures. Global dispute settlement bodies will also be covered beginning with the establishment and functions of the International Court of Justice, the Permanent Court of Arbitration, and the dispute settlement system of the World Trade Organization. The focus then shifts to international commercial arbitration and mixed investor-state dispute settlement. The course concludes with an appraisal of the role of international disputes settlement.

Assessment:

1000 word assignment (20%)

2 hour closed book exam (80%)

Recommended text:

No texts are prescribed, but the texts listed below are useful for further reading, and reference to them will be made during the course (copies are available in the Davis Library). Additional course materials will also be distributed.

Collier & Lowe *The Settlement of Disputes in International Law* (1999)

Merrills *International Dispute Settlement* (2011).

LAWPUBL 458 – Comparative Indigenous Law Topics

Credit points: 10 points

Offered: First Semester

Contact hours: 2 hours per week

Course Coordinator: Dr Claire Charters

Prerequisites: 30 points at Stage II in Global Environment and Sustainable Development or Global Politics and Human Rights, or LAW 211

Course description:

Study of law and legal issues affecting indigenous peoples in various jurisdictions.

Content outline:

This course will introduce students to indigenous peoples' rights primarily in New Zealand, the United States, Canada and, to a lesser extent, Australia. It will focus on topics such as:

- The colonial acquisition of sovereignty over indigenous peoples;
- Indigenous peoples' self-government;
- The relationship between indigenous women's rights and indigenous customary law;
- Whether indigenous peoples are racial groupings;
- The legal status of treaties between indigenous peoples and states;
- Aboriginal rights; and
- International law on indigenous peoples' rights.

Assessment:

2000 word essay (40%)

3000 word take home exam (60%)

Recommended text:

TBC

LAWPUBL 461 – Human Rights Theory and its Application

Credit points: 15 points

Offered: First Semester

Contact hours: Seminars – 3 hours per week

Course Coordinator: Dr Anaru Erueti

Prerequisites: 30 points at Stage II in Global Politics and Human Rights or LAW 399 and one of LAWPUBL 422, 428, 436, 458

Course description:

The purpose of the course is to teach substantive international and domestic human rights law and associated legal skills through a combination of seminars and experiential learning.

The course will begin with seminars on substantive law relevant to the course followed by student-led presentations on human rights institutions and issues. The most significant part of the course will involve work on “real” human rights projects.

Assessment:

TBC

Enrolment in this course requires completion of an application form available online:

www.law.auckland.ac.nz/en/for/current-students/current-undergraduate-students/law-student-forms

Credit points: 15 points

Offered: First Semester

Contact hours: 3 hours per week

Course Coordinator: Dr Vincent Cogliati-Bantz

Prerequisites: LAW 211

Course description:

The oceans cover more than 70% of the planet; they have historically been vital as a source of food, natural resources, biological diversity, navigation and trade, a medium for discovery and conquest, a guarantee for military maneuverability, and a prime factor in environmental balance. Understandably, they are also a source of conflict and the victim of overexploitation and pollution. This course introduces students to the rules regulating the principal public uses of the oceans; it introduces, and builds upon, the achievements of the 1982 UN Convention on the Law of the Sea (which has been described as a “constitution for the oceans”). The course aims to give students an understanding of the main principles governing uses of the oceans, in their historical, international and regional perspectives. It will be an advantage to those students who wish to pursue studies at a level that will enable them to practice, advise, regulate, research, write or lecture on the law of the sea, oceans policy and maritime affairs.

Content outline:

Core content of the course includes: a history of the development of the law of the sea; the sources of the contemporary law of the sea, leading to the adoption of the 1982 United Nations Convention on the Law of the Sea; and the legal regime of various maritime zones (territorial sea, exclusive economic zone, high seas etc). Particular issues such as the settlement of disputes, maritime delimitation, maritime security, fisheries and bioprospecting are also addressed.

Assessment:

2250 word assignment (30%)

2 hour open book exam (70%)

Open book means that you may, if you wish, bring into the exam and refer to any materials such as casebooks, textbooks and study notes.

Recommended text:

Details on reading materials and recommended texts will be made available before the start of the course.

LAWPUBL 463 – Advanced Topics in Criminal Law

Credit points: 10 points

Offered: Second Semester

Contact hours: Lectures – 2 hours per week

Course Coordinator: TBC

Prerequisites: LAW 201

Restriction: LAWPUBL 420

Course description:

In a murder trial, the law about what constitutes ‘murder’ is only part of the puzzle. Criminal cases also demand a range of other rules: for example, what could justify an alleged drug dealer being imprisoned pending her trial? What happens if a defendant lies on oath at trial and is acquitted – but his alibi is later disproved? When a prosecutor closes to the jury, what kinds of submissions are ‘out of bounds’ or unfair?

This course covers several of the areas of law that arise in criminal trials. In each area, we explore two questions. The first, and the course’s primary focus, is practical: how do I apply these rules in a real criminal case? The second enquiry – crucial for an excellent grade – is philosophical: what are the policy arguments and competing interests that underpin these rules, and has the law ‘drawn the line’ in the right place?

The course covers:

- a. Bail;
- b. Offences against justice – corruption, perjury, perverting justice;
- c. Appeals against conviction:
 - The role of juries in criminal trials;
 - When justice ‘miscarries’;
 - Prosecutorial misconduct and trial counsel error;
 - Inconsistent verdicts;
 - Tainted acquittals.

Assessment:

TBC

Recommended text:

Course materials to be distributed.

There is no set textbook, but there are several options for useful background reading:

For the law on bail and appeals against conviction, Adams on *Criminal Law: Criminal Procedure* (online commentary).

For offences against justice, Adams on *Criminal Law: Offences and Defences* (online commentary).

For Bill of Rights issues, Rishworth, Huscroft, Optican & Mahoney, *The New Zealand Bill of Rights* (Oxford University Press: 2003).

LAW 456 – Supervised Research

Credit points: 15 points

Offered: Summer School, First and Second Semester with approval of the Associate Dean

A 10,000-word research paper, approved by the Associate Dean, written under the supervision of a teacher in the Faculty of Law. Only students who have already shown research capability will be given permission to do a supervised research paper.

Students who wish to write a research paper should first think of a topic and then consult a staff member to supervise the research paper. There is an application form, available from the Auckland Law School Student Centre. The form should be completed, and handed back to the Auckland Law School Student Centre for the approval of the lecturer and the Associate Dean. Approval for Supervised Research Papers must be obtained by the end of the second week of each semester.

Supervised Research papers are due on the Friday of the last week of teaching of the semester in which the enrolment takes place.

The Supervised Research paper can be counted as a single piece of legal writing for LAW 499 Legal Practice or a sustained piece of legal writing for LAW 498.

Research Paper in Lieu of an Examination (PILO)

Students who are granted permission may present a research paper in lieu of an examination in any elective course in terms of Regulation 10a of the LLB Regulations. Only students who have already shown research capability will be permitted to write a research paper in lieu of an examination. The research paper is due on the Friday of the last teaching week in each semester and should be submitted through the Auckland Law School Student Centre and online via Turnitin.

Students choosing to write a research paper in lieu of an examination are required to attend all lectures in the relevant course. If this attendance condition is not complied with, permission to complete the research paper in lieu of an examination may be withdrawn.

The research paper is in lieu of the examination only; all other assessment for the course must be completed.

The word count for the research paper varies per course relating to the weighting of the examination, and the number of points of the elective.

For 20-point electives, the word count will be a percentage of 10,000 words. For a 15-point elective, the word count will be a percentage of 7,500 words, and for a 10-point elective, a percentage of 5,000 words.

For example, in a 15-point elective where the examination is worth 50%, the PILO will be 3,750 words (50% of 7,500 words).

Students writing a research paper in lieu of a final examination of at least 4000 words may receive credit for the sustained piece of legal writing requirement in LAW 498.

The last day for approval of a research paper in lieu of an examination by the lecturer and the Associate Dean (Academic) is the Friday of the fourth week of the semester.

The online application form is available at www.forms.auckland.ac.nz/en/student/law/application-to-present-a-research-paper-in-lieu-of-an-examinatio.html

Masters courses available for LLB Part IV

Students who have completed at least 120 points above Part II, and who have a GPA of 5.0 or higher in their most recent 120 points in law courses, may be permitted to take up to 45 points in LLM courses in lieu of law electives for LLB.

Masters courses are usually assessed by way of research papers on individual topics: 6,500 words for a 15-point course, 12,500 words for a 30-point course; there are no exams.

Some masters courses are taught intensively; others are semester-long. Part IV students interested in taking masters courses should consult Suranjika Tittawella at the Law Student Centre.

Honours Seminars

LAWHONS 716 – Legal History

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week

Course Coordinators: Professor David Williams

Course outline:

This seminar is concerned to trace the roots of the New Zealand legal system in terms of sources of law and institutional structures found in English legal history. There is a public law, rather than a private law, focus to the major topics of legal history discussed in this seminar. This reflects my own interests. However, your Seminar Papers may be written on any branch or aspect of law in history that appeals to you.

The semester I materials are intended to provide a brief glimpse of aspects of English and New Zealand legal history. The main focus of the topics to be discussed in class are the English sources of the common law legal system in New Zealand, the brutality of the criminal justice system in the recent past, and the importance of rule of law principles in the evolution of English and New Zealand constitutional law. The course does not look at history for history's sake. According to Samuel Clemens [aka Mark Twain] 'history does not repeat itself but it does rhyme a lot'. The legal history we look at may assist us to understand more clearly the issues that arise in contemporary law and society. If current events reported as the year goes by seem pertinent to the historical issues we are looking at, then I am happy to encourage class discussion of contemporary controversies arising from the historical materials being scrutinised.

For a week by week outline visit Honours Courses on the Law School website.

Assessment:

1. A 10,000-word Honours Seminar Paper (80%) (there is no final examination in any LLB(Hons) Seminar);
2. An oral presentation of your research paper to the class (10%); and
3. Class contribution (10%).

LAWHONS 722 – Medico-Legal Problems

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week

Course Coordinator: Professor Jo Manning

Course description:

First Semester

In the first semester, classes will be led by me on topics selected by me, and will consist of discussion of cases and other materials distributed in the form of a Casebook. Readings from these will be assigned prior to the class at which they will be discussed. The discussion in class centres around the assigned materials so it is essential that it is read beforehand.

The topics covered in the first semester of the course will include some/all of the following, depending on time:

- Readings on the “unfortunate experiment” at National Women’s Hospital, the Cartwright Inquiry and Report, and commentary thereon
- An introduction to the Code of Health and Disability Services Consumers’ Rights
- An introduction to the accountability regime via the Crimes Act 1961 (manslaughter), the Health and Disability Commissioner’s jurisdiction, the Health Practitioners Disciplinary Tribunal, and the Human Rights Review Tribunal
- An introduction to the fundamental concepts of consent to medical treatment, at common law and pursuant to the Code of Health and Disability Services Consumers’ Rights
- Legal issues related to consent to treatment of incompetent adults
- Legal issues relating to rationing of health services
- An introduction to the legal issues arising from assisted dying and withdrawal of life prolonging treatment

Second Semester

In the second semester students will present a 50-minute seminar to the class on their research project, on which they are writing their research paper. Each week two students will give presentations. Students are expected to come up with their own topic for the research project and paper. I provide a long list of suggested topics, although students are free to suggest for my approval any topic within the medical law and ethics field which interests them.

In 2017 students researched a broad range of topics. Examples included whether vaccination should be compulsory, issues in cosmetic surgery, Pharmaco’s allocation of prescription medicines, withholding and withdrawing of life supporting treatments, adolescents refusing life prolonging treatments, whether non-disclosure of HIV+ status to a sexual partner should be criminalised.

Assessment:

Evaluation consists of 100% on course assessment, consisting of:

- (1) Honours seminar paper (maximum 10,000 words) — 70%;
- (2) an oral presentation of your seminar — 20%;
- (3) class contribution and participation — 10%;

LAWHONS 728 – Studies in Public Law

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week

Course Coordinator: Jane Norton and Hanna Willberg

Course Description:

This seminar is concerned with topics across public law from general administrative law to the more specific topics of public authority liability and constitutional rights. The first semester seminars will be led by the lecturers and will address some of the more contentious issues in public law. Student papers may be written in any area of public law and will be presented in the second semester.

Assessment

100% on-course assessment. Individual components to be advised by the lecturer at the commencement of the course.

LAWHONS 733 – Studies in Contract Law

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week

Course Coordinator: Marcus Roberts

Course Description

The first semester will consist of class discussion and is concerned with various historical, comparative, and ideological perspectives on contract law and the nature of contractual obligation/relationships. Topics that may be covered include the development of consideration, equitable estoppel, damages and the doctrine of frustration. The second semester is given over to the presentation of student papers, the topics of which are for the student to determine in consultation with the lecturer.

Assessment

100% on-course assessment. Individual components to be advised by the lecturer at the commencement of the course.

LAWHONS 734 – Issues in Insurance Law

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week

Course Coordinator: Rohan Havelock

Course Description

Insurance is a default risk-management device for consumers and commercial parties, and insurance law issues often arise in legal practice (especially in civil litigation). Broadly, insurance law consists of the law governing insurance contracts, the law governing and regulating insurance intermediaries, and the law regulating insurers. This Honours Seminar focuses on the law governing insurance contracts, which is based on general contract law rules and principles, and special rules (such as the pre-contractual duty of disclosure) and statutes that do not apply to contracts in general.

Course outline:

Aspects of the law governing insurance contracts, including the duty of utmost good faith; the interpretation of the policy; the scope of cover; warranties and conditions; the claims process and fraudulent claims; and quantification of the insurer's obligations; subrogation and recoupment; and third party rights.

Assessment

Seminar presentation in Semester 2 (50 minutes) – 25% of grade

Seminar paper of 10,000 words – 70% of grade

Attendance at all seminars – 5% of grade

LAWHONS 736 – Topics in International Law

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week

Course Coordinator: Associate Professor Treasa Dunworth and Dr Anna Hood

Course description:

This seminar aims to foster in students a critical understanding of the theories, structures, institutions and doctrines of public international law. Taking as its starting point the centenary of the end of the First World War, the seminar takes a long view of international law. What did the international law of the League era look like? Is today's United Nations the best we can do? What are the ways in which international law is changing and are these changes problematic or to be welcomed? How might we hold contemporary global governance structures to account? What is the role of non-state actors in international law making and implementation? Can we imagine what the "international law" honours seminar will look like in another 100 years?

The first semester will consist of lecturer-led discussions on set readings covering topics that touch on the above questions. In this way, students will be exposed to concrete issues in international law, as well as developing a more critical appreciation of the international legal system. There will also be classes devoted to assisting students in selecting research topics and managing their writing project. Students will be expected to meet with me individually to discuss their research plans.

The second semester will be a series of student-led seminars on their chosen topics, which can be in any area of international law, subject to my approval.

Assessment:

Attendance and participation 20%; 10,000 research paper 80%.

LAWHONS 746 – Concepts in Law and Security

Credit points: 20 points

Offered: Full-year

Contact hours: Lectures – 2 hours per week

Course Coordinator: John Ip

Course description:

This seminar is concerned with theoretical concepts related to law and security, and how those concepts manifest in selected post-9/11 security measures and debates about those security measures. The first semester will consist of seminars led by the lecturer, and will address topics such as the liberty/security trade-off, the normality/emergency dichotomy, prevention, due process and constitutionalism. Student papers may be written on any topic within the field, subject to the approval of the lecturer. These papers will be presented and discussed in class in the second semester.

Assessment:

100% on course assessment. Individual components to be advised by the lecturer at the commencement of the course.



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