



UNSW Course Outline

JURD7141 Principles of Public Law - 2024

Published on the 25 Aug 2024

General Course Information

Course Code : JURD7141

Year : 2024

Term : Term 3

Teaching Period : T3

Is a multi-term course? : No

Faculty : Faculty of Law and Justice

Academic Unit : School of Global and Public Law

Delivery Mode : In Person

Delivery Format : Standard

Delivery Location : Kensington

Campus : Sydney

Study Level : Postgraduate

Units of Credit : 6

Useful Links

[Handbook Class Timetable](#)

Course Details & Outcomes

Course Description

This course introduces students to the study of public law, including its history, institutions, methods of reasoning and fundamental principles. Students will acquire an understanding of the introductory principles and theories of administrative and constitutional law as they apply to the

essential features of the Australian system of government, and their implications for human rights and the rule of law. The course exposes students to this material through an examination of Australia's hybrid constitutional inheritance from the United Kingdom and United States, as adapted in the creation and subsequent development of the federal Commonwealth. In doing so it also examines the implications of colonisation for Indigenous legal systems and assertions of Crown sovereignty. The role, powers and interrelationship of the three arms of government are considered in contemporary as well as historical context, as are the issues of rights protection and constitutional change. The course prepares students for their later study of the courses LAWS1160: Administrative Law and LAWS2150: Federal Constitutional Law, and also introduces students to the fundamentals of the skill of statutory interpretation in the public law context.

Main Topics

Constitutionalism Australia's 'Westminster' Inheritance

- The Westminster Tradition
- The American Tradition

The Creation of the Federated Commonwealth of Australia

- Colonisation, Indigenous Sovereignty and Crown Sovereignty
- The Colonial Laws Validity Act 1865 and the Path to Federation
- The Acquisition of Legal Independence and Popular Sovereignty

The Legislature

- History and Development
- The Franchise and the Composition of Parliament
- Legislative Power
- Judicial Review of Legislation
- Statutory Interpretation
- State Constitutions and State Legislative Power

The Executive

- History and Development
- Federal and State Executive Power
- Judicial Review of Executive Action
- Non-Judicial Forms of Executive Accountability

The Judiciary

- History, Development and Composition
- A Foundation of Judicial Independence

Rights Protection and Australian Constitutionalism

Constitutional Change

Course Aims

The aims of the course are to ensure that you are familiar with the central principles of public law and some of the surrounding intellectual debates, to make you an effective exponent of statutory interpretation in a public law context and to develop your capacities for sophisticated legal discussion of a discursive and analytical kind.

Course Learning Outcomes

Course Learning Outcomes
CL01 : Demonstrate comprehension of principles of public law and their relationship to Australian government (PLOs 1, 2, 3)
CL02 : Explain the origins and later adaptations of Australian public law (PLO 1)
CL03 : Engage in critical analysis of how the principles of Australian public law operate to support and constrain the exercise of governmental power (PLOs 1, 5)
CL04 : Develop an awareness of the principles of statutory interpretation and demonstrate a capacity to apply them in a public law setting (PLO 4)
CL05 : Demonstrate effective written communication skills by articulating legal concepts clearly, persuasively and appropriately (PLOs 5, 6)
CL06 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 5, 9)

Course Learning Outcomes	Assessment Item
CL01 : Demonstrate comprehension of principles of public law and their relationship to Australian government (PLOs 1, 2, 3)	<ul style="list-style-type: none"> • Class Participation • In-term Examination • Final Invigilated Examination
CL02 : Explain the origins and later adaptations of Australian public law (PLO 1)	<ul style="list-style-type: none"> • Class Participation • Final Invigilated Examination
CL03 : Engage in critical analysis of how the principles of Australian public law operate to support and constrain the exercise of governmental power (PLOs 1, 5)	<ul style="list-style-type: none"> • In-term Examination • Class Participation • Final Invigilated Examination
CL04 : Develop an awareness of the principles of statutory interpretation and demonstrate a capacity to apply them in a public law setting (PLO 4)	<ul style="list-style-type: none"> • In-term Examination • Final Invigilated Examination
CL05 : Demonstrate effective written communication skills by articulating legal concepts clearly, persuasively and appropriately (PLOs 5, 6)	<ul style="list-style-type: none"> • In-term Examination
CL06 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 5, 9)	<ul style="list-style-type: none"> • Class Participation

Learning and Teaching Technologies

Moodle - Learning Management System

Assessments

Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	20%	Start Date: Ongoing, every class Due Date: Not Applicable
In-term Examination Assessment Format: Individual	20%	Start Date: 08/10/2024 08:00 AM Due Date: 08/10/2024 08:00 PM Post Date: 08/10/2024 08:00 AM
Final Invigilated Examination Assessment Format: Individual	60%	Start Date: Not Applicable Due Date: Not Applicable

Assessment Details

Class Participation

Assessment Overview

This assessment requires you to prepare for and actively engage in class-based and online activities.

Course Learning Outcomes

- CL01 : Demonstrate comprehension of principles of public law and their relationship to Australian government (PLOs 1, 2, 3)
- CL02 : Explain the origins and later adaptations of Australian public law (PLO 1)
- CL03 : Engage in critical analysis of how the principles of Australian public law operate to support and constrain the exercise of governmental power (PLOs 1, 5)
- CL06 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 5, 9)

Detailed Assessment Description

Assessment for class participation is designed to encourage student preparation for classes, by reading, analysing, reflecting on and evaluating material prior to covering that content in class. It is also there to provide opportunities for students to express their understanding in class discussion, to share their learning, to develop skills in clear and critical thinking and to gain low-key but valuable experience in presenting oral arguments. Finally, it is also an important part of making the course more interesting, engaging and enjoyable.

Generative AI Permission Level

No Assistance

This assessment is designed for you to complete without the use of any generative AI. You are not permitted to use any generative AI tools, software or service to search for or generate

information or answers.

For more information on Generative AI and permitted use please see [here](#).

In-term Examination

Assessment Overview

This assessment requires you to complete a timed online exam.

Course Learning Outcomes

- CL01 : Demonstrate comprehension of principles of public law and their relationship to Australian government (PLOs 1, 2, 3)
- CL03 : Engage in critical analysis of how the principles of Australian public law operate to support and constrain the exercise of governmental power (PLOs 1, 5)
- CL04 : Develop an awareness of the principles of statutory interpretation and demonstrate a capacity to apply them in a public law setting (PLO 4)
- CL05 : Demonstrate effective written communication skills by articulating legal concepts clearly, persuasively and appropriately (PLOs 5, 6)

Detailed Assessment Description

The Mid-Term Exam is a timed online exam. The exam will test your comprehension of important concepts, principles and features of public law, as well as the ability to engage in the critical analysis of how those concepts, principles and features of public law interact with each other and operate in real-world settings.

Submission notes

Exam will be run using Inspira

Assignment submission Turnitin type

This is not a Turnitin assignment

Generative AI Permission Level

Planning/Design Assistance

You are permitted to use generative AI tools, software or services to generate initial ideas, structures, or outlines. However, you must develop or edit those ideas to such a significant extent that what is submitted is your own work, i.e., what is generated by the tool, software or service should not be a part of your final submission. You should keep copies of your iterations to show your Course Authority if there is any uncertainty about the originality of your work.

If your Convenor has concerns that your answer contains passages of AI-generated text or media that have not been sufficiently modified you may be asked to explain your work, but we recognise that you are permitted to use AI generated text and media as a starting point and some traces

may remain. If you are unable to satisfactorily demonstrate your understanding of your submission you may be referred to UNSW Conduct & Integrity Office for investigation for academic misconduct and possible penalties.

For more information on Generative AI and permitted use please see [here](#).

You are not prohibited from using generative AI software in this assessment. Any output of generative software within your assessment must be attributed with full referencing.

Please note that the outputs from these tools are not always accurate, appropriate, nor properly referenced. You should ensure that you have moderated and critically evaluated the outputs from generative AI tools such as ChatGPT before submission.

We strongly recommend against the use of ChatGPT for this assessment. The assessment will be evaluated for your personal engagement with the materials and discussion in this course and your ability to use them to respond in an independent-minded way to the SPECIFIC question that you have been asked. Apart from the risk of inaccuracy, inappropriateness and poorly referenced material, text from a generative AI source is most unlikely to yield what your marker is looking for, as described in the previous sentence. It also interferes with the learning value to you of this Mid-Term assessment. With a relatively low-stakes exercise (10 marks each for two questions) we are encouraging you to use this as an opportunity to develop and refine the legal writing, reasoning and analysis skills that will be needed for the larger assessment tasks in the Final Exam, and in the courses still to come in your degree. In addition, the preparation and revision for the Mid-Term Exam is intended to help you build your personal knowledge and understanding of Australian public law in a holistic way – something that again will be very important in meeting the challenges of the Final Exam.

Final Invigilated Examination

Assessment Overview

This assessment requires you to complete an invigilated written examination within the University examination period.

Course Learning Outcomes

- CL01 : Demonstrate comprehension of principles of public law and their relationship to Australian government (PLOs 1, 2, 3)
- CL02 : Explain the origins and later adaptations of Australian public law (PLO 1)
- CL03 : Engage in critical analysis of how the principles of Australian public law operate to support and constrain the exercise of governmental power (PLOs 1, 5)

- CLO4 : Develop an awareness of the principles of statutory interpretation and demonstrate a capacity to apply them in a public law setting (PLO 4)

Detailed Assessment Description

The final exam will be in the format of a **2-hour exam** (open book).

The final exam will include an essay question and a statutory interpretation problem question. The essay question tests comprehension of the course content overall and your ability to critically analyse how the principles of Australian public law operate in particular ways or settings.

The statutory interpretation problem question tests awareness of the principles and rules of statutory interpretation and your capacity to apply them in a public law setting.

Assessment Length

2000 words (1000 words per question)

Assignment submission Turnitin type

This is not a Turnitin assignment

Generative AI Permission Level

No Assistance

This assessment is designed for you to complete without the use of any generative AI. You are not permitted to use any generative AI tools, software or service to search for or generate information or answers.

For more information on Generative AI and permitted use please see [here](#).

General Assessment Information

For further information on generative AI use in the Faculty of Law & Justice, please review the section titled 'Academic Honesty and Plagiarism' under the 'Other Useful Information' tab.

Grading Basis

Standard

Course Schedule

Teaching Week/Module	Activity Type	Content
Week 0 : 2 September - 8 September	Activity	Familiarise yourself with the course Moodle page, reading guide and course requirements.
Week 1 : 9 September - 15 September	Topic	1A: Introduction and Themes 1B: Constitutionalism. The Rule of Law
Week 2 : 16 September - 22 September	Topic	2A: A Constitutional Hybrid 1 2B: A Constitutional Hybrid 2
Week 3 : 23 September - 29 September	Topic	3A: Federation and Australian Federalism. Popular Sovereignty 3B: Popular Sovereignty/Indigenous Sovereignty and Crown Sovereignty
Week 4 : 30 September - 6 October	Topic	4A: Indigenous People, Voting and the Constitution 4B: Legislature 1. Mid-term information.
Week 5 : 7 October - 13 October	Topic	5A: PUBLIC HOLIDAY. NO CLASSES 5B: Legislature (2) Mid-term assessment.
	Assessment	Mid-term assessment. Please check Moodle for further details.
Week 6 : 14 October - 20 October	Other	No classes.
Week 7 : 21 October - 27 October	Topic	7A: Statutory Interpretation.Principle of Legality 7B: Executive 1
Week 8 : 28 October - 3 November	Topic	8A: Executive 2 8B: Judiciary 1
Week 9 : 4 November - 10 November	Topic	9A: Judiciary 2 9B: Rights Protection
Week 10 : 11 November - 17 November	Topic	10A: Constitutional Change 10B: Revision Statutory Interpretation. Final Exam Info

Attendance Requirements

Please see information about attendance requirements in **Law & Justice Assessment Procedure** and **Student Information** located in the Other Useful Information tab in the Academic Information field.

Please be advised there will be no classes on public holidays. If your class falls on a public holiday, alternative arrangements will be made by the course convenor to make up the missed class.

Course Resources

Prescribed Resources

Prescribed text

- Peta Stephenson, Rebecca Ananian-Welsh, Andrew Lynch, George Williams, Sean Brennan, *Blackshield & Williams Australian Constitutional Law & Theory: Commentary and Materials* (Federation Press, 8th ed, 2024)

You will need a copy of this edition of the book and must bring it to every class. The latest edition

is available through the UNSW Bookshop in hard copy and e-book.

Please note you will not be able to use e-book during your final examination.

Additional prescribed materials

The occasional reference to 'Materials Class [X]' refers to any additional prescribed reading for that class from outside *Blackshield and Williams*. These will be made available for specific classes in PDF format or by a website link, via the Moodle course site.

Recommended Resources

Recommended materials

If you need to improve or brush up on your general knowledge of Australia's legal and political system we suggest Nick Barry, Peter Chen, Yvonne Haigh, Sara C Motta and Diana Perche (eds), *Australian Politics and Policy: Senior Edition 2023* (Sydney University Press, 2023). This is available for free download at <https://open.sydneyuniversitypress.com.au/9781743328859.html>.

For an additional text that will reinforce material covered in this course (as well as aspects of the later core course in Federal Constitutional Law), we recommend:

- Cheryl Saunders, *The Constitution of Australia: A Contextual Analysis* (Hart, 2011).

In addition we recommend these texts:

- Gabrielle Appleby, Alexander Reilly, and Laura Grenfell, *Australian Public Law* (OUP, 3rd ed, 2018).
- Lisa Burton Crawford, Janina Boughey, Melissa Castan, and Maria O'Sullivan, *Public Law and Statutory Interpretation: Principles and Practice* (Federation Press, 2nd ed, 2021);
- Sarah Joseph and Melissa Castan, *Federal Constitutional Law: A Contemporary View* (Thomson Reuters, 6th ed, 2024).

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Svetlana Tyul kina				contact via email	Yes	Yes

Other Useful Information

Academic Information

Upon your enrolment at UNSW, you share responsibility with us for maintaining a safe, harmonious and tolerant University environment.

You are required to:

- Comply with the University's conditions of enrolment.
- Act responsibly, ethically, safely and with integrity.
- Observe standards of equity and respect in dealing with every member of the UNSW community.
- Engage in lawful behaviour.
- Use and care for University resources in a responsible and appropriate manner.
- Maintain the University's reputation and good standing.

For more information, visit the [UNSW Student Code of Conduct Website](#).

UNSW Law & Justice Assessment Policy

It is essential that all students undertaking this course read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#). This document includes information on Class Attendance, Late Work, Word Limits, Marking, Special Consideration, Workload, and Academic Misconduct & Plagiarism. More information can also be found at [Assessment & Exam Information](#).

Information regarding Course Outlines are subject to change and students are advised to check updates. If there is a discrepancy between the information posted here and the handbook or the UNSW Law & Justice website, please contact [Student Services via The Nucleus Hub](#) for advice. UNSW Law & Justice reserves the right to discontinue or vary such courses or staff allocations at any time. If your course is not here, please visit [Handbook](#) for information.

Academic Honesty and Plagiarism

As a student at UNSW you are expected to display [academic integrity](#) in your work and interactions. Where a student breaches the [UNSW Student Code](#) with respect to academic integrity, the University may take disciplinary action under the Student Misconduct Procedure. To assure academic integrity, you may be required to demonstrate reasoning, research and the process of constructing work submitted for assessment.

To assist you in understanding what academic integrity means, and how to ensure that you do comply with the UNSW Student Code, it is strongly recommended that you complete the [Working with Academic Integrity](#) module before submitting your first assessment task. It is a free, online self-paced Moodle module that should take about one hour to complete.

Generative AI

Using generative AI to conduct research or to organise your argument is not prohibited but is not encouraged. We note that the output from generative AI tools is often incorrect and almost always more superficial than is required to achieve a passing grade. Moreover, any substantive errors in the assessment, such as inappropriate references or incorrect statements, will be regarded negatively by the marker, just as they would if not generated by AI. You should limit your use of AI to simple editorial assistance, such as standard editing and referencing functions in word processing software in the creation of your submission. You must not use any functions that generate or paraphrase passages of text, whether based on your own work or not. If your marker or Turnitin identify the wrongful use of generative AI in the text of your assessment submission, including the use of paraphrasing software, your assessment may be referred to the Student Integrity team for investigation. Please go to the link for further information about [referencing and acknowledging the use of artificial intelligence tools](#).

Prohibition on use of translation apps

With limited exceptions for language study, the course of study and assessment in Australian universities must be in English (Higher Education Standard Framework (Threshold Standards) 2021 1.5 6(c)).

In Law & Justice many classes have assessable class participation. This must be in English. **Use of a translation device to assist with contributions to class discussion is not allowed.** Marks for class participation may be reduced where use of translation devices is detected. Similar prohibitions apply to use of any other generative text app that is not specifically permitted by the class teacher. However, use of translation software to assist a student to understand material outside of class, or to assist with preparation for assessment is generally permitted.

Further considerations apply to LLB and JD students. International lawyers who seek to be admitted in NSW must satisfy an English proficiency test. That test is expressed as equivalent to IELTS scores of 7.0 -8.0 across the tests. It is assumed that UNSW graduates are at or above those levels of English proficiency. Use of translation apps can impede the attainment of that

level of proficiency. Students should avoid behaviours that put them at risk of breach of legal requirements which can have significant consequences, including potential consequences for your admission as a lawyer.

Submission of Assessment Tasks

Before submitting assessment items all students must read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#).

Special consideration

Special consideration is primarily intended to provide you with an extra opportunity to demonstrate the level of performance of which you are capable. To apply, and for further information, see Special Consideration on the UNSW [Current Students](#) page.

Feedback

UNSW Law & Justice appreciates the need for students to have feedback on their progress prior to the last date for withdrawal without failure. All courses will therefore provide feedback to students prior to this date, as well as throughout the course. However, students should note that feedback does not take the form only of formal grades and written comments on written assessments. Rather, formative feedback, which helps students to self-assess, to identify misunderstandings, and to identify areas requiring further work, will occur during class and possibly online. For example, where a teacher asks the class a question, all students should think about how they might answer. Even though not all students will necessarily be able to respond orally, everyone can reflect on their tentative answer in light of the teacher's response and subsequent class discussion. If you are struggling to understand what is being asked in class, or if your tentative answers prove incorrect and subsequent discussion does not clear things up, then you should continue to ask questions (of yourself, your peers or your teacher). Similarly, you can get a sense of your ability in a course through peer feedback during group work, your teacher's responses to your in-class contributions, and your own response to in-class problems and examples (whether or not you are called on to relay your answer to the class) and also your online activities and responses by others to those activities. Students enrolled in this course may check their Moodle course page for details on the specific feedback used in this course.

Faculty-specific Information

Additional support for students

- Student support: <https://www.student.unsw.edu.au/support>
- Academic Skills and Support: <https://student.unsw.edu.au/academic-skills>
- Student Wellbeing, Health and Safety: <https://student.unsw.edu.au/wellbeing>
- Equitable Learning Services: <https://student.unsw.edu.au/els>
- UNSW IT Service Centre: <https://www.myit.unsw.edu.au>

Course improvement

Student feedback is very important to continual course improvement. This is demonstrated within the Faculty of Law & Justice by the implementation of the UNSW online student survey myExperience, which allows students to evaluate their learning experiences in an anonymous way. myExperience survey reports are produced from each survey. They are released to staff after all student assessment results are finalised and released to students. Course convenors will use the feedback to make ongoing improvements to the course. Students enrolled in this course may check their Moodle course page for details on the actions taken in response to evaluation feedback in Student Survey.

School Contact Information

Please contact [Nucleus Student Hub](#) for all enquiries. The Nucleus acts as a central communications hub for UNSW and will distribute your enquiry to the best person to respond.