



UNSW Course Outline

JURD7482 Conflict of Laws - 2024

Published on the 02 Sep 2024

General Course Information

Course Code : JURD7482

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

Conflict of Laws is usually understood to mean the group of principles that govern the Court's approach to private law disputes with an international or interstate character to them. A detailed understanding of the rules is strongly advisable for those considering practice or further study with an international element.

The course will be broken down into three broad parts:

1. Jurisdiction (concerning the circumstances in which a particular Court will assume jurisdiction over a particular dispute having regard to territorial considerations);
2. Choice of law (concerning the system of national or state law that the Court will apply to the dispute, having assumed jurisdiction over it); and
3. Enforcement and recognition of foreign and interstate judgments.

In addition, the course will cover some of the basic weapons in an international litigator's arsenal, such as anti-suit injunctions and worldwide Mareva orders. There will also be discussion of the interaction between the system of international arbitration and the Courts.

Main Topics

- Jurisdiction: Exercising local jurisdiction in respect of disputes with an international element; Exercising jurisdiction over persons or conduct abroad; International dispute resolution
- Choice of law: Choice of law between Australian and foreign law
- Enforcement of foreign judgments and arbitral awards

Course Learning Outcomes

Course Learning Outcomes
CLO1 : Demonstrate an ability to incorporate a range of legal and interdisciplinary research sources in written communication with appropriate referencing (PLOs 6, 9)
CLO2 : Demonstrate effective oral communication skills by delivering accurate and insightful contributions in class (PLOs 9,10)
CLO3 : Demonstrate effective written communication skills by articulating legal concepts and analysis clearly and persuasively (PLO 9)
CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 8)

Course Learning Outcomes	Assessment Item
CLO1 : Demonstrate an ability to incorporate a range of legal and interdisciplinary research sources in written communication with appropriate referencing (PLOs 6, 9)	<ul style="list-style-type: none"> • Mid-Term Take-Home Assignment • Final Take Home Exam
CLO2 : Demonstrate effective oral communication skills by delivering accurate and insightful contributions in class (PLOs 9,10)	<ul style="list-style-type: none"> • Class Participation
CLO3 : Demonstrate effective written communication skills by articulating legal concepts and analysis clearly and persuasively (PLO 9)	<ul style="list-style-type: none"> • Mid-Term Take-Home Assignment • Final Take Home Exam
CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 8)	<ul style="list-style-type: none"> • Mid-Term Take-Home Assignment • Final Take Home Exam

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 Due Date: Ongoing
Mid-Term Take-Home Assignment Assessment Format: Individual	30%	
Final Take Home Exam Assessment Format: Individual	50%	

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

- CL02 : Demonstrate effective oral communication skills by delivering accurate and insightful contributions in class (PLOs 9,10)

Detailed Assessment Description

Students are required to participate within each class and will be assessed on their preparation and performance in class. There will be a optional Self-Assessment Form.

Generative AI Permission Level

Not Applicable

Generative AI is not considered to be of assistance to you in completing this assessment. If you do use generative AI in completing this assessment, you should attribute its use.

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

Mid-Term Take-Home Assignment

Assessment Overview

This assessment requires you to complete a take-home written assessment.

Course Learning Outcomes

- CL01 : Demonstrate an ability to incorporate a range of legal and interdisciplinary research

sources in written communication with appropriate referencing (PLOs 6, 9)

- CLO3 : Demonstrate effective written communication skills by articulating legal concepts and analysis clearly and persuasively (PLO 9)
- CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 8)

Generative AI Permission Level

Simple Editing Assistance

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

If your Convenor has concerns that your submission contains passages of AI-generated text or media, you may be asked to account for your work. 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](#).

Final Take Home Exam

Assessment Overview

This assessment requires you to complete a take-home written examination within the University examination period.

Course Learning Outcomes

- CLO1 : Demonstrate an ability to incorporate a range of legal and interdisciplinary research sources in written communication with appropriate referencing (PLOs 6, 9)
- CLO3 : Demonstrate effective written communication skills by articulating legal concepts and analysis clearly and persuasively (PLO 9)
- CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 8)

Detailed Assessment Description

The exam will consist of a problem scenario with seven questions and one short-answer question.

Assessment Length

2,500 words maximum

Generative AI Permission Level

Simple Editing Assistance

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

If your Convenor has concerns that your submission contains passages of AI-generated text or media, you may be asked to account for your work. 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](#).

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 1 : 9 September - 15 September	Seminar	Introduction to PIL and Overview of Jurisdiction
	Seminar	Subject-Matter and Personal Jurisdiction
Week 2 : 16 September - 22 September	Seminar	PIL in Practice, Australian Government and International Organisations
	Seminar	Hague Service and Evidence Conventions
Week 3 : 23 September - 29 September	Seminar	Grounds of Jurisdiction and Personal Connecting Factors
	Seminar	Mandator Exercise of Jurisdiction - Intl and NZ
Week 4 : 30 September - 6 October	Seminar	Discretionary Exercise of Jurisdiction - Intl and NZ
	Seminar	Mandatory and discretionary exercise of jurisdiction - Intranational; Anti-Suit Injunctions
Week 5 : 7 October - 13 October	Seminar	Anti-Suit Injunctions in Aus and NZ; Consolidation of Jurisdiction
	Seminar	Summary of Jurisdiction; Recognition and Enforcement of Judgments at Common Law
Week 6 : 14 October - 20 October	Other	Reading week - no classes
Week 7 : 21 October - 27 October	Seminar	Summary of Jurisdiction; Recognition and Enforcement of Judgments at Common Law
	Seminar	Recognition and Enforcement of Judgments under the FJA
Week 8 : 28 October - 3 November	Seminar	Choice of Law Introduction and Contract
	Seminar	Choice of Law for Contract (contd)
Week 9 : 4 November - 10 November	Seminar	Choice of Law for Tort
	Seminar	Choice of Law for Tort (contd); Characterisation; Substance and Procedure
Week 10 : 11 November - 17 November	Seminar	Choice of Law for Equity, Renvoi in Tort and Contract
	Seminar	Renvoi in Contract, Proof of Foreign Law Revision

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.

General Schedule Information

This course will be taught in a *hybrid* format, with a combination of ***both in-person and online classes***.

For T3 2024: In Weeks 1, 4, 7 & 10, classes will be held in person at UNSW Kensington; in Weeks 2, 3, 5 & 9, classes will be held online; there will be no classes in Week 8, with asynchronous content being provided instead.

The thematic course schedule provided is indicative only and subject to change.

Course Resources

Prescribed Resources

Private International Law in Australia (5th edition, 2023)

Author: Mortensen, Garnett & Keyes

Print: <https://www.bookshop.unsw.edu.au/details.cgi?ITEMNO=9780409355376>

Digital: eText available from LexisNexis Online Store.

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Theunis Roux					Yes	Yes
Lecturer	Brody Warren					No	No

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.