SCHOOL OF LAW

JURD7220

ADVANCED LEGAL RESEARCH

JD Core
Units of Credit: 2
Contact hours per week: 16 (intensive)

COURSE OUTLINE

SESSION 2 2010

Convenor: Alana Maurushat

Convenor’s contact details: Faculty of Law, Level 2, Room 231
Phone: 9385 8027
a.maurushat@unsw.edu.au
# CONTENTS

1. COURSE INFORMATION  
   1.1 Teaching staff / Contact Details / Consultation Times  
   1.2 The relationship between research and teaching  
   1.3 Course Description  
   1.4 Course aims  
   1.5 Expected Learning Outcomes  
   1.6 Learning Outcomes and Graduate Attributes  
   1.7 Teaching and learning approach and strategies  

2. ASSESSMENT  
   TAKE-HOME EXAMINATION  

   4. Formal Matters  
      4.1 Class Attendance  
      4.2 Late work  
      4.3 Length limits  
      4.4 Marking  
      4.5 Illness or Misadventure  

5. COURSE SCHEDULE  

6. RESOURCES FOR STUDENTS  
   6.1 Required materials  
   6.2 Recommended texts and materials  

7. CONTINUAL COURSE IMPROVEMENT  

8. ADMINISTRATIVE MATTERS  
   8.1 Expectations of Students  
   8.2 Procedures for submission of assignments  
   8.3 Student Support Services  
   8.4 Occupational Health And Safety.  
   8.5 School Of Law Office  

9. UNSW LAW SCHOOL GRADUATE ATTRIBUTES  
   9.1 What attributes do we develop in our students?  
   9.2 What do these attributes mean?  

10. ACADEMIC HONESTY AND PLAGIARISM – UNIVERSITY POLICIES
1. COURSE INFORMATION

1.1 Teaching staff / Contact Details / Consultation Times

Convenor: Alana Maurushat  
Faculty of Law, Level 2, Room 231  
Phone: 9385 8027  
Email: a.maurushat@unsw.edu.au

Consultation by appointment only. Email is best method of contact. Other people teaching the course will provide their details in class.

1.2 The relationship between research and teaching

This course develops core legal research and analysis skills useful in both one’s efforts as a student and in professional life in many fields. Those teaching the course have been involved in both research and the development of online legal resources, research tools and publications for many years. There is a critical nexus between this research and development and a successful presentation of the materials and assessment of skills in the course. This is true both because the capabilities and functions of the relevant research tools and resources change continually, and only serious engagement in actual research can enable a teacher to keep up with the leading edge of such a highly technical field; and also because such research engagement illuminates the value or limitations of various strategies and resources for the practical purposes relevant to students and later in professional life.

Since the course aims to develop a level of legal research proficiency at the highest level, a broad basis for success in highly competitive litigation or demanding further study and research, this robust appreciation of how to attain the current highest standard is essential.

1.3 Course Description

Advanced Legal Research is divided into four topics below, which are of approximately even weight. See the Resources and Reading Guide for the course for more details of each topic, including details of all resources with which students must become familiar during the subject.

1 - Researching Australian legislation. Students will learn how to search the main Australian legislation databases; and to find and update legislation by using indexes, annotations and current awareness services. The topic will include finding commentary on and interpretation of legislation in sources such as Explanatory Memoranda, judgments, case notes, parliamentary debates, and Law Reform Commission papers. The variety of sources of online legislation and legislation resources will be covered, and their merits compared.

2 - Researching Australian case law. Students will learn how to search the main Australian case law databases; how to find recent cases using digests and citators; how to update case law and find the current status of a case; how to determine whether a case has been judicially considered; and how to locate articles and case notes. The variety of sources of online full text reported and unreported cases will be covered, and their merits compared.
3 – Foreign Legal Systems and International Law. Students will learn how to develop a systematic approach to researching foreign and international law and other legal materials, principally using electronic research tools. The emphasis will be on free access materials and the main multinational commercial publishers. Search engines and catalogs (directories / indexes) are covered, both general and law-specific.

4 - Australian secondary legal research resources. Students will learn how to find and search the various electronic secondary legal resources, including textbooks, legal encyclopedias, loose-leaf services, journals, periodical indexes and bibliographies. New secondary sources available via the Internet will also be covered. Search engines and catalogs (directories / indexes) are covered, both general and law-specific.

This course has 2 Units of Credit value. It is an undergraduate compulsory (core) course.
Total contact hours: 16 (intensive) plus 2 optional review class hours

A copy of this Course Outline is provided to all students in the first class, and is also available online on the course website at <http://www2.austlii.edu.au/alr/>.

1.4 Course aims
The Advanced Legal Research aims to assist you to:

- refresh and refine the online research skills acquired in the first year course;
- become highly competent in Australian legal research over all categories of materials (legislation, case-law, and secondary materials);
- be able to take a systematic approach to international and comparative legal research sufficient to find major sources;
- practice accessing information from a wide variety of online sources;
- obtain research skills sufficient for you to be able to undertake your own legal research at any level of University studies;
- obtain research skills sufficient for professional practice or other work in law

1.5 Expected Learning Outcomes
By the end of this course, you should be able to:

- understand the differences between the main types of online research tools;
- understand the differences between those tools developed specifically for law, and those for general use;
- use the search engines used by the four major providers of Australian and international legal information;
- use a variety of indexing tools to find the law on a topic;
- evaluate critically research tools and make strategic selections from the wide range of tools available;
- demonstrate appreciation of the strengths and weaknesses of computerised legal information retrieval methods;
- demonstrate awareness of what materials are available online, and where to find them, and what materials are only available in print form, and how to find them;
- use techniques to save and use retrieved information in your own written work;
- demonstrate knowledge of standards for citation of cases and legislation
1.6 Learning Outcomes and Graduate Attributes

Of the five School of Law Graduate Attributes (reproduced in full in the Appendix), this course most clearly furthers GA 3. ‘(Research skills) the capacity to engage in practical and scholarly research’, which in part ‘involves the ability to develop and plan an effective research strategy [and] collect, retrieve and collate relevant information’ before proceeding to ‘analyse, evaluate and interpret information’.

Graduate Attribute 2 ‘Excellent intellectual skills of analysis, synthesis, critical judgment, reflection and evaluation’ is also involved in this course, as students are taught how to assess and compare critically the research tools that they use, and examined on their ability to do so.

Furtherance of Graduate Attribute 5, ‘A commitment to personal and professional self-development’, is one of the outcomes of this course, as it is of vital importance to the life-long learning of a lawyer that they master the legal research skills essential for their continuing professional self-development.

1.7 Teaching and learning approach and strategies

Learning and teaching rationale This course is based on learning through use in the classroom of the principal research tools used in professional legal practice and academic legal research. The approach assumes that students will best learn the use of these tools by applying them to find information in areas of law in which the student is already interested.

Learning and teaching strategy Each student uses a PC to follow the teacher who guides the class through four online Reading Guides which give a highly structured tour of the major providers (‘resources’) of four main types of content. The teacher guides the class enabling students to assess for themselves what content is found on which resource, and to appreciate the wide differences between resources and the reasons for them. As the teacher poses problems concerning each resource, and demonstrates solutions, drawing examples from a specific areas of law, students are required to attempt to solve problems relating to pre-nominated areas of law of their own interest. Discussion then ensues of any problems that arise from student examples, and the class participates in solving those problems. The class then moves on to the next resource. This approach facilitates systematic coverage of a large range of legal resources.

The following (or some of it) would be better placed in the Course Schedule section of the Template, using the subheadings there:

Class attendance Classes are held in the Computer Labs in the Law Library – see timetable for which Lab is used for each class. Due to limited space, students must attend the class in which they are enrolled. The ‘80% rule’ concerning class attendance is applied.

Class Timetable For each course the schedule is (see below for specifics):

• Day 1: topic 1 - Researching Australian legislation;
• Day 2: topic 2 - Researching Australian case law
• Day 3: topic 3 - Australian secondary legal research resources;
• Day 4: topic 4 - Foreign Legal Systems and International Law
There will also be several OPTIONAL 2-hour revision classes the week of the take home examination. The available class times will be emailed to students toward the end of semester, and places in the revision classes will be allocated on application.

2. ASSESSMENT

Past course evaluations have provided positive feedback for the course in nearly all facets. A reoccurring theme of concern, however, has been the form of assessment. With this in mind, a new form of assessment was introduced in late 2007. Formerly the method of assessment was a 2-hour examination. The new assessment method is a take-home examination.

TAKE-HOME EXAMINATION -- ** CONFIRM FINAL DATES IN CLASS! **

100% Take-home examination.

Available Friday, 15 October 2010. Due Wednesday, 20 October, 2010

The examination will be uploaded to the ALR website on Friday, 15 October. <http://www2.austlii.edu.au/alr>

You will be required to physically hand in the exam by 5:00 pm on the due date to the counter of Student Services on the 2nd floor of the Faculty of Law.

Electronic copies will NOT be accepted unless prior arrangements were made!

We **highly** recommend that you aim to hand the examination in before 2:00 pm on the day as foreseeable research hurdles (eg. computer failure, website service is interrupted, tardy public transportation, lack of print credits, etc.) inevitably occur, and will not be accepted as an excuse.

The assessment will place approximately equal weight on each of the 4 topics in the course listed above. Students must demonstrate knowledge of available legal research content, techniques for accessing and navigating that content, and presenting results relevant to identified issues in a logical and clear format.

Advanced Legal Research is graded on a fully assessed basis (ie High Distinction / Distinction/ Credit/ Pass/ Fail), and it contributes to the student’s WAM. (Prior to 2004 it was only on a Satisfactory/Fail basis.)

Late submission: the Faculty Policy is:

“Late work will not be accepted without penalty unless an extension has previously been granted. Late work may be penalised by the deduction of up to 10% of available marks for that assessment for each full day that the work is late, up to a maximum of 50% penalty. Extensions should not normally exceed one week. In the absence of documented grounds, an extension for a common assignment will not be granted beyond the date of return of the work of other students. ”
Assignments must be submitted on paper at the Law Faculty counter according to the instructions on the assignment cover sheet. The examination is held in accordance with UNSW examination procedures.

**Relationship between objectives and assessment strategy** - This subject builds on the skills mastered in the first year Foundations of legal research and writing classes. As Advanced Legal Research is a skills subject, participation in class activities is necessary to ensure skills are applied and developed to an appropriate extent. The examination requires students to revise all research skills, and to demonstrate their understanding of how the various research tools fit together, how to retrieve documents, and write up research in the form of legal memoranda.

4 Formal Matters

**UNIVERSITY POLICIES ON ASSESSMENTS**

Information produced by the UNSW Law School regarding assessments can be found through the Law School website, [http://www.law.unsw.edu.au](http://www.law.unsw.edu.au). Further information about Formal Matters relating to Assessment can be found in the Course Outline Appendix 2 at


Please pay particular attention to the penalties for submitting assignments after the due date or exceeding word limits. Note the following in particular.

**4.1 Class Attendance**

Regular attendance at classes is highly recommended. Regular attendance is crucial for developing a thorough grasp of the materials and skills taught in the course - this will inevitably be reflected in class room and research essay performance. As a rule of thumb, if you attend less than 80% of classes it is likely to have a significant impact on your final assessment.

Please note that students who attend less than 80% of classes without reasonable excuse may be refused final assessment.

**4.2 Late work**

If you fail to submit work for assessment on time you will find that marks will be deducted for lateness, unless you have obtained an extension prior to the date for submission. The penalty applied will be at the rate of 10% of the marks for each day or part thereof that the essay is late up to a maximum of 50% penalty.

**4.3 Length limits**

Very strict limits will apply to assessed work. In calculating the limits, all text, footnotes (including citations of references), tables, and appendices will be included. Since it is a research course relying on presentation of sources, **bibliographic** information will also count in the limit, where this might not normally be counted.
NB: In this course, the intention usually manifest by ‘word limits’ is implemented instead by reference to strict page numbers. Penalties apply to assessed work over the limit as follows:

**Material on any page over the limit:** Not marked, not counted towards result

### 4.4 Marking

Your teachers are committed to ensuring that all marking is fair and comparable across all class groups. The main mechanism for ensuring fairness is that teachers will work towards producing similar marking profiles for all classes. In addition, any students in danger of failing will have their work double-marked.

If you wish to query a mark awarded to you for any of your assessment tasks, you must follow this procedure:

Approach your teacher no earlier than three days after the assessment task is returned to you to request feedback. Your teacher will provide you with feedback on your performance.

Please note that it is unusual for a teacher to alter his or her original mark, except to correct a manifest mathematical error. That is particularly so in this course where there are a large number of students, specific ‘correct’ answers, detailed quantitative marking criteria, and routine cross-checking for consistency.

If you are still dissatisfied with your mark, you may approach the course convenor to arrange for another teacher to informally review the paper. The course convenor must be satisfied that the student sought and obtained feedback on the assessment task in question.

The reviewer will not mark the paper afresh, but will only determine whether the mark is fair and reasonable (i.e., within 3-5 marks of what the work is worth). The reviewer will make a non-binding recommendation to the original teacher, either recommending that the original mark stand or that the mark be adjusted upwards or downwards. If the teacher accepts the reviewer’s recommendation, any substituted mark — including a lower mark — will become final.

If you are still dissatisfied after this process, you may formally appeal your mark. Please consult university rules for the necessary procedures. You may be charged an administrative fee.

### 4.5 Illness or Misadventure

If your performance is affected by illness or misadventure you should notify your teacher as soon as possible, preferably with a medical certificate or other documentary evidence of your special circumstances.
ACADEMIC MISCONDUCT AND PLAGIARISM

No essays or assignments can be accepted unless you sign the academic misconduct declaration that is included on the Law School assignment cover sheet.

It will be assumed that you are thoroughly familiar with the policies re academic misconduct and plagiarism of the Law School and UNSW.

See the Course Outline Appendix 3 at:

Each year a number of complaints are made relating to academic misconduct within the Law School. Serious punishment, including exclusion from University, may result from such complaints. Academic dishonesty includes plagiarism, which is the use of another person’s words and ideas without appropriate acknowledgement. Plagiarism will not be tolerated.

All work submitted in this course for assessment must be your own work. It should not be written in collaboration with any other student, lawyer or professional person to whom you may have access. You may, of course, in preparing work for assessment, consult your teacher and the Law Librarians.

NB: Note however that this course encourages students in the course to study and prepare collaboratively, to encourage development for collaborative professional behaviour which will be an essential part of the exercise of the skills taught. The boundary of acceptable conduct will be discussed in class.

All work submitted in this course for assessment must have been generated for this course alone. In other words, you should not submit for assessment work which you may have completed for another course or professional requirement.

It is your responsibility to use correct methods of acknowledging other people’s ideas. The recommended form of citation for essays submitted in this course is the Australian Guide to Legal Citation. A read-only copy of this Guide can be downloaded at <http://mulr.law.unimelb.edu.au/aglc.asp>. (See course reading list for latest edition.)

In addition to using the work of others, allowing other students to use your written work amounts to collusion in assessment. Collusion in assessment is academic misconduct. Unless work is specified to be group work, any work submitted for assessment must be written by each student individually, and must not be shared, whether in draft or completed form, with any other student. While it is understood that it is often beneficial for students to study together and to discuss their work, students who share, distribute, or show their written work to any other student while enrolled in the course for which the work is to be submitted will be deemed to be colluding in their work, and thus guilty of academic misconduct.
5. COURSE SCHEDULE

See the online calendar for the days for each of the four half-day topics in which you are enrolled. They are typically grouped on four days within a four week period towards the beginning or end of session. There is also an optional 2 hour revision class before the exam.

6. RESOURCES FOR STUDENTS

Readings for each topic are found in the Resources & Reading Guide, available online from the course home page. [http://www2.austlii.edu.au/alr/]. The password is provided in class.

References and links from each topic point you to the relevant external resources, and the relevant chapters of the recommended text Nemes and Coss (‘N&C’). See also relevant parts of the ‘AustLII Guide’ (below). The four topics corresponding to each section in the course Resources & Reading Guide are covered in the following chapters of Nemes and Coss:

<table>
<thead>
<tr>
<th>Topic</th>
<th>Resources &amp; Reading Guide</th>
<th>Nemes &amp; Coss</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Australian legislation</td>
<td>N&amp;C Ch 8</td>
</tr>
<tr>
<td>2</td>
<td>Australian case-law</td>
<td>N&amp;C Ch 7</td>
</tr>
<tr>
<td>3</td>
<td>Australian secondary law resources</td>
<td>N&amp;C Ch 6</td>
</tr>
<tr>
<td>4</td>
<td>International and foreign law</td>
<td>N&amp;C Ch 6 &amp; 9</td>
</tr>
</tbody>
</table>

6.1 Required materials

- Greenleaf G et al, Advanced Legal Research - Resources & Reading Guide (2009) - (available free online at [http://www2.austlii.edu.au/alr/]), including Tables and User Guides contained therein. Printed copies of the required materials are also provided at the start of each day’s class. All materials handed out in class are required materials. Students should ensure they have up-to-date copies of these materials.

6.2 Recommended texts and materials

- Bott, B, Cowley, J and Falconer, L, Nemes & Coss’ Effective Legal Research, 4th ed (Sydney: Butterworths, 2009) - A good guide to the principles behind all types of legal research, brought up-to-date. Purchase is strongly recommended.

An updated list of other recommended texts is available at: [http://www2.austlii.edu.au/alr/References2010.html]

Resources from the UNSW Library are linked to from the course Reading Guides, and at: [http://info.library.unsw.edu.au/web/services/services.html].
7. CONTINUAL COURSE IMPROVEMENT

Student feedback is very important to continual course improvement. This is demonstrated within the School of Law by the implementation of the UNSW Course and Teaching Evaluation and Improvement (CATEI) Process, which allows students to evaluate their learning experiences in an anonymous way. The resulting evaluations are ultimately returned to the course convenor, who will use the feedback to make ongoing improvements to the course.

Course evaluation and development - Your feedback on the course will be requested in a brief evaluation form at the end of the two days, since we do not meet again before the end of semester. This feedback is considered carefully in developing future versions of the course.

8. ADMINISTRATIVE MATTERS

8.1 Expectations of Students

Workload
You are expected to read the assigned readings prior to each class. The Course Guide summarises the reading assignments for each class; the Materials include a topic-by-topic guide to the readings. On average, you are expected to review 20 or more online resources per class.

Attendance
If you attend fewer than 80% of classes without reasonable excuse you may be refused final assessment. (See above.)

8.2 Procedures for submission of assignments

The essay and other written components should be submitted via the administrative desk currently on level 2 of the Law Building. You will be advised in class if this procedure is to change. Please also note previous comments regarding penalties for late work, and non-acceptance of electronic versions.

8.3 Student Support Services

Those students who have a disability that requires some adjustment in their teaching or learning environment are encouraged to discuss their study needs with the course convener prior to, or at the commencement of, their course, or with the Equity Officer (Disability) in the Student Equity and Disabilities Unit (phone (02) 93854734 or

http://www.studentequity.unsw.edu.au/content/default.cfm?ss=0 )

Issues to be discussed may include access to materials, signers or note-takers, the provision of services and additional exam and assessment arrangements. Early notification is essential to enable any necessary adjustments to be made.

8.4 Occupational Health And Safety.

UNSW is dedicated in its approach to ensure a safe and healthy working and learning environment and its policies may be examined at:

<http://www.ohs.unsw.edu.au/ohs_policies/>
8.5 School Of Law Office

Level 2
Faculty of Law
Faculty of Law Building
Lower Campus

Office Hours: 9.00 to 5.00 (during the semester 10.00 – 4.00 during the semester breaks)

Email: law@unsw.edu.au

Tel: + 61 2 9385 2227
Fax: + 61 2 9385 1775
9. UNSW LAW SCHOOL GRADUATE ATTRIBUTES

9.1 What attributes do we develop in our students?

The UNSW School of Law instils in students the understandings, values, skills and qualities necessary to become highly qualified professionals with a strong sense of citizenship, community and social justice. A legal education at the UNSW Law School, therefore, develops graduates who have:

- **Core disciplinary knowledge**: a functioning and contextual knowledge of law and legal institutions;
- **Transferable intellectual skills**: excellent intellectual skills of analysis, synthesis, critical judgment, reflection and evaluation;
- **Research skills**: the capacity to engage in practical and scholarly research;
- **Communication skills**: effective oral and written communication skills both generally and in specific legal settings;
- **Personal and professional values**: a commitment to personal and professional self development, ethical practice and social responsibility.

These attributes build on and contextualise the 12 generic UNSW graduate attributes.

9.2 What do these attributes mean?

**A functioning and contextual knowledge of law and legal institutions** means:

- a comprehensive knowledge of the core principles of law, including a critical understanding of the policy considerations informing the law;
- an understanding of the principal institutions in the Australian and other legal systems and their purpose and functions;
- an appreciation of the contextual factors that influence the operation of the law and the impact law has on society, politics, the economy and culture;
- a general understanding of Australian law in international and comparative perspective;
- and
- an engagement with the scholarship of law.

**Excellent intellectual skills of analysis, synthesis, critical judgment, reflection and evaluation** incorporate the ability to

- collect and sort facts;
- identify and analyse legal issues;
- interpret legal texts;
- apply the law to real legal problems;
- invoke theory and inter-disciplinary knowledge to develop new and creative solutions to legal problems;
- critique law and policy to develop new ideas about the law and law reform;
- participate effectively in debates about the law.
10. ACADEMIC HONESTY AND PLAGIARISM – UNIVERSITY POLICIES

The UNSW Academic Misconduct Policy is at:


You need to be familiar with the UNSW policies relating to academic misconduct.

What is Plagiarism?
Plagiarism is the presentation of the thoughts or work of another as one’s own.* Examples include:

• direct duplication of the thoughts or work of another, including by copying material, ideas or concepts from a book, article, report or other written document (whether published or unpublished), composition, artwork, design, drawing, circuitry, computer program or software, web site, Internet, other electronic resource, or another person’s assignment without appropriate acknowledgement;
• paraphrasing another person’s work with very minor changes keeping the meaning, form and/or progression of ideas of the original;
• piecing together sections of the work of others into a new whole;
• presenting an assessment item as independent work when it has been produced in whole or part in collusion with other people, for example, another student or a tutor; and
• claiming credit for a proportion a work contributed to a group assessment item that is greater than that actually contributed.†

For the purposes of this policy, submitting an assessment item that has already been submitted for academic credit elsewhere may be considered plagiarism.

Knowingly permitting your work to be copied by another student may also be considered to be plagiarism.

Note that an assessment item produced in oral, not written, form, or involving live presentation, may similarly contain plagiarised material.

The inclusion of the thoughts or work of another with attribution appropriate to the academic discipline does not amount to plagiarism.

The Learning Centre website is main repository for resources for staff and students on plagiarism and academic honesty. These resources can be located via: http://www.lc.unsw.edu.au/plagiarism

The Learning Centre also provides substantial educational written materials, workshops, and tutorials to aid students, for example, in:
• correct referencing practices;
• paraphrasing, summarising, essay writing, and time management;
• appropriate use of, and attribution for, a range of materials including text, images, formulae and concepts.

Individual assistance is available on request from The Learning Centre.

The University regards academic misconduct as a very serious matter.

Students found guilty of academic misconduct are usually excluded from the University for two years. Contingent on the individual circumstances, however, the period of exclusion can range from one session to permanent exclusion from the University.

The following are some of the actions which have resulted in students being found guilty of academic misconduct in recent years:

• use of unauthorised aids in an examination;
• submitting work for assessment knowing it to be the work of another person;
• improperly obtaining prior knowledge of an examination paper and using that knowledge in the examination;
• failing to acknowledge the source of material in an assignment, or the extent of indebtedness to others.

In cases where students collaborate with other students, the extent of collaboration should be included as well as the names of all students who contributed to the piece of work. Anyone not already familiar with correct forms of acknowledgement is strongly advised to consult the UNSW Learning Centre Web Page on *Avoiding Plagiarism*:

<http://www.lc.unsw.edu.au/plagiarism/index.html>