

# LAWS50070 Encounters: Indigenous Peoples and Law

<b>Credit Points:</b>	12.50																																	
<b>Level:</b>	5 (Graduate/Postgraduate)																																	
<b>Dates &amp; Locations:</b>	This subject is not offered in 2014. Seminars.																																	
<b>Time Commitment:</b>	Contact Hours: 36 hours. Total Time Commitment: 144 hours.																																	
<b>Prerequisites:</b>	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50025 Torts</td> <td>November, Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50028 Constitutional Law</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50030 Property</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50031 Legal Theory</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50032 Administrative Law</td> <td>Semester 1</td> <td>12.50</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50	LAWS50024 Principles of Public Law	Semester 1	12.50	LAWS50025 Torts	November, Semester 2	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50027 Dispute Resolution	Semester 1	12.50	LAWS50028 Constitutional Law	Semester 2	12.50	LAWS50029 Contracts	Semester 2	12.50	LAWS50030 Property	Semester 1	12.50	LAWS50031 Legal Theory	Semester 2	12.50	LAWS50032 Administrative Law	Semester 1	12.50
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<b>Corequisites:</b>	None.																																	
<b>Recommended Background Knowledge:</b>	None.																																	
<b>Non Allowed Subjects:</b>	If students have previously enrolled in the Melbourne Law Master's subject <i>Indigenous Peoples, Land Resources Law 780-876</i> they will need the approval of the coordinator before enrolling in this subject.																																	
<b>Core Participation Requirements:</b>	The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">http://www.services.unimelb.edu.au/disability/</a> .																																	
<b>Contact:</b>	Melbourne Law School Student Centre Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> ( <a href="mailto:law-studentcentre@unimelb.edu.au">mailto:law-studentcentre@unimelb.edu.au</a> )																																	

	Tel: +61 3 8344 4475
<b>Subject Overview:</b>	Encounter scholarship - the study of contact and contest between indigenous people and settler colonisers - is an important method and practice in historical, linguistic, and anthropological studies, used to interrogate the limits and possibilities of cross cultural engagements. This subject undertakes this task within the boundaries of law. Using a case study method to frame different encounters, it will critically examine how settler colonial legal systems have dispossessed Indigenous peoples from their land and cultural belonging, in the process constructing for them raced identities, with ongoing, lived consequences. It will also consider how indigenous peoples have interpreted and mobilised law to contest those consequences and impacts. Although the focus in this subject will be predominantly on the encounter between Indigenous Australians and the Australian legal system and nation state the questions raised about contact, contest and processes of colonisation and resistance will be positioned as transnational phenomena, with comparative analysis where appropriate. The case studies will be linked by their consideration of the subject's overriding themes of Knowledge, Governance, Interests and Recognition. We will study up to three Encounters, which may include: Land Relationships and Title; The Northern Territory Emergency Intervention; Assimilation Policies, Genocide and Law; Citizenship: Economic and Social Rights; and The Protection and Prosecution of Knowledges.
<b>Learning Outcomes:</b>	<p>This subject will build upon the research skills already developed within the JD program. In addition, and specifically, on completion of this subject, students should:</p> <p>Have developed an advanced, integrated understanding of a range of critical and theoretical analyses of the relationship between the settler colonial legal systems and Indigenous peoples, including:</p> <ul style="list-style-type: none"> <li># The historical, legal and political consequences of colonisation and the subsequent impact upon the lives and identity of indigenous peoples;</li> <li># Both the historical and contemporary cultural traditions, including the centrality of land, for Indigenous Australians;</li> <li># The major human rights claims of Indigenous Australians including claims to sovereignty both domestically and at international law, citizenship rights, property rights and recognition of customary law;</li> <li># The ways law may contribute to a resolution of outstanding issues between indigenous and non-indigenous peoples including through litigation, negotiation and agreement making;</li> <li># The ways in which the experiences of indigenous people in other common law countries are relevant to and may inform legal and political debate on issues relating to Indigenous Australians;</li> <li># The complexity of the ways in which colonisation is both transnationally experienced, by settler colonisers and indigenous peoples, yet also specifically practiced and survived within the boundaries of nation states, as designated by law.</li> </ul>
<b>Assessment:</b>	<p>Research essay 7,000 words (90%)The overriding themes and approaches of this subject indicate an expectation that students' research essays will involve breadth and complexity in the design of their framing questions; demonstration of the acquisition of cross disciplinary methodological skills in locating and analysing a diversity of research materials; and cultural awareness in the articulation of their critical legal arguments. There is an expectation that research essays will be of a very high quality, opening up awareness for students of the possibility of future or further scholarly and legal engagements; Submission of research proposal, and work in progress presentation of that proposal in class (10%).Students will be expected to participate in a colloquia in order to present ideas and arguments outlined in a written research proposal; engage in informed and respectful critical debate with others about their work; and gain experience in oral defence of a short thesis.</p>
<b>Prescribed Texts:</b>	Specialist printed materials will be made available from Melbourne Law School.
<b>Breadth Options:</b>	This subject is not available as a breadth subject.
<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>
<b>Generic Skills:</b>	<p>On completion of the subject, students should have developed the following generic skills:</p> <p>Be able to draw on this understanding to:</p>

- # Self direct an analytical research project, integrating learning from the breadth of encounter scholarship, methods and problematics;
- # Interpret the historical context of law in order to analyse complex contemporary politico-legal problem;
- # Describe and critically evaluate elements of the legal relationship between indigenous peoples and settler institutions;
- # Investigate cross cultural encounters through the location and close reading of a range of primary and secondary source materials;
- # Critically analyse at least two specific instances or examples of this relationship;
- # Develop arguments as to the appropriate legal principles to apply in various circumstances that will advance the status of indigenous peoples;
- # Present these specialist arguments, analyses and application of principles in the form of written arguments that are appropriately investigated, structured, developed, supported and referenced;
- # Present and defend an argument orally to demonstrate original and accountable thinking and scholarly practice.

Additionally, you should aim to develop:

- # Openness to new ideas and ethics associated with knowledge creation and usage;
- # The capacity for critical and independent thought and reflection;
- # The capacity to communicate, both orally and in writing, to specialist and non-specialist audiences;
- # The capacity to plan and manage time;
- # Intercultural sensitivity and understanding.

**Notes:**

This subject has a quota of 60 students.