

LAWS50034 Criminal Law and Procedure

Credit Points:	12.5																																	
Level:	5 (Graduate/Postgraduate)																																	
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: Semester 2, Parkville - Taught on campus.																																	
Time Commitment:	Contact Hours: 48 hours Total Time Commitment: 144 hours																																	
Prerequisites:	<p>Successful completion of all the below subjects:</p> <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>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> <tr> <td>LAWS50033 Trusts</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	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	LAWS50033 Trusts	Semester 1	12.50
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Corequisites:	None																																	
Recommended Background Knowledge:	None																																	
Non Allowed Subjects:	None																																	
Core Participation Requirements:	<p>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 inhibit them from meeting these inherent academic requirements are encouraged to contact Student Equity and Disability Support.</p>																																	
Coordinator:	Prof Jeremy Gans																																	

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Subject Overview:	<p>There are many ways in which to construct the field of criminal law: it is related to public law in as much as it concerns the relation between the state and the citizen in democratic societies; it is related to the law of obligations (contracts and torts) but is concerned with public rather than private obligations; and it is related to legal theory in as much as it concerns the nature of the law that attributes responsibility. With this in mind, the field of criminal law is typically divided into substantive criminal law (the definition, prohibition and regulation of criminal activity by law) and criminal procedure (the processes, rules and principles of law governing the institutions of investigation, prosecution, trial and appeal within criminal jurisdictions). The central question is thus the question of attribution of responsibility.</p> <p>The subject's approach is to emphasise the breadth of offences in the statute book and decision-making throughout the criminal justice system, including the role of courts in interpreting offence provisions, developing general doctrines and managing individual cases. These topics are developed through in-depth discussion of particular case studies (of specific offences, criminal justice policy debates, theoretical frameworks and/or contemporary or historical instances of criminal law.) In doing so, the overall concern is to draw out the links and disjunctions within criminal law, between criminal law and other areas of law and between law and other fields of social regulation.</p> <p>The specific topics covered include:</p> <ul style="list-style-type: none"> # The formal structure of substantive criminal law, including the analysis of offences in terms of elements and the application of principles of statutory interpretation to offence provisions; # The institutional arrangements of criminal procedure and their respective rationales, including the mechanisms for judicial and political control of the outcomes of those arrangements; # Substantive offences – includes a selection of offences against the person and offences against property, as well as detailed studies of offences that have been the subject of critical debate or law reform efforts; # Defences, including both defences that are generally applicable to offences and offence-specific exculpatory regimes; # Modes of criminal responsibility, including extensions of criminal responsibility, whether achieved through novel offence forms or general doctrines of criminal law. <p>In each instance, the subject addresses Australian criminal law, exploring the links and differences between the various domestic regimes and their place within comparative jurisdictions, whether local, foreign or international.</p>
Learning Outcomes:	<p>Students who successfully complete this subject will have:</p> <ul style="list-style-type: none"> - The ability to engage independently and collaboratively in a detailed and comprehensive analysis of an offence provision that they have not encountered before, including explaining in clear terms: <ul style="list-style-type: none"> # A detailed description of the behavior that is and is not prohibited by the offence provision; # The responses that an accused may make to a charge of breaching that provision; # The effect of general doctrines of complicity and preparatory offences on the scope of the provision; # The impact of discretionary criminal justice on the outcome of a prosecution for the offence. - A sophisticated understanding of the following areas of Australian criminal law regimes: <ul style="list-style-type: none"> # The aims, structure and operation of the criminal justice system; # The structure and impact of the rules and institutional arrangements of criminal procedure; # The general principles of substantive criminal law; # The legal construction of criminal offences, defences and associated principles of criminal liability; - A specialist capacity, in the context of historical and contemporary scenarios, to engage with and critically apply: <ul style="list-style-type: none"> # The major theories of criminal responsibility; # Key approaches to contemporary criminal law reform;

	# Controversies in current theories of criminal law.
Assessment:	Syndicate task* – written paper by the syndicate on an assigned exercise (20%*) (hurdle requirement); Take home examination (80%). Students must receive at least a pass in the take home examination to pass the subject (hurdle requirement). *Redeemable assessment: the mark for the syndicate task will only be counted if it is higher (as a percentage of total marks available) than the mark for the examination. Otherwise, the examination will count for 100% of the assessment. The due date of the above assessment will be available to students via the LMS.
Prescribed Texts:	Gans, Modern Criminal Law of Australia, Cambridge UP (latest edition); Specialist printed materials will also be made available from the Melbourne Law School.
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Generic Skills:	<p>Upon successful completion of the subject, students will have developed the skills in the following areas:</p> <ul style="list-style-type: none"> # Specialist understanding of the major statutes, decisions and secondary sources relevant to Australian criminal law regimes, including a detailed knowledge of significant historical and comparative sources; # Advanced understanding of the major theoretical and political controversies underlying Australian and comparative criminal law and procedure; # Excellence in formulating relations between ideas and institutions in Australian criminal justice; # Creatively analysing novel offence provisions from a variety of perspectives, including exploring questions of their interpretation through original research, an examination of the impact of discretion in criminal process and the application of general doctrines of criminal law; # Formulating and articulating sophisticated technical and critical analysis, both orally and in writing, directed at legal and lay audiences.
Related Course(s):	Juris Doctor Juris Doctor/Master of Business Administration