

LAWS50122 Animal Law

Credit Points:	12.5																														
Level:	5 (Graduate/Postgraduate)																														
Dates & Locations:	This subject is not offered in 2016. This subject has a quota of 60 students. Details on quota subject selection are available on the JD website.																														
Time Commitment:	Contact Hours: 36 hours. Total Time Commitment: 144 hours.																														
Prerequisites:	<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>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	LAWS50032 Administrative Law	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 prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: www.services.unimelb.edu.au/disability/.</p>																														
Contact:	<p>Email: law-aso@unimelb.edu.au (mailto:law-aso@unimelb.edu.au) Phone: +61 3 8344 4475 Website: www.law.unimelb.edu.au/jd (http://www.law.unimelb.edu.au/jd)</p>																														
Subject Overview:	This subject will look at the relatively recent discipline of Animal Law, which requires the synthesis of diverse legal principles in a way that exposes how in a given case or question, they																														

may affect, challenge or arm the advancement of the welfare and treatment of animals. The subject will also consider issues arising in the defence of protestors or public advocates of the animal cause, and questions relating to law reform in circumstances where an animal protection legal regime fails to protect the overwhelming mass of animals.

The subject *Animal Law* will have a wide compass, ranging from fundamental questions arising from the conception of animals as personal property through to high questions of constitutional law principle. It will examine the manner in which strategic public interest litigation may be mounted to take on a whole industry rather than simply, as mainly occurs at present, prosecutions by way of a legal 'post-mortem' vindicating the fate of a few animals as due to ill-treatment at the hands of a defendant.

Particular topics to be covered in Animal Law will include:

- # Strategic public interest litigation: its relevance, its challenges, and the creative manner in which it may be undertaken, including by a Commonwealth agency like the Australian Competition and Consumer Commission;
- # Animals and international law: in particular, relevant World Trade Organization rules; the International Court of Justice whaling case between Australia and Japan; the Blue Fin Tuna case and the International Tribunal for the Law of the Sea; the wildlife trade and the relevance of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* and Australia's adaptation of its provisions in the *Environment Protection and Biodiversity Conservation Act 1999*; relevant principles of public international law; the welfare provisions of the *Terrestrial Animal Health Code* of the World Organisation for Animal Health (known as OIE) ; and a universal declaration of animal welfare;
- # The conception of animals as property, including by possible analogy the development of English and American case law and legislation leading to the abolition of slavery;
- # Constitutional law issues, including the High Court 'free speech' case of *Levy* (with a comparison of relevant United States jurisprudence), a detailed consideration of case law in respect of sections 92 and 109, and the implied freedom of political communication;
- # The legal regime for the live export of animals; the legal regime for animals used in research , including relevant principles of breach of copyright and confidential information, and the 'public interest' defence well settled in the United Kingdom but negated or a matter of debate in different Australian jurisdictions; the legal regime for and challenge posed by feral animals; and the legal regime at a state and federal level for the kangaroo industry, with a consideration of relevant case law concerning management plans and principles of administrative law and statutory construction under the federal *Environment Protection and Biodiversity Conservation Act 1999*;
- # The difficult questions that arise under the secondary boycott provisions of the *Competition and Consumer Act 2010*; and
- # Interlocutory remedies such as the declaration or the injunction and the challenges that existing legal principles can pose.

Learning Outcomes:

Students who successfully complete this subject will have:

- # An advanced technical knowledge of how deficient welfare thresholds in animal laws and subordinate instruments may be overcome utilising strategic public interest litigation under trade practices or other statutes, including as to the conceptual thinking and evaluation necessary for the adoption of such legal stratagems/solutions in professional or highly skilled work;
- # An ability to critically analyse and reflect upon laws, rules, treaties and jurisdiction of international forums affecting the welfare of whole species of animals and possible legal stratagems or remedies;
- # An advanced understanding of, and critical insight into, the complex substantive law governing or relevant to trade in animals, or their use in research, or the attempted inhumane control of wild and feral animals as pest animals, and the manner in which possible legal challenges to different laws or programs may be creatively conceived and undertaken in specific cases, or possible law reform measures may be contemplated;
- # A sophisticated insight into the root and branch law reform necessary to provide for welfare standards which meet the public interest, including by a broad assumption of legal responsibility at the Commonwealth level instead of principally at a State level as at present;
- # An advanced knowledge of the tools in the legal armory which may be deployed in the defence of animals or their public advocates, including interlocutory remedies and the challenges which may exist in securing their grant; and
- # The ability to think laterally in drawing upon a range of legal learning and doctrines from the different areas of the law, and to synthesise them for application to the particular issue at hand.

Assessment:	Research proposal (hurdle requirement). Students will submit a 600 word research proposal on a topic chosen by them and approved by the coordinator. The proposal is a hurdle requirement for the course, and will be assessed on a pass/resubmit basis; Research paper (6,000 words). Executing their research proposal, students will be required to develop and submit a research paper of 6,000 words, due in accordance with the assessment schedule (100%).
Prescribed Texts:	Specialist printed materials will be made available from Melbourne Law School; Graeme McEwen, Animal Law: Principles and Frontiers (ebook) (without cost or fee for online access). Additional readings may also be advised.
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>On successful completion of the subject students will have developed and demonstrated advanced skills in the following areas:</p> <ul style="list-style-type: none"> # The capacity to locate and critically evaluate a range of primary and secondary source materials to investigate the relationship between law, the animal protection legal justice issue, and possible remedies or legal tools that may be deployed (or the impediments to doing so where they exist and how they may if possible be addressed) in the relevant jurisdiction in given factual cases; # The ability to think laterally in drawing upon a range of legal learning and doctrines from the different areas of the law, and to synthesise them for application to the particular issue at hand, and in doing so to think conceptually and creatively; # The capacity to formulate, manage and execute a socio-legal research project from inception to completion; # The capacity to research and articulate a creative or elaborate legal argument in respect of a wide spectrum of the issues raised by the institutionalized maltreatment of animals under existing legal regimes and principles, whatever may be the audience; and # The capacity to think in terms of appropriate measures of law reform.
Related Course(s):	Juris Doctor