

LWZ202 Introduction to Public Law

Credit points:	10	Mode:	External and internal
Assumed knowledge:	NA	Location:	External studies; Casuarina campus
Pre-requisite(s):	(Must have passed 2 units in {LWZ100A, LWZ100B} OR Must have passed 1 units in {LWZ001})	Learning method:	OLR
Year:	2012		
Semester:	Semester 1	Unit coordinator:	Ken Parish
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Unit Description

The aim of this unit is to impart an understanding of the fundamentals of federal constitutional law and administrative law merits review through the study of key concepts and institutions of, inter alia, constitutionalism, of law, responsible and representative government, federalism, separation of powers, the Parliament, the Executive, the Judiciary, the nature of judicial power and merits review.

Learning Outcomes

On completion of this unit a student should be able to:

1. Identify, discuss and analyse some of the important themes in Australian constitutional law and administrative law merits review and the impact of events that have changed, and continue to change political, economic and social relationships;
2. Describe and analyse the basic structure of Australia's Constitution and some of its central features such as separation and division of powers and responsible and representative government;
3. Develop basic working knowledge of the constitutional and legal (administrative law merits review) mechanisms by which government and parliamentary powers are controlled and limited in Australia;
4. Develop early stage written and oral communication skills utilising legal language and reasoning in a public law context;
5. Develop early stage teamwork and leadership skills in a public law context

Teaching and Learning Strategies

- (1) There is significant emphasis in this subject on collaborative or group learning. Pre-recorded multimedia lecture presentations of approximately 1-1.5 hours in length are provided on each of the 12 topics, along with carefully selected guided readings which bring key issues on all topics to students' attention. Students are expected to have developed a reasonable level of independent study habits whereby they keep up with the required reading of the prescribed texts, key case law and additional readings listed for each topic.
- (2) In addition to the pre-recorded multimedia lecture presentation on each topic, there is a live interactive

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seminar of approximately 1 hour each week (which is also recorded for those who cannot attend), during which the class will “workshop” any issues on the current or recent topics which have emerged as needing extra attention (e.g. from experience in tutorials or posting on the academic queries discussion board).

- (3) Students are required to organise themselves by census date (31 March 2012) into small study groups which should meet approximately weekly during semester weeks 5-9 inclusive to study and revise lecture topics collaboratively, write and submit a group answer on set questions or problems relating to topics 7, 8 and 9 (Indigenous peoples, judicial independence and separation of judicial power) (assessment item 3) and (if desired) prepare together for individually assessed tutorial advocacy or participation exercises (assessment item 2).
- (4) Students each engage in two (2) individually assessed tutorial advocacy or participation exercises (assessment item 2) during weekly tutorial sessions. The exercise may involve a debate topic, “mini-moot” or just active participation in addressing questions on the week’s topic.

Participation

See “Teaching and Learning Strategies” above and “Overview of Assessment” below.

Specific details of individual class times can be obtained by accessing the class timetable at: <http://eagle.ntu.edu.au/ntu/apps/syllabus.nsf/studenttt?OpenForm>

Overview of Assessment

Item	Description/Focus	Value	Relates to learning outcomes
1.	Final exam (invigilated – during final exam period at end semester)	50 %	1, 2, 3, 4
2.	2 x individually assessed tutorial advocacy or participation exercises (each marked out of 7.5)	15 %	1, 2, 3, 4
3.	Study group written answer relating to topics 7, 8 and 9 (Indigenous peoples, judicial independence and separation of judicial power). Each group may choose any two out of these three topics for their group answer.	15 %	1, 2, 3, 4
4.	Tutorial participation (not just passive attendance) (1 mark per tutorial)	10 %	<i>No specific learning outcome</i>
5.	Participation grade (5 marks for group participation assessed via reflective journal; 5 marks from blog and discussion board participation)	10 %	3, 4, 5

Special Requirements

Nil

Resources

Required textbook(s)

- Blackshield & Williams, *Australian Constitutional Law: Theory, Practice & Materials*, Federation Press, 5th edition, 2010
- Joseph and Castan, *Federal Constitutional Law – A Contemporary View*, Thomson Reuters, 3rd edition, 2009
- Patrick Keyzer, *Constitutional Law*, Butterworths, 3rd edition, 2010

- Roger Douglas, Douglas & Jones' *Administrative Law*, 6th edition, Federation Press, 2009

Required textbooks can be ordered from the CDU Bookshop through their website at www.cdu.edu.au/bookshop

Learnline (Online Learning System)

Learnline is Charles Darwin University's on-line learning system.

In this unit, Learnline will be used to:

- provide important announcements about the unit
- distribute lecture slides, and other study
- complete online assessments
- access feedback from tasks and grades for assessable work
- provide a communication point where you contribute to discussions as part of your assessment, and to interact with other students in the unit

You will need to connect to the Internet to access it, at <http://learnline.cdu.edu.au/>

Access to Learnline may not be available until Day 1 of Semester.

If this is your first time using Learnline, click on 'Student Learnline Support' in the left-hand navigation panel BEFORE logging in.

It is recommended that all students have access to regular and reliable broadband access to complete unit requirements.

e-Reserve

e-Reserve allows electronic copies of journal articles, book chapters and lecturer notes that have been recommended by a lecturer as part of their course reading requirements. You can access e-Reserve at <http://www.cdu.edu.au/library/ereserve/index.html>.

This site is password protected. Your CDU student login will provide you access. You can then search for items by Lecturer, Unit Code, Title, Author, keyword, Year or Date if you have that information.

Additional Resources

Prescribed Legislation:

The Australian Constitution

The Administrative Appeals Tribunal Act (Cth)

The Freedom of Information Act (Cth)

The Ombudsman Act (NT)

Additional resources

Recommended texts:

- Winterton, Lee, Glass and Thomson, *Australian Federal Constitutional Law: Commentary and Materials*, LBC, 1999 (a bit out of date)
- Moens and Trone, *Lumb & Moens' The Constitution of the Commonwealth of Australia Annotated*, LexisNexis Butterworths, 7th edition, 2007
- Ratnapala, John, Karean and Koch, *Australian Constitutional Law: Commentary and Cases*, Oxford, 2007

- Clarke, Keyzer and Stellios, *Hanks' Australian Constitutional Law: Materials and Commentary*, LexisNexis Butterworths, 8th edition, 2009
- Patrick Keyzer, *Constitutional Law*, Butterworths, 3rd edition, 2010
- Booker, Glass & Watt, *Federal Constitutional Law*, Butterworths, 2nd edition, 1998 (also a bit out of date).

**You do not have to buy these texts, but they may be useful additional resources if you have access to them.

Journals:

The monthly *Australian Law Journal* is valuable for keeping abreast of recent decisions. Journals of note for Constitutional Law purposes include:

- The *Public Law Review* (published out of the University of Melbourne); and,
- The *Federal Law Review* (published out of the ANU).

These journals cover the broad range of public law, but nevertheless they sometimes contain material specifically dealing with constitutional law issues. Note that not all journals are received in the University Library. Federal Law Review and most if not all university law journals (many of which contain public law articles from time to time) are available electronically on Hein Online. However, Australian Law Journal and Public Law Review are not available electronically (at least not under current CDU subscriptions). If I refer to an article from one of these journals specifically, I will post it on E-Reserve. Otherwise, if you find a relevant article from one of these journals while researching for your major assignment (e.g. by using a bibliographic database like Agis Plus Text), remember that you can order the article by inter-library loan by contacting the law librarian.

Web sites:

See the Web Links area of the subject Learnline website for a comprehensive set of web links related to public law.

Learning Schedule

Duration / Module	Topics	Required readings or student learning activities to be completed	Assessments Due
Week 1 (commences Monday 27/2)	1. Introduction; the scope of public law; overview of political and philosophical origins of the Australian constitutional system	Blackshield & Williams: chapter 1	NA

	(comprising the following topics: Introduction, constitutionalism and constitutional law, legal foundation and discourse, the State, the Crown, federalism, separation of powers, judicial review, the liberal tradition).	Additional readings as per study guide	
Week 2 (commences Monday 5/3)	2. British constitutionalism, Australia's hybrid "Washminster" system and the theories of A.V Dicey (comprising the following topics: Significant events in English constitutional history, British constitutional scheme as at 1900, development of representative and responsible government, Diceyan constitutional theory, the common law and the protection of rights).	Blackshield & Williams: chapter 2 Additional readings as per study guide	NB Tutorials commence semester week 2. Students receive 1 mark for participation at each tutorial to a maximum of 10 (assessment item 4).
Week 3 (commences Monday 12/3)	3. Historical development of Australia's constitutional system (comprising the following topics: colonisation and the reception of English common law and statute law, the <i>Colonial Laws Validity Act 1865</i> (Imp), repugnancy and extraterritoriality, <i>Statute of Westminster 1931</i> (UK), Australian steps towards full constitutional independence, the <i>Australia Act 1986</i> (Cth)).	Blackshield & Williams: chapter 3 Additional readings as per study guide	Individual students may elect to be assessed for tutorial participation (assessment item 2) in any week starting week 3, and will be expected to submit for assessment in two (2) separate weeks during the semester
Week 4 (commences Monday 19/3)	4. Federal Parliament (comprising parliamentary privilege, voting and elections, eligibility for election, resolving deadlocks)	Blackshield & Williams: chapter 9 Additional readings as per study guide	
Week 5 (commences Monday 26/3)	5. The Federal Executive (comprising the Crown, Governor-General, executive power generally, prerogative power, power conferred by statute; control of the executive – responsible government, constitutional writs and judicial review)	Blackshield & Williams: chapter 11 Additional readings as per study guide	NB Mid-term break is 10-13 April 2012 – no classes that week (NB Easter is 6-9 April)
Week 6 (commences Monday 2/4)	6. Australia's federal system; State Constitutions (comprising co-operative federalism, referral of State powers, equal treatment of States, the Territories, "peace welfare and good government", amendment of State constitutions, manner and form requirements and related issues)	Blackshield & Williams: chapters 5 & 10 Additional readings as per study guide	
Week 7 (commences Monday 16/4)	7. Indigenous peoples and the Constitution	Blackshield & Williams: chapter 4 Additional readings as per study guide	
Week 8 (commences	8. The High Court; judicial independence	Blackshield & Williams:	

Monday 23/4)

chapters 12 &
15
Additional
readings as per
study guide

Week 9 (commences Monday 30/4)	9. The Judicature and separation of judicial power - Chapter III of the Constitution (comprising the following topics: the concept of separation of powers, who can exercise Commonwealth judicial power, exceptions to the separation of powers, judicial and non-judicial detention).	Blackshield & Williams: chapters 13 & 14 Additional readings as per study guide	
Week 10 (commences Monday 7/5)	10. Introduction to merits review; reasons, discovery and evidence; Administrative Appeals Tribunal; other merits review/accountability mechanisms (auditors-general, anti-corruption commissions, whistleblower legislation)	Douglas and Jones: chapters 4, 5 & 7 Additional readings as per study guide	Group answer (topics 7-9) due Friday 11 May (assessment item 3)
Week 11 (commences Monday 14/5)	11. The Ombudsman	Douglas and Jones: chapter 6 Additional readings as per study guide	
Week 12 (commences Monday 21/5)	12. Freedom of Information	Douglas and Jones: chapter 3 Additional readings as per study guide	

Assessment Item 1

Description/Focus:	Final exam
Value:	50 % of total assessment
Due date:	Invigilated final exam during final exam period at end semester
Length:	120 minutes writing time; 20 minutes reading time
Task:	Mix of problem and essay-style questions
Preparation:	Weekly study and revision of each topic, both individually and in study groups
Presentation:	In exam booklets provided at exam venue
Assessment criteria:	As per assessment rubrics found on LWZ202 Learnline site.

Assessment Item 2

Description/Focus:	2 x individually assessed tutorial advocacy or participation exercises (each
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	marked out of 7.5)
Value:	15 %
Due date:	Students may nominate for assessment in any two (2) tutorials from semester week 3 onwards. Note that only 6-8 students maximum can be assessed in any given tutorial. Generally speaking nominations will be sought at the beginning of each tutorial and the first 6-8 volunteers will be assessed. Thus there can be no absolute guarantee that you will be able to be assessed in any given week. Accordingly you may need to prepare thoroughly for more than 2 topics during the semester.
Length:	Not applicable
Task:	Students will be assessed on both their preparation for and participation in the tutorial, which may be a problem-based session conducted in adversarial “mini-moot” format, or a debate, or discussion and answers to ordinary tutorial questions on the week’s topic. For debates and mini-moots teams will be formed and students will prepare for 20-30 minutes in a breakout room before the debate or mini-moot.
Preparation:	Weekly study and revision of each topic, both individually and in study groups
Presentation:	See above
Assessment criteria:	Participation and preparation on the topic as assessed by the tutor at the end of the tutorial. “Thinking on your feet” and responding to any additional questions from the tutor will form a significant part of the assessment.

Assessment Item 3

Description/Focus:	Study group written answer/s relating to topics 7, 8 and 9 (Indigenous peoples, judicial independence and separation of judicial power)
Value:	15 %
Due date:	Friday 11 May
Length:	2,000 words
Task:	2 separate essay or problem-style answers to questions concerning topics 7, 8 and 9. That is, your group must prepare answers to any two of the three topics (7, 8 and 9), each answer being approximately 1000 words. Students are expected to research and write these answers collaboratively in 3-5 person study groups which will be formed at the end of semester week 4 (census date). Study will be expected to self-regulate and divide up the research and writing task in an appropriate manner between group members. Note that all group members take responsibility for the final product. Thus it is YOUR responsibility to review all students’ draft contribution and where necessary revise them to ensure an adequate standard of final answer.
Preparation:	See above.
Presentation:	Essay or problem-style answers (the latter in IRAC format)
Assessment criteria:	As per assessment rubrics found in Learnline site assessments area

Assessment Item 4

Description/Focus:	Tutorial participation (not just passive attendance) (1 mark per tutorial)
Value:	10 %
Due date:	NA

Length:	NA
Task:	Tutorial attendance marks are designed to provide a small but tangible incentive to actually attend tutorials and participate each week. Tutorials are the most important teaching and learning opportunity in this subject. Naturally students MUST attend tutorials in at least 2 separate weeks during the semester to nominate for participation assessment (assessment item 2). However attendance/participation in itself earns 1 mark to a maximum of 10. Students will only be marked present if they are able to hear and make themselves heard at all times during the tutorial. A student who does not respond at any point during the tutorial will have their attendance mark cancelled. Failure to demonstrate any meaningful engagement with the topic when asked a question may also result in cancellation of an attendance mark i.e. you must be present and paying attention. Students unable for good reason accepted by the lecturer to attend in a given week may be given an opportunity to submit written answers by email. However arrangements for this must be made in advance.
Preparation:	NA
Presentation:	NA
Assessment criteria:	See above

Assessment Item 5

Description/Focus: Teamwork and participation grade

Value: 10 %

Due date: NA

Length: NA

There are 2 aspects to this assessment item:

- Task:**
- (1) Teamwork mark out of 5, assessed by lecturer based on (a) individual student contribution to group answer preparation (assessment item 3) (b) student's reflective journal describing and evaluating the group experience; and (c) lecturer and tutor evaluation of student contribution;
 - (2) Blog and discussion board participation out of 5 (participation in online discussion either on [CDU Law and Business Online](#) blog or on the academic queries or public law current events discussion boards in Learnline). Students are expected to contribute to the general discussion, both with their own posts and constructive responses to those of other students. Students will be expected to submit an email compendium of all their discussion board contributions at the end of the semester

Preparation: NA.

Presentation: Blog and discussion board posts in grammatical, intelligible English; no particular length or format (it depends on the subject matter).

Assessment criteria: Blog and discussion board posts will be assessed on a qualitative rather than quantitative basis i.e. a modest number of thoughtful, well written posts will receive better marks than a large number of trivial ones with little or no thought content. Participation in genuine, thoughtful discussion with other students is especially valued, because this develops the invaluable ability to learn from each other .

Please download Assignment Cover Sheet here:

<http://www.cdu.edu.au/library/access/AssignmentSubmission.html>

CDU Graduate attributes

CDU graduate attributes refer to those skills, qualities and understandings that should be acquired by students during their time at the University regardless of their discipline of study. (See <http://www.cdu.edu.au/teachingandlearning/gradattributes.html>).

In this unit, the following graduate attributes are developed:

Attribute	Description	Learning outcomes
Acquisition	Can identify, retrieve, evaluate and use relevant information and current technologies to advance learning and execute work tasks.	1, 2, 3, 4
Application	Is an efficient and innovative project planner and problem solver, capable of applying logical and critical thinking to problems across a range of disciplinary settings and has self-management skills that contribute to personal satisfaction and growth.	1, 2, 3, 4
Creativity	Can conceive of imaginative and innovative responses to future orientated challenges and research.	1, 3
Knowledge base	Has an understanding of the broad theoretical and technical concepts related to their discipline area, with relevant connections to industry, professional, and regional and indigenous knowledge.	1, 2, 3, 4
Communication	Demonstrates oral, written, and effective listening skills as well as numerical, technical and graphic communication skills in a cross generational environment.	1, 2, 3, 4
Team work	Has a capacity for and understanding of collaboration and co-operation within agreed frameworks, including the demands of inter-generational tolerance, mutual respect for others, conflict resolution and the negotiation of productive outcomes.	5
Social responsibility	Is able to apply equity values, and has a sense of social responsibility, sustainability, and sensitivity to other peoples, cultures and the environment.	NA
Flexibility	Can function effectively and constructively in an inter-cultural or global environment and in a variety of complex situations.	NA
Leadership	Can exercise initiative and responsibility, taking action and engaging others to make a positive difference for the common good.	5