INTEGRATING PRIVATE INTERNATIONAL LAW INTO THE AUSTRALIAN LAW CURRICULUM

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It is uncontroversial that Australian law degrees ought to be 'internationalised' to account for the globalised nature of legal practice. This article argues that law schools ought to commit to internationalisation by integrating private international law, the discipline which deals with civil disputes with foreign elements, into their curricula. A working knowledge of the subject is increasingly essential to legal practice. Yet, as this article shows, most Australian law graduates have not studied the subject. The article argues that this situation is unacceptable. It explains why private international law is so important to legal practice. By engaging with the subject, students will develop important skills. The article takes account of the practical barriers facing many law schools that prevent private international law from becoming its own compulsory unit of study, arguing that integration of the discipline throughout the existing core curriculum is an appropriate pragmatic alternative.

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I Introduction

The proposition that law degrees ought to be 'internationalised' to account for the globalised nature of legal practice is no longer controversial in Australia.[1] In 2012, the Office for Learning and Teaching of the Australian Government published a report titled *Internationalising the Australian Law Curriculum for Enhanced Global Legal Practice* ('*OLT Report*').[2] The *OLT Report* concluded, among other things, that '[i]nternationalisation is having a significant impact on legal practice in Australia' and that '[l]aw schools recognise that legal education must change to reflect this new reality'.[3] The Council of Australian Law Deans ('CALD') effectively adopted the *OLT Report*, stating that an Australian law school's role 'is to prepare law graduates for both domestic and international legal practice'.[4] In doing so, CALD accepted that there is more than one possible approach to internationalisation. It outlined four possible approaches, substantially adopting the taxonomy of Backer:

> A law school making a commitment to the internationalisation of its curriculum has four complementary options —

[1] See, eg, William van Caenegem and Mary Hiscock (eds), *The Internationalisation of Legal Education: The Future Practice of Law* (Edward Elgar, 2014); Vai Io Lo, 'Before Competition and Beyond Complacency: The Internationalisation of Legal Education in Australia' (2012) 22(1) *Legal Education Review* 3, 35–7; Afshin A-Khavari, 'The Opportunities and Possibilities for Internationalising the Curriculum of Law Schools in Australia' (2006) 16(1–2) *Legal Education Review* 75, 75–7. For a New Zealand perspective, see also Tihomir Mijatov, 'Why and How to Internationalise Law Curriculum Content' (2014) 24(1) *Legal Education Review* 143.

[2] Duncan Bentley and Joan Squelch, Office for Learning and Teaching, Department of Industry, Innovation, Science, Research and Tertiary Education (Cth), *Internationalising the Australian Law Curriculum for Enhanced Global Legal Practice* (Final Report, 2012) <https://cald.asn.au/itlc/wp-content/uploads/sites/3/2017/12/Internationalising_Aust_Law_Curr.pdf> ('*OLT Report*').

[3] Ibid 5. See also 'Conclusions about the Internationalising of the Law Curriculum', *Internationalising the Law Curriculum* (Web Page, 2020) <https://cald.asn.au/itlc/conclusions/>; Duncan Bentley and Joan Squelch, 'Employer Perspectives on Essential Knowledge, Skills and Attributes for Law Graduates to Work in a Global Context' (2014) 24(1) *Legal Education Review* 95.

[4] See 'Law School's Role', *Internationalising the Law Curriculum* (Web Page, 2020) <https://cald.asn.au/itlc/conclusions/law-schools-role/>.

- It can offer a number of separate 'internationalised' or global subjects or units, usually as electives. This is known as the Aggregation approach.

  This model is the simplest and most common approach. Typically stand-alone international units of study are included as electives in the law program.

- It can establish one or more separate institutes or centres devoted to internationalised or global aspects. This is known as the Segregation approach.

  This model is more about how a law school structures itself rather than the curriculum itself.

- It can incorporate internationalised or global elements across the whole curriculum, and beyond into research and student services. This is known as the Integration approach.

  The integration model incorporates international and intercultural dimensions across the whole curriculum, including of course core subjects.

- It can provide opportunities for its students to go elsewhere to study in a different jurisdiction. This is known as the Immersion approach.

  This model aims to deliver a high level of international competence and experience, which may allow law graduates to practise in multiple jurisdictions[5]

The approach to internationalisation adopted by CALD is thus agnostic in the sense that each of these competing models is held out as a sufficient mode of internationalisation. Certainly, each approach has its advantages. The 'immersion approach' is laudable in that it exposes students to foreign cultures. It may lead to a deeper understanding of the law of that jurisdiction.[6] An example of such an approach is Murdoch University's historical Postgraduate Certificate in Chinese Law programme at the City University of Hong Kong, which involved instruction by Chinese legal academics and visits to Chinese government institutions.[7] Such experiences are invaluable; however, for many

[5] *OLT Report* (n 2) 6, 34 citing Larry Catá Backer, 'Internationalizing the American Law School Curriculum (in Light of the Carnegie Foundation's Report)' in Jan Klabbers and Mortimer Sellers (eds), *The Internationalization of the Law and Legal Education* (Springer, 2008) 49, 76–82.

[6] Carmel O'Sullivan and Judith McNamara, 'Creating a Global Law Graduate: The Need, Benefits and Practical Approaches to Internationalise the Curriculum' (2015) 8(2) *Journal of Learning Design* 53, 56.

[7] The author participated in this programme as an undergraduate. The programme was organised by Professor Ken Chen, then of Murdoch University in Western Australia, now of the University of Western Australia Law School. See Lo (n 1) 49, citing Murdoch University, *Handbook 2011* (Handbook, 1 November 2010) 279–80.

students, a trip overseas is prohibitively expensive. The 'segregation approach' can benefit not only legal education, but also research performance. The New York University School of Law's Hauser Global Law School Program is a paradigmatic example; it attracts leading academics from around the world who contribute to both the School's research agenda and to its teaching programme.[8] Once again, however, most students will not see the benefits of that kind of programme, as most law schools do not have the resources or the reputation to sustain such a programme.

The 'aggregation approach' is much more accessible and for that reason it is omnipresent in Australian law schools.[9] Each year, thousands of Australian law students choose to gain an international edge to their legal education by selecting an 'international elective'.[10] This approach may be the path of least resistance for law schools to achieve CALD's internationalisation goal. Among other things, it does not involve the student or faculty resources required by the immersion and segregation approaches. But is the introduction of a token international elective — which students may or may not take during their law degree — really an adequate preparation for the contemporary demands of legal practice? Grossman suggests otherwise: he argues that a commitment to internationalisation should see a qualitative change across the curriculum, involving greater focus on the links between domestic and international law.[11] This article makes the case for a similar kind of qualitative change. Rather than focusing on 'international law' in the *public* international law sense, an Australian law school curriculum ought to engage with *private* international law.

Private international law is the discipline which deals with civil disputes with foreign elements. A 'foreign element' is a contact with a system of law other than that of the local jurisdiction.[12] Although some argue that this discipline should be characterised under an 'international law' umbrella together with

[8] See generally Backer (n 5) 81–2.

[9] See below Part III.

[10] See, eg, Dianne Otto, 'Handmaidens, Hierarchies and Crossing the Public-Private Divide in the Teaching of International Law' (2000) 1(1) *Melbourne Journal of International Law* 35, 65–9.

[11] Claudio Grossman, 'Building the World Community through Legal Education' in Jan Klabbers and Mortimer Sellers (eds), *The Internationalization of Law and Legal Education* (Springer, 2008) 21, 30–1, cited in Mijatov (n 1) 154.

[12] Lord Collins et al (eds), *Dicey, Morris and Collins on the Conflict of Laws* (Sweet & Maxwell, 15th ed, 2012) vol 1, 3 [1-001].

public international law,[13] the orthodox view in Australia is that this subject is distinct[14] — or at least, distinct enough to be taught separately from public international law.[15] Its focus is not on the law of treaties, but on three core issues arising in domestic courts: (1) jurisdiction, (2) choice of law, and (3) the recognition and enforcement of foreign judgments. Different systems have different names for this discipline.[16] In the United States, the term 'conflict of laws' is preferred,[17] as it is in many Australian law schools.[18] Scots sometimes use the term 'international private law'.[19] Whatever it is called,[20] the subject is increasingly essential to legal practice in Australia. As businesses and relationships increasingly cross borders, legal disputes increasingly concern

[13] See, eg, Alex Mills, 'The Private History of International Law' (2006) 55(1) *International and Comparative Law Quarterly* 1; Otto (n 10); JR Crawford, 'Teaching and Research in International Law in Australia' (1987) 10 *Australian Year Book of International Law* 176, 178–9.

[14] See M Davies et al, *Nygh's Conflict of Laws in Australia* (LexisNexis Butterworths, 10th ed, 2020) ch 1.

[15] However, it is probable that Australia's earliest courses on international law surveyed both public and private international law: Otto (n 10) 45, citing Crawford (n 13) 178; Ivan A Shearer, 'The Teaching of International Law in Australian Law Schools' (1983) 9(1) *Adelaide Law Review* 61, 64. Cf the historical unit taught at the University of Sydney Law School, which addressed both public and private international law issues: see Otto (n 10) 53 n 117. Although this unit may be held out as an exemplar of a holistic approach to international law teaching, anecdotally, it seems that academics with expertise in *public* international law did not enjoy teaching the private international law aspects of the subject.

[16] On definitional problems, see Andrew Dickinson, 'Acts of State and the Frontiers of Private (International) Law' (2018) 14(1) *Journal of Private International Law* 1, 4.

[17] In the American tradition, however, jurisdiction and foreign judgments are often addressed in procedure 'courses', rather than in the conflict of laws: see, eg, Joseph W Glannon, *Civil Procedure* (Wolters Kluwer, 8th ed, 2018).

[18] However, the term is often associated with just the 'choice of law' part of the subject — in that context, the High Court has opined that the term is misused: '[choice of law] is the preferable expression … the only "conflict" possible is that in the mind of the judge': *John Pfeiffer Pty Ltd v Rogerson* (2000) 203 CLR 503, 527 [43] (Gleeson CJ, Gaudron, McHugh, Gummow and Hayne JJ) ('*Pfeiffer*').

[19] See, eg, EB Crawford and JM Carruthers, *International Private Law in Scotland* (W Green, 2nd ed, 2006).

[20] For example, 'foreign relations law': Campbell McLachlan, 'The Allocative Function of Foreign Relations Law' (2012) 82(1) *British Yearbook of International Law* 349; the law applicable to 'transnational litigation': Andrew S Bell, *Forum Shopping and Venue in Transnational Litigation* (Oxford University Press, 2003) 2–3 [1.03] ('*Forum Shopping*'); or see the 'cross-border litigation' subject taught by Richard Garnett: 'Cross-Border Litigation (LAWS50050)', *University of Melbourne Handbook* (Web Page, 6 December 2019) <https://handbook.unimelb.edu.au/2019/subjects/laws50050>, archived at <https://perma.cc/TPM5-7E2Z>.

subject matter with connections to foreign jurisdictions.[21] Private international law is thus not a niche subject for those students lucky enough to work at an international organisation like the United Nations. It provides the tools for the bread-and-butter work of Australian lawyers.

Against that backdrop, this article argues for the *integration* of private international law into the Australian law curriculum. The article is structured as follows. Part II contextualises the content that follows by briefly considering the identity of 'private international law'. Part III explains how private international law is currently taught in Australian law schools via the aggregation approach, while Part IV provides reasons for why it is important that private international law is taught. Part V argues that private international law ought to be a part of an entire law degree via the integration approach described above. By incorporating cross-border elements within the substantive subjects of a law degree, Australian law schools can better equip graduates for contemporary legal practice.

II The Identity of 'Private International Law' in Australia

'Private international law' is a subject which is listed in the faculty handbooks of many law schools around the world. Yet the subjects which are taught under that umbrella are not identical. There are conflicts of laws of private international law between legal systems, just as there may be conflicts of laws in respect of anything else. If that were not the case, then efforts to harmonise private international law between nations — driven by the likes of the Hague Conference on Private International Law — would be pointless.[22] This begs the question: which 'private international law' should be taught in Australia?[23] Should Australian law schools teach the private international law applied by Australian courts? Assuming that they should, then arguably, the identity of the subject is still not entirely clear.

[21] See Michael Douglas et al, 'Editors' Preface' in Michael Douglas et al (eds), *Commercial Issues in Private International Law: A Common Law Perspective* (Hart Publishing, 2019) xv, xv.

[22] See Symeon C Symeonides, *Codifying Choice of Law Around the World: An International Comparative Analysis* (Oxford University Press, 2014) 30–1.

[23] Some support a 'globalist' or 'comparative' approach to understanding private international law, which is reflected in some textbooks: see, eg, Gilles Cuniberti, *Conflict of Laws: A Comparative Approach* (Edward Elgar, 2017).

The private international law applied by Australian courts has English heritage, like much of the rest of Australian law.[24] When the late Dr Peter Nygh authored the first edition of his text *Conflict of Laws in Australia* in 1968, for example, he admitted that it was still 'incorrect to speak of an Australian law of conflicts'.[25] Perhaps that was unfair, even then. Decades earlier, Sir Zelman Cowen had contributed to the emergence of an interstate private international law between the law units of the Commonwealth.[26] Australian private international law has always been distinguished from its English antecedent by the federalism established by the *Commonwealth Constitution*. Section 118 has demanded that full faith and credit be given to the laws, public Acts and records, and judicial proceedings of other states, long before Nygh produced his pioneering volume.[27] Intra-Australian choice of law problems can give rise to vexing constitutional law questions, which are not engaged for analogous international choice of law problems.[28]

A further point of departure between Australia and the United Kingdom ('UK') concerns the latter's late membership of the European Union. As Dickinson points out, the UK's participation in the Brussels Regime,[29] concerning jurisdiction and judgments, took it away from the common law family.[30] The transposition of English private international *common* law into statutory and European law was paralleled by Australia's adoption of a number of statutes which have patched over segments of our own private international common

[24] Richard Garnett, 'Sir Zelman Cowen and the Emergence of an Interstate Private International Law in Australia' (2015) 38(3) *Melbourne University Law Review* 1041, 1042–3 ('Sir Zelman Cowen').

[25] Andrew Dickinson, 'The Future of Private International Law in Australia' (2012) 19 *Australian International Law Journal* 1, 3 ('The Future of Private International Law'), quoting PE Nygh, *Conflict of Laws in Australia* (Butterworths, 1968) 6.

[26] Discussed in Garnett, 'Sir Zelman Cowen' (n 24).

[27] *Commonwealth Constitution* s 118.

[28] See, eg, *Anderson v Eric Anderson Radio & TV Pty Ltd* (1965) 114 CLR 20; *Pfeiffer* (n 18); *Sweedman v Transport Accident Commission* (2006) 226 CLR 362; *Rizeq v Western Australia* (2017) 262 CLR 1 ('*Rizeq*'). See also Jeremy Kirk, 'Conflicts and Choice of Law within the Australian Constitutional Context' (2003) 31(2) *Federal Law Review* 247; James Stellios, 'Choice of Law and the Australian Constitution: Locating the Debate' (2005) 33(1) *Federal Law Review* 7; James Stellios, 'Choice of Law in Federal Jurisdiction after *Rizeq v Western Australia*' (2018) 46(1–2) *Australian Bar Review* 187.

[29] Originally via the Brussels Convention: *Convention Concerning Judicial Competence and the Execution of Decisions in Civil and Commercial Matters*, opened for signature 27 September 1968, 1262 UNTS 153 (entered into force 1 February 1973).

[30] Dickinson, 'The Future' (n 25) 4.

law. The cross-vesting scheme provided a system of intra-Australian transfers;[31] the *Service and Execution of Process Act 1992* (Cth) introduced a uniform approach to intra-Australian service; the *Foreign Judgments Act 1991* (Cth) provided for the registration of foreign judgments of certain courts which would provide Australian judgments with a reciprocal kind of recognition, while the *Trans-Tasman Proceedings Act 2010* (Cth) covered service, exercise of jurisdiction and the status of foreign judgments in respect of our closest ally, New Zealand. These statutes have contributed to the emergence of a distinctly Australian private international law.

Even in those fields left untouched by legislators, Australian private international law has a distinct flavour. In the 1990s, the High Court departed from the traditional common law approach to *forum non conveniens* by adopting its own unique 'clearly inappropriate forum' test.[32] At the turn of the century, it did away with the mess of the old 'double actionability' rule[33] by adopting the law of the place of the wrong — the *lex loci delicti* — for intra-Australian[34] and international torts.[35] Australia's constitutional context, including the autochthonous expedient of investing federal jurisdiction in state courts, may also determine the selection of the applicable law.[36] The private international law applied by Australian courts in 2019 is thus distinct from that applied in England and in other parts of the common law world in material ways.

Where are the boundaries of Australian private international law? What should be covered in a unit on the subject? Most private international law experts would agree that a dedicated unit should consider jurisdiction, choice of law, and recognition and enforcement of foreign judgments. Beyond that, there may be disagreement. Should the professor also teach federal jurisdiction to-

[31] *Jurisdiction of Courts (Cross-Vesting) Act 1987* (Cth); *Jurisdiction of Courts (Cross-Vesting) Act 1993* (ACT); *Jurisdiction of Courts (Cross-Vesting) Act 1987* (NSW); *Jurisdiction of Courts (Cross-Vesting) Act 1987* (NT); *Jurisdiction of Courts (Cross-Vesting) Act 1987* (Qld); *Jurisdiction of Courts (Cross-Vesting) Act 1987* (SA); *Jurisdiction of Courts (Cross-Vesting) Act 1987* (Tas); *Jurisdiction of Courts (Cross-Vesting) Act 1987* (Vic); *Jurisdiction of Courts (Cross-Vesting) Act 1987* (WA).

[32] *Voth v Manildra Flour Mills Pty Ltd* (1990) 171 CLR 538, 564–6 (Mason CJ, Deane, Dawson and Gaudron JJ), citing *Oceanic Sun Line Special Shipping Co Inc v Fay* (1988) 165 CLR 197, 247–8 (Deane J).

[33] See *Phillips v Eyre* (1870) LR 6 QB 1, 28–9 (Willes J for the Court). See also Matthew R Goode, 'Dancing on the Grave of Phillips v Eyre' (1984) 9(3) *Adelaide Law Review* 345.

[34] *Pfeiffer* (n 18) 544 [100], [102] (Gleeson CJ, Gaudron, McHugh, Gummow and Hayne JJ), 562–3 [157] (Kirby J).

[35] *Regie Nationale des Usines Renault SA v Zhang* (2002) 210 CLR 491, 520 [75] (Gleeson CJ, Gaudron, McHugh, Gummow and Hayne JJ), 539 [133] (Kirby J) ('*Zhang*').

[36] See, eg, *Rizeq* (n 28), in its application of the *Judiciary Act 1903* (Cth) s 79.

gether with jurisdiction in personam,[37] or should they leave that to a course on procedure or constitutional law? How deep into ch III of the *Commonwealth Constitution* should they wade? What about admiralty jurisdiction?[38] Does foreign state immunity belong within private or public international law?[39] When considering foreign judgments, should they leave insolvency-related judgments to an elective on insolvency?[40] When considering choice of law, how many areas of law should be covered: is contract and torts sufficient, or would the subject be incomplete without property (movable and immovable), succession and family law? As for the mode of proof of foreign law, can it be trusted to evidence professors, given its importance to the practice of choice of law?[41] Unfortunately, the temporal limitations of university teaching periods will dictate the answers to many of these questions.

Like its public cousin,[42] 'private international law' as a taxonomical category is considerably porous. It bleeds into everything. That is why it is so important to legal practice. As the Law Society of New South Wales recognised in a 2017 report *Flip: The Future of Law and Innovation in the Profession*, '[a]n increase in cross-border transactions and disputes mean that a knowledge of private international law is increasingly important to the practice of law'.[43] Unfortunately, however, most Australian law schools fail to recognise that.

III Private International Law Teaching in Australia

How is private international law taught in Australia? In many institutions, it seems that it is not taught at all. Where it is taught, it is almost always as an elective — an application of the aggregation approach to internationalisation.

[37] Professors Gummow and Stellios would say 'yes': see 'Conflict of Laws', *Australian National University* (Web Page) <https://programsandcourses.anu.edu.au/2019/course/LAWS4212/First%20Semester/4528>, archived at <https://perma.cc/T3QK-WDV5>.

[38] See, eg, *Ship Sam Hawk v Reiter Petroleum Inc* (2016) 246 FCR 337 ('*Ship Sam Hawk*').

[39] For a classic case on the boundary of public and private international law, see *Firebird Global Master Fund II Ltd v Nauru* (2015) 258 CLR 31.

[40] The work of the United Nations Commission on International Trade Law ('UNCITRAL') in this area means that insolvency-related judgments may also come under the umbrella of an 'international commercial law' unit: see *Report of the United Nations Commission on International Trade Law*, UN Doc A/73/17 (31 July 2018) annex III ('*UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments*').

[41] See generally James McComish, 'Pleading and Proving Foreign Law in Australia' (2007) 31(2) *Melbourne University Law Review* 400.

[42] Otto (n 10) 56.

[43] Future Committee, Law Society of New South Wales, *Flip: The Future of Law and Innovation in the Profession* (Report, 2017) 6 ('*Flip Report*').

This Part provides a snapshot of where private international law is currently taught in Australian law schools.

A *Method*

Empirical research was conducted to test the intuition that private international law is neglected within the offerings of most Australian law degrees. Table 1, below, summarises key findings. The detailed results of this survey are set out in Table 2 in the Appendix of this article.

The definitional difficulties mentioned above complicated this task. A university unit of study which considers this subject might be called 'private international law', 'conflict of laws', or something else. Some units focus on this subject exclusively. Others consider 'private international law' in detail together with other subjects, like public international law. Still others offer internationally-themed content which contain some nominal, fleeting consideration of the subject. There is little evidence to suggest, however, that private international law is integrated into the core units of study in Australian law schools.

The research began with compilation of a list of Australia's law schools. There are 38 institutions in Australia that offer a Bachelor of Laws ('LLB') or Juris Doctor ('JD')[44] — 'qualifying' law degrees.[45] A desk review was conducted in relation to each law school, which involved a web search for the course handbook or web page that detailed all the units and elective units that the law school offered. From these searches, a preliminary list was compiled that displayed whether each law school does or does not currently offer a private international law or conflict of laws unit.

Many of the online course listings provide no indication as to when the unit is being offered or whether it is being offered in the current year. Thus, after compiling the preliminary list, the author's research assistant confirmed with each university by telephone whether that university offered a private international law or conflict of laws unit in either 2018 or 2019. The research assistant spoke with law school managers, subject logistics officers and admin-

[44] For an overview of Australia's law schools, see 'Australia's Law Schools', *Studying Law in Australia* (Web Page, November 2013) <https://cald.asn.au/slia/australias-law-schools/>. Federation University offers legal education through its Bachelor of Commerce, as do many other universities around Australia: 'Bachelor of Commerce', *Federation University* (Web Page) <https://study.federation.edu.au/#/course/DBC5.NSM>, archived at <https://perma.cc/YS49-SMSX>.

[45] In contradistinction to coursework law degrees like an LLM or higher research degrees in law.

istrative officers. Where such persons could not be contacted, the research assistant spoke with a person from the university's student services department.

B *Results*

Private international law is currently taught at less than half of Australia's law schools.[46] It is a compulsory subject at just one: 'Private International Law A' must be undertaken by LLB and final-year JD students at the University of Sydney Law School.[47] Sydney Law School's students also have the option of studying the elective subject 'Private International Law B'.[48]

A number of units offered by some law schools are not solely, on their face, dedicated to private international law, but may deal with aspects of the subject. Determining whether to count these units as 'offering private international law' involved a leeway of choice. For example, Deakin University offers no dedicated private international law unit, but does offer an 'International Commercial Law' unit.[49] One of the topics taught in this unit is private international law. Nevertheless, given the apparent limited consideration of the subject within the unit, the unit was omitted from Table 1. In contrast, Southern Cross University offers a 'Global Legal Pluralism' unit, the content of which encompasses several topics particular to the study of private international law.[50] For this reason, the author has considered that Southern Cross University currently offers a unit in private international law.

Apart from the LLB and JD degrees which are the primary focus of this article, private international law is taught or introduced in postgraduate law

[46] Only 17 of Australia's 38 law schools offer this subject: see below Table 1.

[47] 'University of Sydney Law School Undergraduate Table', *Sydney Law School Handbook 2020* (Web Page, 19 May 2020) <https://www.sydney.edu.au/handbooks/law/undergraduate/compulsory_table.shtml>, archived at <https://perma.cc/YLW9-TH4A>; 'Juris Doctor', *Sydney Law School Handbook 2020* (Web Page, 19 May 2020) <https://www.sydney.edu.au/handbooks/law/postgraduate/coursework/juris_doctor/juris_doctor_compulsory_table.shtml>, archived at <https://perma.cc/EJ2H-BTGD>.

[48] This subject covers advanced issues for choice of law and issues relating to immovable and movable property, succession and family law: 'Private International Law B: LAWS3457', *University of Sydney* (Web Page) <https://www.sydney.edu.au/courses/units-of-study/2020/laws/laws3457.html>, archived at <https://perma.cc/TMK3-49RG>; 'Private International Law B: LAWS5157', *University of Sydney* (Web Page) <https://www.sydney.edu.au/courses/units-of-study/2020/laws/laws5157.html>, archived at <https://perma.cc/DF27-3DXD>.

[49] 'MLL336: International Commercial Law', *Deakin University* (Web Page, 26 March 2020) <https://www.deakin.edu.au/courses-search/unit.php?unit=MLL336>, archived at <https://perma.cc/SLH4-BV5M>.

[50] 'LAW73051: Global Legal Pluralism (2019)', *Southern Cross University* (Web Page) <https://handbook.scu.edu.au/unit/law73051/2019>, archived at <https://perma.cc/TU5K-2C2V>.

degrees. For example, Sydney Law School has historically offered a 'Commercial Conflict of Laws' unit to its Master of Laws ('LLM') students, taught by Andrew Bell, Donald Robertson and Richard Garnett,[51] while the Australian National University ('ANU') College of Law also offers a Conflict of Laws 'course' to its LLM students as an intensive.[52] These programs follow in the tradition of the University of Oxford Bachelor of Civil Law.[53] As Oxford's Dickinson notes, 'private international law remains in most [English] universities a subject studied only on masters level programs'.[54]

Private international law is also addressed in various continuing legal education ('CLE') programmes. The Law Society of New South Wales recently recommended offering more private international law CLE programmes to practitioners.[55] There is a further unique outpost of private international law teaching in Sydney. The Legal Profession Admission Board ('LPAB') of New South Wales offers examinations which lead to the attainment of a Diploma in Law.[56] The Diploma is equivalent to a law degree for the purposes of admission in New South Wales.[57] 'Conflict of Laws' is offered as an elective for the LPAB Diploma.[58]

Table 1: Summary: Australian Law Schools Offering Private International Law or Conflict of Laws[59]

Institution	LLB	JD	LLM
Australian National University — College of Law	Y	N	N

[51] University of Sydney, *Sydney Law School: Handbook 2018* (Handbook, 29 November 2017) 200 <https://ses.library.usyd.edu.au/bitstream/handle/2123/19774/law2018_29November2017_FINAL.pdf>, archived at <https://perma.cc/ZCL4-CSWL>.

[52] 'Conflict of Laws', *Australian National University* (Web Page) <https://programsandcourses.anu.edu.au/2019/course/LAWS8144>, archived at <https://perma.cc/3RBC-8TRL>.

[53] See 'Options and Core Courses', *University of Oxford* (Web Page) <https://www.law.ox.ac.uk/admissions/options>, archived at <https://perma.cc/CPZ6-MSBP>.

[54] Dickinson, 'The Future' (n 25) 2.

[55] *Flip Report* (n 43) 9.

[56] See Legal Profession Admission Board and University of Sydney, *A Pathway to Legal Practice and Continuing Professional Development* (Brochure, 22 January 2018) 2 <http://www.lpab.justice.nsw.gov.au/Documents/Pathway%20Brochure.pdf>, archived at <https://perma.cc/B54Z-77XC>.

[57] Ibid.

[58] Ibid 10.

[59] Not all Australian law schools offer the degrees that were the subject of investigation. For example, JDs are less prevalent than LLBs in Australia: see below Appendix Table 2. For that reason, column 1 of Table 1 is most important to the subject of this article.

Institution	LLB	JD	LLM
The University of Canberra — Canberra Law School	Y	N	N
Charles Sturt University — Centre for Law and Justice	Y	N	N
Southern Cross University — School of Law and Justice	Y	N	N
The University of Notre Dame Australia — School of Law	Y	N	N
The University of Sydney — Sydney Law School	Y	Y	N
Western Sydney University — School of Law	Y	N	N
Macquarie University — Macquarie Law School	Y	N	N
University of New South Wales — UNSW Law	Y	Y	N
Charles Darwin University	Y	N	N
Griffith University — Griffith Law School	Y	Y	N
The University of Queensland — TC Beirne School of Law	Y	N	Y
The University of Adelaide — Adelaide Law School	Y	N	N
Australian Catholic University — Thomas More Law School	Y	N	N
The University of Melbourne — Melbourne Law School	N	Y	N
Edith Cowan University — School of Business and Law	Y	N	N
The University of Western Australia — UWA Law School	N	Y	N
17/38 (44.7%)	15/38 (39.5%)	5/38 (13.2%)	1/38 (2.6%)

C *Summary*

Private international law is a compulsory subject at just one of Australia's 38 institutions that offer qualifying law degrees. In the last two years it was taught as an elective, or as a substantial part of an elective, at fewer than half of those institutions. Private international law is thus neglected within Australian legal education. The majority, or even vast majority of Australian law graduates will have no exposure to the discipline before entering legal practice. That is unsatisfactory.

IV Why Private International Law Matters

A *The Purpose of Australian Law Degrees*

The purpose of Australian law degrees is a topic that may attract controversy among legal educators. In recent years much ink has been spilled on 'the future of lawyering', 'legal education in the digital age' and other trendy things.[60] At the same time, debates played out in the Australian press in response to a perception of a 'law graduate glut': a perception, shared by former Prime Minister Malcolm Turnbull,[61] that Australian law schools are producing too many graduates for too few jobs in law.[62] The Chair of the CALD retorted that law graduates are employed at a higher rate than many other categories of graduate, and that they often enjoy higher salaries than other graduates.[63] Another

[60] See, eg, Richard Susskind, *The End of Lawyers: Rethinking the Nature of Legal Services* (Oxford University Press, 2008); Edward Rubin (ed), *Legal Education in the Digital Age* (Cambridge University Press, 2012); Kevin Lindgren, Justice François Kunc and Michael Coper (eds), *The Future of Australian Legal Education* (Lawbook, 2018) pt VI.

[61] See Emma Ryan, 'Frustration Grows over Unis "Cashing in" on Law Grad Oversupply', *LawyersWeekly* (Web Page, 19 February 2018) <https://www.lawyersweekly.com.au/sme-law/22768-frustration-grows-over-unis-cashing-in-on-law-grad-oversupply>, archived at <https://perma.cc/E6UU-5GX9>.

[62] As representative of that perception, see Frank Carrigan, 'Law Schools Sell Graduates down the River', *The Australian Financial Review* (online, 8 August 2016) <https://www.afr.com/companies/professional-services/the-law-schools-of-rapidly-diminishing-returns-20160808-gqnday>, archived at <https://perma.cc/7SW2-92TU>; Michael Douglas and Nicholas van Hattem, 'Australia's Law Graduate Glut' (2016) 41(2) *Alternative Law Journal* 118, 118.

[63] See Carolyn Evans, 'No Jobs for Law Graduates: They Fare Better than Most', *The Australian Financial Review* (online, 24 November 2016) <https://www.afr.com/companies/professional-services/no-jobs-for-law-graduates-they-fare-better-than-most-20161122-gsv2ft>, archived at <https://perma.cc/RMC7-X4TY>; Melissa Coade, 'Counting the So-Called "Glut" of Law Grads', *LawyersWeekly* (Web Page, 24 November 2016) <https://www.lawyersweekly.com.au/news/20080-counting-the-so-called-glut-of-law-grads>, archived at <https://perma.cc/HG8K-4XJ7>.

familiar riposte to 'oversupply' arguments is that there are many destinations for law graduates outside of the law.[64] Those destinations may be responsible for law's comparatively favourable employment statistics[65] — or perhaps, more recently, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry is responsible.[66]

In 2019, there was an opportunity to take stock of these debates when the Law Council of Australia, through the Law Admissions Consultative Committee ('LACC'), led a review of the so-called 'Priestley 11'.[67] The fundamental premise of the review was that law degrees are the path to practising law in Australia: Priestley subjects are those prescribed as academic requirements for admission to the Australian legal profession.[68] Most submissions, including, notably, that of the Legal Education Associate Deans' ('LEAD') Network,[69] supported the revision of the wording of the Priestley 11.[70] In doing so, they tacitly accepted that the Priestley 11 ought to be maintained as essential to every qualifying law degree (ie the LLB and JD) in Australia. The amended Priestley

[64] See, eg, Michael McNamara, 'University Legal Education and the Supply of Law Graduates: A Fresh Look at a Longstanding Issue' (2018) 20(2) *Flinders Law Journal* 223, 242.

[65] It was recently reported that law and business graduates do better than many others, but for medicine, teaching, engineering and nursing: Mike Bruce, 'Why the University System Is Failing Our Graduates', *The New Daily* (online, 25 October 2019) <https://thenewdaily.com.au/money/work/2019/10/22/australian-university-graduate-jobs/>.

[66] See Joel Barolsky, 'Good Times Roll but Law Graduates Miss out on a Harvey Specter Life', *The Australian Financial Review* (online, 31 January 2019) <https://www.afr.com/opinion/good-times-roll-but-law-graduates-miss-out-on-a-harvey-spector-life-20181213-h1920w>, archived at <https://perma.cc/F2J9-W27C>; Naomi Neilson, 'How Royal Commissions Changed the Legal Profession', *LawyersWeekly* (Web Page, 1 August 2019) <https://www.lawyersweekly.com.au/biglaw/26207-how-royal-commissions-changed-the-legal-profession>, archived at <https://perma.cc/3957-TMHG>.

[67] See Law Admissions Consultative Committee, *Redrafting the Academic Requirements for Admission* (Report, 2019), archived at <https://perma.cc/FF2K-DEAK>.

[68] JD TLO Sub-Committee, Law Associate Deans' Network, *Juris Doctor: Threshold Learning Outcomes* (Report) 6 <https://cald.asn.au/wp-content/uploads/2017/11/Threhold-Learning-Outcomes-JD.pdf>; Learning and Teaching Academic Standards Project, Australian Learning and Teaching Council, *Bachelor of Laws: Learning and Teaching Academic Standards Statement* (Report, December 2010) 4 [2.1.3] <https://cald.asn.au/wp-content/uploads/2017/11/Threshold-Learning-Outcomes-LLB.pdf>.

[69] Legal Education Associate Deans' (LEAD) Network, Submission No 6 to Law Admissions Consultative Committee, *Redrafting the Academic Requirements for Admission* (September 2019), archived at <https://perma.cc/4YGK-75PK>.

[70] See Law Admissions Consultative Committee, *Redrafting Academic Requirements: Report on Submissions* (Report, 8 October 2019), archived at <https://perma.cc/5UGK-KQWC>.

11, adopted by the LACC in October 2019 and taking effect in 2021,[71] will not require many, if any, Australian law schools to do anything differently. The core of an Australian law degree remains preparation for legal practice. If Australian law graduates are increasingly pursuing careers outside of the law, the core curriculum remains indifferent to that situation.

Against that backdrop, it should be accepted that the *telos* of an Australian law degree is a career in legal practice. If that premise is accepted, then the importance of private international law to the future of Australian legal education is manifest.

B *For Practitioners, Private International Law Matters*

Once it is understood that private international law is the body of law that deals with cases with foreign elements, then the importance of the discipline is self-evident. In a recent speech, President Bell observed that '[s]o much commercial and social activity now transcends national boundaries, facilitated by e-commerce, new technologies and even new currencies, and on a personal level, the ease of international travel as well as labour mobility.'[72] His Honour argued that 'a working knowledge of private international law is not only useful to the practice of law, but, increasingly, is essential'.[73] Private international law is how Australian courts accommodate globalisation. Without an understanding of private international law, graduates of Australian law schools will be unprepared for the realities of modern legal practice.

The discipline has particular significance for those students who go on to work in civil litigation. As Isaacs ACJ said in *Hazeldell Ltd v Commonwealth*, '[t]he very first duty of any Court, in approaching a cause before it, is to consider its jurisdiction'.[74] There is a territorial dimension to the jurisdiction of Australian courts,[75] so that in cases with foreign elements the issue of whether

[71] See Law Admissions Consultative Committee, *Prescribed Areas of Knowledge* (Report), archived at <https://perma.cc/5DFU-MB7S>; 'Redrafting the Academic Requirements for Admission', *Law Council of Australia* (Web Page) <https://www.lawcouncil.asn.au/resources/law-admissions-consultative-committee/redrafting-the-academic-requirements-for-admission>, archived at <https://perma.cc/3YBF-65KM>.

[72] Justice AS Bell, 'Private International Law in Practice across the Divisions: Some Recent Developments and Case Law' (Speech, Supreme Court Judges' Conference, 23 August 2019) 1 [2].

[73] Ibid 1 [1].

[74] (1924) 34 CLR 442, 446, quoted in *Federal Commissioner of Taxation v Tomaras* (2018) 256 CLR 434, 477 [132] (Edelman J).

[75] See *Rizeq* (n 28) 48 [129] (Edelman J).

the court has jurisdiction, in the sense of 'authority to adjudicate',[76] may be contentious. Many jurisdictional questions are resolved with reference to principles concerning service outside of the jurisdiction. As the High Court observed in *Laurie v Carroll*, the court's rules as to service define the limits of the court's jurisdiction in personam.[77] In every *inter partes* case before an Australian court, those rules have a role to play, but they are particularly important to cross-border cases. While transnational litigation may have once been a novelty, increasingly, it is not so. As Lord Sumption JSC said in *Abela v Baadarani*, '[l]itigation between residents of different states is a routine incident of modern commercial life'.[78]

Apart from authority over people, issues of subject matter jurisdiction must also be addressed in every case.[79] If the court's subject matter jurisdiction is federal in character, it may have a material impact on the result of a dispute. That proposition is not confined to civil litigation or private law. In *Rizeq*, for example, the High Court considered an appeal from a conviction of the District Court of Western Australia on an offence under s 6(1)(a) of the *Misuse of Drugs Act 1981* (WA).[80] Applying s 114(2) of the *Criminal Procedure Act 2004* (WA), the appellant was convicted notwithstanding that the jury was unable to reach a unanimous verdict. The District Court had exercised federal jurisdiction as the appellant was a resident of New South Wales. From that premise, the appellant argued that s 6(1)(a) applied as a law of the Commonwealth by application of s 79(1) of the *Judiciary Act 1903* (Cth). Accordingly, it was argued that the conviction was contrary to s 80 of the *Commonwealth Constitution*, which requires a unanimous verdict on a 'trial on indictment of any offence against any law of the Commonwealth'.[81]

In dismissing the appeal, the Court emphasised that the underlying offence was a law of the State and remained of that character even where the State Court was exercising federal jurisdiction.[82] The *rationes* of the majority underpinning the conclusion included the premise that state parliaments lack capacity to

[76] *Baxter v Commissioners of Taxation (NSW)* (1907) 4 CLR 1087, 1142 (Isaacs J). See generally Mark Leeming, *Authority to Decide: The Law of Jurisdiction in Australia* (Federation Press, 2nd ed, 2020).

[77] (1958) 98 CLR 310, 323 (Dixon CJ, Williams and Webb JJ).

[78] [2013] 1 WLR 2043, 2062 [53].

[79] Justice Mark Leeming, 'Hypothetical Jurisdiction: A Rejoinder' (2013) 87(10) *Australian Law Journal* 685, 685.

[80] *Rizeq* (n 28) 11 [1] (Kiefel CJ).

[81] Ibid 11 [2]; *Commonwealth Constitution* s 80.

[82] *Rizeq* (n 28) 20 [41] (Bell, Gageler, Keane, Nettle and Gordon JJ).

enact laws which govern the exercise of federal jurisdiction.[83] Section 79(1) is thus a jurisdictional lubricant: it is a federal law which allows the machinery of a state court's federal jurisdiction to work by 'picking up' those state statutes that govern the exercise of jurisdiction and treating them as surrogate federal laws.[84] The majority in *Masson v Parsons* reiterated the statutory function of s 79(1) identified in *Rizeq*: its purpose 'is to fill a gap in the law which regulate matters coming before courts exercising federal jurisdiction by providing those courts with powers necessary for the hearing and determination of those matters'.[85] In *Rizeq*, it was not necessary for s 6(1)(a) to be picked up: a court exercising federal jurisdiction merely applied a single composite body of law, comprised of both State and federal law.[86] The offence was not a law of the kind to which s 79(1) of the *Judiciary Act 1903* (Cth) is directed. Similarly, in *Masson v Parsons*, a New South Wales law presuming that a sperm donor was not a father was not picked up by a court exercising federal jurisdiction.[87] An understanding of federal jurisdiction is essential to the toolkit of civil litigators, as well as criminal lawyers and family lawyers. More accurately, an understanding of federal jurisdiction is essential for any practitioner dealing with a court within the Federation. According to Justice Gummow, federal jurisdiction remains poorly understood by practitioners who should know better.[88]

The importance of the discipline is not limited to court-facing legal practice. It is also essential to the work of front end lawyers, deal-makers, and in-house counsel. Consider, for example, the position of an Australian director of a company dual-listed in Australia and Singapore but incorporated in Singapore. By which system's laws should that director ascertain the scope of their duties? Does it matter that the director lives and works in the Cayman Islands?[89] If that

[83] Ibid 26 [63].

[84] Common law need not be picked up as Australian courts apply a single common law whether the jurisdiction exercised is state or federal: see, eg, *Kable v DPP (NSW)* (1996) 189 CLR 51, 112–14 (McHugh J); *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89, 152 [135] (Gleeson CJ, Gummow, Callinan, Heydon and Crennan JJ).

[85] (2019) 93 ALJR 848, 857–8 [30] (Kiefel CJ, Bell, Gageler, Keane, Nettle and Gordon JJ) ('*Masson v Parsons*').

[86] *Rizeq* (n 28) 12 [7], 16–17 [24]–[26] (Kiefel CJ), 24 [56] (Bell, Gageler, Keane, Nettle and Gordon JJ).

[87] *Masson v Parsons* (n 85) 859 [34], 860 [39].

[88] WMC Gummow, 'Foreword' in Brian Opeskin and Fiona Wheeler (eds), *The Australian Federal Judicial System* (Melbourne University Press, 2000) v, vi.

[89] The *lex loci incorporationis* is likely applicable, although the matter involves a characterisation problem and may turn on the facts of the particular case and the particular issue under consideration: *Konamaneni v Rolls Royce Industrial Power (India) Ltd* [2002] 1 WLR 1269, 1285–6 [52]–[55] (Lawrence Collins J), discussing *Pergamon Press Ltd v Maxwell* [1970] 1 WLR 1167. See also Davies et al (n 14) ch 35.

director enters a contract with a Chinese company on behalf of the Singaporean company, and does so by email correspondence, by which system of law should the contractual terms be ascertained?[90] Traditional corporations law and contract law units do not supply the answers to these questions, although they should.

Consider a standard aspect of every commercial contract in the country: a jurisdiction and governing law clause. These clauses often combine two distinct ideas; ideally, they would be two distinct clauses.[91] One aspect is a jurisdiction agreement: a submission to the authority of a particular court and, in some cases, an agreement not to litigate in any place other than the court or courts selected by the clause.[92] The other aspect is a choice of law clause: an agreement as to the body of law to be applied in the event of a dispute.[93] These provisions are ubiquitous but often poorly understood.[94] Recently, in *AVWest Aircraft Pty Ltd as Trustee for AVWest Aircraft Trust v Clayton Utz (a Firm) [No 2]*, the Supreme Court of Western Australia considered an action brought by an Australian company against its solicitors, who had previously reviewed clauses of a cross-border contract for the company.[95] The clauses included a 'governing law and jurisdiction' clause. The subject matter of the relevant contract was modification of an aircraft. When the aircraft was damaged by fire while overseas, the company was not covered by indemnities under the contract — an outcome which turned, in part, on the application of foreign law as the *lex causae*, as provided by the governing law and jurisdiction clause. In the action against the firm, the company had pleaded that the firm was negligent by failing to advise on the proper construction of the contract under the applicable foreign law.[96] Fortunately for the firm, Vaughan J held that the company knew that the firm was Australian and that the company, by its retainer, did not require the firm to do more than what an Australian lawyer could do.[97] Even

[90] Australian legislation may supply an answer, but does the legislation apply in this case? See, eg, *Electronic Transactions Act 2000* (NSW) pt 2A.

[91] On the difference between choice of jurisdiction and choice of law, see Michael Douglas, 'Choice of Court Agreements under an International Civil Law Act' (2018) 34(3) *Journal of Contract Law* 186, 188–9.

[92] Ibid 188.

[93] Ibid.

[94] Empirical research in the United States is demonstrative: see John F Coyle, 'The Canons of Construction for Choice-of-Law Clauses' (2017) 92(2) *Washington Law Review* 631.

[95] [2019] WASC 306.

[96] Ibid [113]–[116] (Vaughan J).

[97] Ibid [331].

so, in the end, the company was awarded USD546,735 in damages.[98] The case is a contemporary illustration of the risk facing any lawyer looking at a choice of law clause without fully appreciating its consequences in a worst-case scenario.

These clauses are not only found in commercial contracts. Every Australian with a modern phone (what was once called a 'smartphone'), every Australian with a social media presence and every Australian who uses Google would have agreed to such provisions, perhaps without even realising, when agreeing to the terms of service of any digital platform. Participation in these 'adhesion contracts',[99] in which the terms of service are provided on a take-it-or-leave-it basis, is increasingly necessary for digital life.[100] The choices of applicable law and jurisdiction made in such contracts would rarely be with respect to the Australian legal system. Rather, these contracts will select the law and submit to the courts of the geographical jurisdiction most convenient to the relevant technology company. As many of those companies, like Google LLC, have their centres of interests in the United States, many of these contracts will select the law of a particular American state as the applicable law.[101] The extent to which Australian legislation can override choices in digital contracts turns on principles of statutory interpretation and contract law which are at the cutting edge of private international law.[102] As the Australian economy becomes increasingly dependent on digital technology, to neglect these issues within the core curriculum of an Australian law degree is borderline negligent.

The preceding discussion is merely illustrative of the sorts of issues for which private international law is necessary to resolve. The private international law problems that may arise in practice are as diverse as there are issues of law. Certain kinds of practitioners will face them more regularly than others. For

98 Ibid [839].

99 See generally Albert A Ehrenzweig, 'Adhesion Contracts in the Conflict of Laws' (1953) 53(8) *Columbia Law Review* 1072.

100 See generally Brett Frischmann and Evan Selinger, *Re-Engineering Humanity* (Cambridge University Press, 2018) ch 5.

101 See, eg, *Douez v Facebook Inc* [2017] 1 SCR 751, cited in *Australian Health & Nutrition Association Ltd v Hive Marketing Group Pty Ltd* (2019) 99 NSWLR 419, 438 [76] (Bell P) ('*Australian Health & Nutrition Association*'); *Australian Competition and Consumer Commission v Valve Corporation [No 3]* (2016) 337 ALR 647; *Valve Corporation v Australian Competition and Consumer Commission* (2017) 258 FCR 190, discussed in Michael Douglas, 'Choice of Law in the Age of Statutes: A Defence of Statutory Interpretation after *Valve*' in Michael Douglas et al (eds), *Commercial Issues in Private International Law: A Common Law Perspective* (Hart Publishing, 2019) 201.

102 See above n 101. On the difficult issues at the intersection of statutory interpretation and private international law, see Mary Keyes, 'Statutes, Choice of Law, and the Role of Forum Choice' (2008) 4(1) *Journal of Private International Law* 1.

example, solicitors in the litigation teams of Australian offices of global law firms will need private international law perhaps more than others. Many Australian law graduates will go on to develop multi-jurisdictional practices[103] — for them, private international law will be at the core of their practice. But even those who develop a 'local' practice will deal with issues touching upon foreign legal systems every day.[104] It should not be left to practitioners to upskill themselves to remedy the deficiencies of their tertiary education. If law schools' commitment to internationalisation is to have more than merely symbolic value, then the curricula of Australian law degrees must engage with private international law in a substantial way.

C *Private International Law Skills*

Another reason why private international law should be an essential component of every Australian law degree is that it develops skills that are important to every law graduate. This section briefly outlines skills that would be developed by compelling students to engage with the discipline.

First and foremost, teaching private international law will allow (or compel) students to develop their critical thinking skills. The importance of such skills is well documented,[105] and is entrenched in the Threshold Learning Outcomes ('TLOs') of both the JD and the LLB.[106] There remains, however, some contention as to what exactly 'critical thinking' within a law degree looks like.[107] A common-sense understanding of the concept is that it involves, at a minimum, some form of logical reasoning. For Byrnes and Dunbar, critical thinking involves 'thinking about your own or someone else's thinking'.[108] On this

[103] See Carolyn B Lamm, 'Internationalization of the Practice of Law and Important Emerging Issues for Investor–State Arbitration' (2011) 354 *Recueil des Cours: Collected Courses of the Hague Academy of International Law* 17, 17.

[104] See ibid 21.

[105] See, eg, Nick James and Kelley Burton, 'Measuring the Critical Thinking Skills of Law Students Using a Whole-Of-Curriculum Approach' (2017) 27(1) *Legal Education Review* 1, 1; Alex Steel et al, 'Critical Legal Reading: The Elements, Strategies and Dispositions Needed to Master This Essential Skill' (2016) 26(2) *Legal Education Review* 187, 212.

[106] *Juris Doctor: Threshold Learning Outcomes* (n 68) 10, 12; *Bachelor of Laws: Learning and Teaching Academic Standards Statement* (n 68) 17–18.

[107] Gabrielle Appleby, Peter Burdon and Alexander Reilly, 'Critical Thinking in Legal Education: Our Journey' (2013) 23(2) *Legal Education Review* 345, 347; Kate Galloway et al, 'Working the Nexus: Teaching Students to Think, Read and Problem-Solve Like a Lawyer' (2016) 26(1) *Legal Education Review* 95, 101–2.

[108] James P Byrnes and Kevin N Dunbar, 'The Nature and Development of Critical-Analytic Thinking' (2014) 26(4) *Educational Psychology Review* 477, 480, quoted in Galloway et al (n 107) 102.

account, critical thinking requires the student to engage in an intellectual empathy of sorts. All law subjects demand this skill, but with respect to private international law the need for higher-order critical thinking skills is magnified. Private international law thinking requires one to think in terms of contingencies to an extent that other legal disciplines do not.

The importance of critical thinking to private international law is demonstrated by choice of law problems. Consider publication of a defamatory article on the internet: the new normal for defamation litigation in Australia.[109] If the article is downloaded all around the world, what law should an Australian court apply to determine liability? Famously, in *Dow Jones & Co Inc v Gutnick*, the High Court applied the *lex loci delicti* to cross-border defamation and held that the wrong may be located at the place of the download.[110] A single article may thus be subject to as many different systems of law as there are legal systems in the world; each download is a distinct tort with a potentially distinct *lex causae*. Resolution of the ultimate question — the liability of the defendant on the pleadings — requires not only an understanding of the Australian law of torts, but an understanding of Australian private international law and a basic understanding of the substantive principles of any foreign law on which the defendant relies. Reflecting on such problems, von Mehren opined:

> Those who work in the field of choice of law are, at times, discouraged by the apparently intractable nature of the problems with which they must grapple. Intricate and subtle analyses are undertaken; ambiguities and uncertainties are painfully resolved. Ultimately, a result is reached, yet the solution is too frequently neither entirely satisfying nor fully convincing.[111]

Digital defamation is not the trickiest species of private international law problem. That honour goes to renvoi. In *Neilson v Overseas Projects Corporation of Victoria Ltd* ('*Neilson*'), the High Court considered a claim brought by a Western Australian woman against a Victorian corporation with respect to damage suffered from negligence inflicted in China.[112] The claim was time-barred under Chinese law, but within time under the Western Australian limitation statute. The High Court determined that the *lex loci delicti* would apply, but then went on (by majority) to hold that, in applying Chinese law, the Australian court must apply the 'whole law', including the relevant Chinese

[109] See Centre for Media Transition, *Trends in Digital Defamation: Defendants, Plaintiffs, Platforms* (Report, 2018) 5.

[110] (2002) 210 CLR 575, 606–7 [44] (Gleeson CJ, McHugh, Gummow and Hayne JJ).

[111] Arthur Taylor von Mehren, 'Choice of Law and the Problem of Justice' (1977) 41(2) *Law and Contemporary Problems* 27, 27.

[112] (2005) 223 CLR 331 ('*Neilson*').

choice of law rule.[113] The evidence provided that Chinese law would select Australian law as the applicable law through its own choice of law rule, had a Chinese court heard the matter. So Australian law selected Chinese law as the applicable law, which required application of a Chinese rule that selected Australian law as the applicable law, which selected Chinese law as the applicable law … and so on, ad infinitum: a 'renvoi'. How was the Australian Court to resolve this impasse? A tortured majority essentially held that the Australian Court was to adopt the Chinese solution to the renvoi problem.[114] In the end, Australian law applied.

The renvoi story advances the present thesis on a few fronts. First, it demonstrates that private international law is difficult. As Prosser famously said, '[t]he realm of the conflict of laws is a dismal swamp, filled with quaking quagmires, and inhabited by learned but eccentric professors who theorize about mysterious matters in a strange and incomprehensible jargon'.[115] The subject requires students to use their critical thinking muscles in a way that regular, 'two-dimensional' law does not.[116] Private international law, like critical thinking itself, is 'effortful, potentially time-consuming, and mentally taxing'.[117] Shreve once wrote that '[m]astery of [private international law] is possible for most students only through careful reading, hard thought, and repetition of difficult mental exercises'.[118] We underestimate ourselves if we do not believe that Australian law students are capable of rising to the challenge. Studying law is hard, and that is the point.

Second, the renvoi story shows how private international law requires students to engage with theory — an exercise which is often seen as essential to developing law students' critical thinking skills.[119] There is an immense body of theoretical literature surrounding the subject, but especially with respect to

[113] Ibid 342 [13] (Gleeson CJ), 367 [102] (Gummow and Hayne JJ), 374 [134] (Kirby J), 415 [261] (Callinan J), 418–19 [271] (Heydon J).

[114] See generally Martin Davies, 'Neilson v Overseas Projects Corporation of Victoria Ltd: Renvoi and Presumptions about Foreign Law' (2006) 30(1) *Melbourne University Law Review* 244; Reid Mortensen, '"Troublesome and Obscure": The Renewal of *Renvoi* in Australia' (2006) 2(1) *Journal of Private International Law* 1, 2.

[115] William L Prosser, 'Interstate Publication' (1953) 51(7) *Michigan Law Review* 959, 971.

[116] Some have described transnational litigation, which depends on private international law, as 'three-dimensional chess': see, eg, Malcolm R Wilkey, 'Transnational Adjudication: A View from the Bench' (1984) 18(3) *International Lawyer* 541, 543.

[117] Byrnes and Dunbar (n 108) 481.

[118] Gene R Shreve, 'Teaching Conflicts, Improving the Odds' (1992) 90(6) *Michigan Law Review* 1672, 1676.

[119] For an account of how this view has waxed and waned over time, see Nickolas J James, 'A Brief History of Critique in Australian Legal Education' (2000) 24(3) *Melbourne University Law Review* 965.

choice of law and renvoi. Leflar once cautioned that '[e]ven the hardest working student in a law school conflicts course could not read all of the "literature" on the subject, if [they] were taking three or four other law courses at the same time.[120] Fortunately, the literature was summarised by Dr Nygh in his text.[121] Unusually, for legal theory, the literature has real-world significance.[122] It is discussed in leading Australian private international law cases, including the High Court's judgment in *Neilson*.[123] Thus, as Shreve observed, '[i]n perhaps no other law school course do spheres of intellectualism (dear to the legal academy) and practical understanding (dear to lawyers and judges) so overlap'.[124]

Third, renvoi demonstrates how private international law requires students to think creatively. Creative thinking is also entrenched in the TLOs of the JD and LLB.[125] The prospect of renvoi means that a practitioner acting for a party involved with a transnational tort ought to think about not only the prospect of liability under the substantive law of torts, but also how pleading choices of law on their part, or on the part of their opponents, could alter the outcome of litigation. Courts will consider the potential application of foreign law only if a party raises the question of the applicable law in their pleadings.[126] If foreign law is relied upon, then it may lead to a jurisdictional dispute: an argument that an Australian court would be a 'clearly inappropriate forum' and so any proceedings should be stayed on the basis of the *forum non conveniens* doctrine.[127] Creatively-minded students appreciate such 'litigation about where to litigate',[128] for it provides plenty of opportunity for strategic thinking.

Fourth, renvoi demonstrates how private international law requires an understanding of Australian law within its international, comparative and

[120] Robert A Leflar, 'Choice of Law: A Well-Watered Plateau' (1977) 41(2) *Law and Contemporary Problems* 10, 11.

[121] See Davies et al (n 14) ch 12.

[122] There are, of course, famous exceptions such as native title: see *Mabo v Queensland [No 2]* (1992) 175 CLR 1.

[123] *Neilson* (n 112) 365–6 [96]–[99] (Gummow and Hayne JJ). See also the discussion of theory in *Pfeiffer* (n 18) 526–7 [39]–[41] (Gleeson CJ, Gaudron, McHugh, Gummow and Hayne JJ).

[124] Shreve (n 118) 1672.

[125] *Juris Doctor: Threshold Learning Outcomes* (n 68) 10–13; *Bachelor of Laws: Learning and Teaching Academic Standards Statement* (n 68) 17, 19.

[126] *Zhang* (n 35) 517 [68] (Gleeson CJ, Gaudron, McHugh, Gummow and Hayne JJ).

[127] See above n 32 and accompanying text.

[128] *Australian Health & Nutrition Association* (n 101) 428 [27] (Bell P), paraphrasing *Spiliada Maritime Corporation v Cansulex Ltd* [1987] 1 AC 460, 464 (Lord Templeman).

broader context.[129] Choice of law issues force students to confront, in a practical way, the basic fact that there are solutions to the societal problems to which Australian law responds other than those solutions supplied by Australian law. More simply, foreign legal systems may do things differently. 'Conflicts of laws' is comparative law for lawyers; it is comparative law in the flesh. When a student determines that foreign law applies through Australian choice of law rules, then realpolitik places pressure on the idealism of legal comparativism: should an Australian court nonetheless apply the Australian law of the forum, the *lex fori*, to serve its own policy goals? Public policy exceptions to the application of foreign law are often controversial.[130] Occasionally, the controversy is confronted by courts head on. In *Ship Sam Hawk v Reiter Petroleum Inc* ('*Ship Sam Hawk*'), Allsop CJ and Edelman J stressed that 'to choose the *lex fori* for a task is not necessarily a choice that is parochial and provincial — it is the forum's approach to the expression of the law that governs or regulates inherently international activity'.[131]

Private international law is full of grey areas: issues for which there may be more than one single intelligible solution. Cheshire famously expressed the situation as follows: 'Of all the departments of English law, Private International Law offers the freest scope for the mere jurist.'[132] The ambiguity of the doctrine may be daunting for some students. However, being forced to confront ambiguity will develop students' tolerance for it and so will develop their self-efficacy in the long run.[133] Apart from steeling students for careers of anxiety in the legal profession, the leeways of choice within private international law provide plentiful opportunity for practising techniques of argument. In a symposium on teaching the subject, Cox said:

> if one student-perceived proof of lawyer empowerment (and hence relevance to future lawyering life) is the ability to manipulate law towards favorable client result, the Conflicts course provides many opportunities for students to practice [sic] advocacy skills, while simultaneously demonstrating that many Conflicts

[129] A skill entrenched in the TLOs of the JD and LLB: *Juris Doctor: Threshold Learning Outcomes* (n 68) 5, 7; *Bachelor of Laws: Learning and Teaching Academic Standards Statement* (n 68) 12–13.

[130] For a comprehensive account, see Richard Garnett, *Substance and Procedure in Private International Law* (Oxford University Press, 2012). See also Davies et al (n 14) ch 18.

[131] *Ship Sam Hawk* (n 38) 361 [85].

[132] See generally GC Cheshire, *Private International Law* (Clarendon Press, 1935) in Christopher Forsyth, 'The Eclipse of Private International Law Principle: The Judicial Process, Interpretation and the Dominance of Legislation in the Modern Era' (2005) 1(1) *Journal of Private International Law* 93, 93.

[133] See generally Queensland University of Technology Business School and Change2020, *Embracing Ambiguity in the Workplace* (Report, May 2017).

> doctrines are inherently manipulable, or at least subject to divergent judicial application and interpretation.[134]

By compelling students to study private international law, Australian law schools would produce better law graduates. The skills that the subject develops would be beneficial to any career path, but especially for those that involve legal practice. Graduates who have studied private international law will become better lawyers who are better equipped for the realities of global legal practice. The subject should be a necessary part of every curriculum, but as Part II showed, it is not. How should law schools respond to that situation?

V The Case for Integration

Accepting that private international law must be taught, there may still be disagreement about how to achieve that goal. For Sydney Law School, the solution was to adopt the aggregation approach: to carve-out a standalone private international law unit, then make it compulsory.[135] There are several benefits to this approach. For managers of law schools, this approach may hold political value. In the author's anecdotal experience, this approach is favoured by private international law academics. It allows educators to teach common themes and techniques which transcend substantive law subjects: topics like characterisation, the substance–procedure distinction and the proper treatment of forum statutes. This approach allows private international law scholars to apply a research-driven pedagogy while receiving emotional re-assurance that the research they are doing is not meaningless. From the student side, the compulsory unit works best as a final-year subject: a capstone of sorts. Students are asked to consider the transnational aspects of contract, torts, property and even equity, having already completed those subjects. Grouping the more difficult aspects of private international law towards the end of a law degree makes sense.

There are countervailing reasons why this approach is not desirable. Law school curricula are already crowded with compulsory subjects. Law schools must cover the Priestley 11, and there are other disciplines that are just as important as private international law to legal practice. Those subjects could also be made compulsory. Statutory interpretation, for example, is an often-underappreciated subject, despite being essential to the work of any lawyer in

[134] Stanley E Cox, 'Teaching Conflicts: An Essay about Conflicts in Teaching, with Application to the Teaching of Conflicts' (1996) 27(3) *University of Toledo Law Review* 593, 615.

[135] See above nn 47–53 and accompanying text.

the country.[136] With that in mind, some law schools, like that of Curtin University, have dedicated compulsory units on statutory interpretation.[137] Similarly, while the Priestley 11 (quite appropriately) mandates teaching civil procedure,[138] increasingly what was once called 'alternative dispute resolution' is displacing litigation in lawyers' collective consciousness as the primary mode of dispute resolution in Australia.[139] A compulsory, standalone (alternative) dispute resolution unit allows more time to be spent on developing skills which are invaluable to any law graduate.[140]

Another reason why it might not be desirable to make private international law a compulsory unit is that it is less important to the futures of those graduates who do not go into practice. The same can be said for many other Priestley subjects, or even all of them. However, if law school managers are to maintain the high enrolments on which their superiors' key performance indicators rely, catering to the student market segment that either does not want to practice, or cannot secure a graduate job in practice, is a sound strategy. Weaker students may fail a private international law capstone. Providing more space for 'softer' legal subjects is a crowd-pleasing path of least resistance.

A further drawback of Sydney Law School's approach is that it creates a human resources problem. The Australian private international law community is not large. Finding an academic with the expertise and enthusiasm to teach the standalone subject may be difficult. Where a law school is producing in excess of 100 graduates per year, a compulsory unit may require several of those staff.

The case for integration of private international law, then, is pragmatic. Integration does not require a new carve-out of space in the curriculum. It can be taught within the same black letter Priestley subjects that are already

[136] See Mark Leeming, 'Theories and Principles Underlying the Development of the Common Law: The Statutory Elephant in the Room' (2013) 36(3) *University of New South Wales Law Journal* 1002, 1002–3.

[137] 'B-LAWS v.1 Bachelor of Laws', *Curtin University* (Web Page, 4 June 2020) <http://handbook.curtin.edu.au/courses/31/319279.html>, archived at <https://perma.cc/2U29-SK4G>; 'LAWS2009 (v.1) Statutory Interpretation', *Curtin University* (Web Page, 4 June 2020) <http://handbook.curtin.edu.au/units/31/318394.html>, archived at <https://perma.cc/DN8K-99LW>.

[138] *Juris Doctor: Threshold Learning Outcomes* (n 68) 6.

[139] Wayne Martin, 'Alternative Dispute Resolution: A Misnomer?' (ADR Address, Australian Disputes Centre, 6 March 2018) 2.

[140] See, eg, 'Juris Doctor', *University of Western Australia* (Web Page) <https://handbooks.uwa.edu.au/coursedetails?id=c12#course-structure>, archived at <https://perma.cc/RQ84-6QGQ>; 'LAWS5109 Dispute Resolution', *University of Western Australia* (Web Page) <https://handbooks.uwa.edu.au/unitdetails?code=LAWS5109>, archived at <https://perma.cc/G8MS-6J2A>.

compulsory, thus not exacerbating the situation for those students who will not become lawyers. It will not create a bottleneck of failing students at the end of a law degree. It will not require deans or human resources professionals to conjure private international law scholars out of the air. Rather, the integration approach may be achieved with existing human resources.

There are some units that may be easily integrated with private international law. There is a natural relationship between private international law and the civil procedure courses of many Australian law schools, and indeed the jurisdictional elements of what this article describes as 'private international law' are taught within courses on 'procedure' in some parts of the world.[141] If law schools around the country committed to teaching procedure for the realities of litigation in a globalised world, then the Australian legal profession would be much better for it.

In other cases, integrating private international law will be more difficult. First-year Priestley subjects, like contracts or torts, could certainly cover the cross-border dimensions of their subject matter. However, it would be difficult to design content in a way that is palatable to first-year law students while doing justice to the nuances of the doctrine. Yet just because it is difficult does not mean that it should not be pursued. The *lex loci delicti* rule is not too difficult; it could even be used as a pedagogical device to encourage students to be precise in their location of a tortious act or omission. If a contract law unit, or some other compulsory unit, includes content on drafting clauses, then that may provide an opportunity to expose students to the jurisprudence surrounding choice of law clauses and jurisdiction agreements. These incremental changes could be complemented by a private international law elective that builds on, and weaves together, the private international law principles introduced throughout the law degree. What is suggested is thus not a wholesale redesign of a law curriculum, but rather some effort on the part of every member of faculty teaching legal doctrine to make sure that the content taught takes account of globalisation, not merely in a tokenistic way, but at a doctrinal level. If staff are unwilling or unable to make that effort, then they are not preparing their students for contemporary legal practice and should make way for those who could.

As mentioned above, private international law scholars may not like the thought of integration. To be blunt: they may worry that their colleagues would not be able to integrate private international law effectively. This view ought to

[141] For example, territorial aspects of jurisdiction are taught within Civil Procedure 1 at Harvard Law School: 'Civil Procedure 1', *Harvard Law School* (Web Page, 2020) <https://hls.harvard.edu/academics/curriculum/catalog/default.aspx?o=74052>, archived at <https://perma.cc/2L85-4ZCC>.

be met with a heavy dose of scepticism. Private international law is not the only part of law that is difficult; every one of the Priestley subjects, at some point, was taught by a person who had not taught the subject before. Private international law scholars might instead worry that the integration approach will not do the discipline justice: that choice of law cannot possibly be taught without teaching characterisation, and the incidental question, and renvoi, and so on. This argument makes the perfect the enemy of the good. It also fails to appreciate that private international law does not exist in a silo — it is the third dimension of every other subject.

In his 2017 Winterton Lecture, Professor Gummow stated that 'it is important to appreciate that in Dixon's thinking about the law, concepts and ideas readily flowed across the borders of what unfortunately some may regard as distinct or self-contained "subjects"'.[142] Private international law is not a self-contained subject. Neither is contract, or torts, or equity and trusts, or any of the Priestley 11. Australian legal pedagogy ought to embrace the interlinkages in all subjects, but especially with respect to the subject necessary for global legal practice. Briggs once considered the view that 'the pedagogic convenience which separated private international law from the rest of the law now does more harm than good, and that to continue to treat the subject … in semi-isolation from the rest of the law is less a virtue, more a form of intellectual glaucoma. There is something in this.'[143] The author agrees.

VI Conclusion

Most Australian law graduates have not studied private international law. If Australian law degrees are still designed to prepare students to practise law in Australia, then the failure to build private international law into the core curriculum is unacceptable. Private international law is essential to advise clients in a globalised world. Apart from the imperative of preparing students for careers in legal practice, teaching private international law develops in students important skills that could be applied in any vocation. Accepting that the subject should be taught to all students, then the integration approach is a practical way forward that takes account of the constraints that shape Australian law degrees. Integration of private international law into the Australian law curriculum is a pragmatic way for law schools to give effect to the values underpinning 'internationalisation' on which everyone seemingly agrees.

[142] William Gummow, 'The 2017 Winterton Lecture: Sir Owen Dixon Today' (2018) 43(1) *University of Western Australia Law Review* 30, 45.

[143] Adrian Briggs, *The Conflict of Laws* (Oxford University Press, 3rd ed, 2013) 5.

APPENDIX: TABLE 2

Law School	Jurisdiction	Unit	Unit Level	Offered 2018 or 2019
Australian National University — College of Law	ACT	Conflict of Laws — LAWS4212 (Undergraduate); Conflict of Laws LAWS8144 (Postgraduate)	LLB, JD, LLM	Y
The University of Canberra — Canberra Law School	ACT	International Law — 11267.1	LLB	Y
University of New England	NSW	Conflict of Laws — LAW360	LLB	N
University of Newcastle — Newcastle Law School	NSW	International Private Law — LAWS6040	JD	N
University of Technology Sydney Faculty of Law	NSW	Australian Private International Law — 76112 (LLB) Private International Law — 78158 (JD/LLM)	LLB, JD, LLM	N
University of Wollongong — School of Law	NSW	NA	NA	N
Sydney City School of Law	NSW	NA	NA	N
Charles Sturt University — Centre for Law and Justice	NSW	International Public and Private Law — LAW313	LLB	Y
Southern Cross University — School of Law and Justice	NSW	Global Legal Pluralism — LAW73051	LLB	Y

Law School	Jurisdiction	Unit	Unit Level	Offered 2018 or 2019
The University of Notre Dame Australia — School of Law	NSW	Private International Law (special/summer course).	LLB	Y
The University of Sydney — Sydney Law School	NSW	Private International Law A — LAWS2018 (LLB); LAWS5017 (JD) (core) Private International Law B — LAWS3457 (LLB) LAWS5157 (JD) Commercial Conflict of Laws — LAWS6824 (LLM)	LLB, JD, LLM	Y
Australian Catholic University — Thomas More Law School	NSW	Public and Private International Law — LAWS404	LLB	Y
Western Sydney University — School of Law	NSW	Conflict of Laws — 200656.2	LLB	Y
Macquarie University — Macquarie Law School	NSW	Conflict of Laws — LAWS557	LLB	Y
University of New South Wales — UNSW Law	NSW	Conflict of Laws — LAWS3382 (LLB); JURD7482 (JD)	LLB, JD	Y
Charles Darwin University	NT	Private International Law — LWA319	LLB	Y
Central Queensland University — School of Business and Law	Qld	NA	NA	N
Queensland University of Technology Faculty of Law	Qld	Private International Law — LLB446	LLB	N

Law School	Jurisdiction	Unit	Unit Level	Offered 2018 or 2019
University of Sunshine Coast Faculty of Law	Qld	Private International Law — LAW411	LLB	N
University of Southern Queensland School of Law and Justice	Qld	Private International Law — LAW3463	LLB, JD	N
James Cook University College of Business, Law and Governance	Qld	Conflict of Laws — LA4006	LLB	N
Bond University Faculty of Law	Qld	Private International Law — LAWS13-545	LLB	N
Griffith University — Griffith Law School	Qld	Global Law — 1028LAW (LLB); Global Law — 7728LAW (JD)	LLB, JD	Y
University of Queensland TC Beirne School of Law	Qld	Private International Law — LAWS5153 Current Issues in International Law (Private) — LAWS7724 (LLM) Commercial Conflict of Laws — LAWS7979 (LLM)	LLB, LLM	Y
Flinders University College of Business, Government and Law	SA	NA	NA	N
University of South Australia School of Law	SA	Conflict of Laws: Private International Law — LAWS3078	LLB	N
University of Adelaide — Adelaide Law School	SA	Private International Law — LAW2573	LLB	Y

Law School	Jurisdiction	Unit	Unit Level	Offered 2018 or 2019
University of Tasmania Faculty of Law	Tas	Conflicts (Private International Law) — LAW684	LLB	N
RMIT University — Graduate School of Business and Law	Vic	Private International Law — LAW1044	JD	N
Victoria University College of Law & Justice	Vic	Australian Private International Law — 76112 (LLB) Private International Law — 78158 (JD/LLM)	LLB, JD, LLM	N
La Trobe University — La Trobe Law School	Vic	Private International Law in Australia — LAW3PVL (LLB) Private International Law — LAW5PVL (JD)	LLB, JD	N
Monash University Faculty of Law	Vic	Conflict of Laws — Private International Law — LAW4156 Private International Law in Commercial Disputes — LAW5423 (LLM/JD)	LLB, JD, LLM	N
Swinburne University of Technology — Swinburne Law School	Vic	Public and Private International Law — LAW30009	LLB	N
Deakin University — Deakin Law School	Vic	NA	NA	N
University of Melbourne — Melbourne Law School	Vic	Cross-Border Litigation (LAWS50050)	JD	Y

Law School	Jurisdiction	Unit	Unit Level	Offered 2018 or 2019
Australian Catholic University — Thomas More Law School	Vic	Public and Private International Law — LAWS404	LLB	Y
The University of Notre Dame Australia School of Law	WA	NA	NA	N
Curtin University — Curtin Law School	WA	Private International Law — LAWS3007	LLB	N
Murdoch University — School of Law	WA	Conflict of Laws — LLB341	LLB	N
Edith Cowan University — School of Business and Law	WA	International Law — LAW4108	LLB	Y
The University of Western Australia — UWA Law School	WA	Conflict of Laws — LAWS5503	JD, LLM	Y