

LAWS50089 The Challenge of Islamic Law

Credit Points:	12.50																	
Level:	5 (Graduate/Postgraduate)																	
Dates & Locations:	2012, Parkville This subject commences in the following study period/s: Semester 2, Parkville - Taught on campus.																	
Time Commitment:	Contact Hours: 36 hours of seminar classes offered intensively over 7 days, or as 12 weekly 3-hour seminars over a semester. Total Time Commitment: 144 hours.																	
Prerequisites:	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.50</td> </tr> </tbody> </table>			Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50	LAWS50024 Principles of Public Law	Semester 1	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50027 Dispute Resolution	Semester 1	12.50
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Corequisites:	None.																	
Recommended Background Knowledge:	None.																	
Non Allowed Subjects:	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS70105 Islamic Law and Politics in Asia</td> <td>October</td> <td>12.50</td> </tr> </tbody> </table>			Subject	Study Period Commencement:	Credit Points:	LAWS70105 Islamic Law and Politics in Asia	October	12.50									
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Core Participation Requirements:	<p>The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: http://www.services.unimelb.edu.au/disability/.</p>																	
Coordinator:	Prof Tim Lindsey																	
Contact:	Melbourne Law School Student Centre Email: law-studentcentre@unimelb.edu.au (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475																	

<p>Subject Overview:</p>	<p>This subject examines the challenge presented to English and European legal traditions by Islamic legal traditions. It does this in the context of the relationship between the modern nation state and Islam in Asia, focusing on the 240 million Muslims in Australia's South East Asian neighbourhood, but offering some coverage also of South and Central Asia. In principle, Islam does not recognise a distinction between religion and law because both are derived from what Muslims believe to be God's revealed message. The result is an unavoidable tension between Islamic belief and the legal authority of modern (secular) nation states that lies at the heart of the politics of Islamic law in Asia. This tension, and the legal, political and social controversies that result from it, are the focus of this subject, which is based on selected comparative case studies.</p> <p>Topics covered in the subject will include:</p> <ul style="list-style-type: none"> # The position of Islamic legal traditions as an alternative authority to the contemporary nation-state; # How Arabic-derived Islamic legal thought has been adapted in new Asian homelands, including tensions between shari'ah and local indigenous traditions; # Current political and religious controversies arising in South East Asia. These will be selected from a range that may include: <ul style="list-style-type: none"> - Islamic legal codes and laws for Muslims, including both state-sanctioned and radical codes; - The Qadi, Islamic judicial traditions and courts for Muslims; - The role of fatwa; - Islamic criminal punishment, including hudud punishments; - Interest-free banking, 'Islamic economics' and commercial law; - Islamic approaches to the status of women (fiqh Al-Nisa); - Islam and human rights; - The Islamic economy, including Islamic banking and zakat and other forms of philanthropy; and - Education and the role of Madrasa and Pesantren; and # Islamic legal radicalism and aspirations for an 'Islamic state' in South East Asia. <p>Drawing upon the the set reading, students will develop their own research proposals, which may investigate countries not included in the case studies. All readings will be in English, and students are neither expected nor required to read an Asian language for satisfactory completion of this course.</p>
<p>Objectives:</p>	<p>A student who has successfully completed this subject should have an advanced understanding of, and be able to critically analyse and reflect on:</p> <ul style="list-style-type: none"> # Tensions between Islamic scholarship, law and religious belief on the one hand and, on the other, modern notions of the secular nation state; # The development of Islamic legal traditions and jurisprudence in Asia; # Basic sources of Islamic religious and legal belief; # Major contemporary debates among Muslims regarding the place of Islamic legal traditions in modern societies; # The role of Islam in modern law and politics, with a focus on selected states in the Asian region; # The role of Islamic courts and lawyers in contemporary Asian societies; # Typical state policies for the administration of Islamic legal traditions; # Alternative radical Islamist views of the role of the state in Muslim societies; and # Comparative methodologies regarding traditional laws and legal systems. <p>A student who has successfully completed this subject should also be able to:</p> <ul style="list-style-type: none"> # Apply their learned understanding and analytic capacity to new situations and contexts; and # Communicate their analysis in appropriate scholarly and professional formats to specialist and non-specialist audiences.
<p>Assessment:</p>	<p>Research essay proposal: 10% (1,000 words): This proposal will show both the nature of research to be undertaken and the structure of the proposed essay, as well as offering a summary of the proposed argument. Independent research essay (90%): Research essays will be 6,000 words in length, and will show an advanced understanding of tensions between Islamic legal traditions and secular legal systems, as well as some of the forms these tensions take. Essays will be expected to contain complex argumentation, demonstrate advanced</p>

	understanding of key forms of knowledge in this area, and be written with creativity and initiative. Where the subject is run over the course of a semester, research essays will be due in the scheduled exam period. Where the subject is run as an intensive, students will be advised of the due date on the first day of class.
Prescribed Texts:	Specialist printed materials will be made available from Melbourne Law School.
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Generic Skills:	<p>On completion of the subject, students should have developed and demonstrated expert skills as follows:</p> <ul style="list-style-type: none"> # The capacity to locate and critically evaluate a range of primary and secondary source materials regarding Islamic legal traditions, including the capacity for close reading and analysis of a range of sources from a range of different scholarly and cultural traditions; # The capacity to interpret the social, political and historical context of law in order to analyse complex contemporary politico-legal problems arising from the application of Islamic legal traditions in secular legal contexts; # The capacity to formulate, manage and execute a socio-legal research project dealing with an unfamiliar legal discourse from inception to completion, showing openness to new ideas and ethics associated with knowledge creation and usage; and # The capacity for critical and independent thought and the ability to communicate it in writing at a high level of scholarly sophistication.