

LAWS40084 Rethinking Australian Democracy and Law

Credit Points:	12.50
Level:	4 (Undergraduate)
Dates & Locations:	2012, Parkville This subject commences in the following study period/s: Semester 1, Parkville - Taught on campus. Seminars.
Time Commitment:	Contact Hours: A 2-hour lecture per week. Total Time Commitment: 108 hours.
Prerequisites:	Legal Method and Reasoning; Principles of Public Law; Constitutional Law; or in each case equivalent subjects.
Corequisites:	None.
Recommended Background Knowledge:	None.
Non Allowed Subjects:	730-421 Rethinking Democracy and the Law.
Core Participation Requirements:	For the purposes of considering requests for Reasonable Adjustments under the Disability Standards for Education (Cwth 2005), and Students Experiencing Academic Disadvantage Policy, academic requirements for this subject are articulated in the Subject Description, Subject Objectives, Generic Skills, and Assessment Requirements of this entry. The University is dedicated to providing support to those with special requirements. Further details on the disability support scheme can be found at the Disability Liaison Unit website: http://www.services.unimelb.edu.au/disability/ .
Coordinator:	Mr Glenn Patmore
Contact:	Melbourne Law School Student Centre Email: law-studentcentre@unimelb.edu.au (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475
Subject Overview:	<p>This course will describe and analyse the legal rules governing Australian constitutional democracy and raise broader questions of democratic and political philosophy. Democratic principles remain vital aspirations and frame contemporary debates. How does the Constitution establish and maintain our system of democratic government? How should the law respond to challenges of re-imagining the institutions of democratic government, engaging with human rights and improving Australia's relationship with its indigenous people?</p> <p>In addressing these questions, this course has the following aims: first, to introduce students to the key principles of constitutional democracy; second, to examine significant historical developments in electoral democracy in Australia; third, to rethink key principles and institutions of political democracy in the constitutional context.</p> <p>Therefore, this subject will consider history and politics to examine legal theory relevant to Australia in relation to three broad themes:</p> <ol style="list-style-type: none"> 1 Legal and political regulation of participation and representation in Australia; 2 Establishment and assessment of the democratic institutions of federal government; 3 Constitutional Change proposals for a republic and for referendums for recognition of local government and indigenous people in the Australian Constitution.
Objectives:	Students will be introduced to applied political, historical and legal theory relevant to Australia. Students will become familiar with interdisciplinary approaches to public law. Students will gain a thorough knowledge of the legal framework of democracy and constitutionalism. Students' critical skills will be enhanced by dealing with a diverse subject matter, challenging legal issues and by considering the possibilities and difficulties of constitutional and democratic renewal.

	<p>On completion of this subject, students should:</p> <ul style="list-style-type: none"> # Have developed an understanding of: <ul style="list-style-type: none"> - The structure and operation of constitutional democracy in theory and practice; - Democratic constitutional principles; - The relevance of constitutional law to how governments address public policy issues; - The impact of democratic constitutional principles on the individual and different groups within society. # Be able to draw on this understanding to: <ul style="list-style-type: none"> - Identify relevant legislative provisions and judicial decisions and state and critically analyse the legal principles that emerge from them; - Critically analyse the relationship between these legal principles and the fundamental principles of constitutional democracy; # Describe and critically analyse the principles of constitutional change and constitutional amendment.
Assessment:	Final open book examination (100%)OR 5,000 word research essay (due on the last day of semester) (100%).
Prescribed Texts:	Blackshield and Williams, <i>Australian Constitutional Law and Theory: Commentary and Materials</i> (Federation Press, 4th edition 2006) (abridged edition) Other materials that students may access online: Commonwealth Constitution; Constitution Act 1975 (Vic).
Recommended Texts:	Glenn Patmore, <i>Choosing the Republic</i> (UNSW, 2009).
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 the following generic skills:</p> <ul style="list-style-type: none"> # Attitudes towards knowledge that includes openness to new ideas, valuing truth and ethics associated with the creation of knowledge; # Critical and independent thought and reflection; # Close reading and analysis of a range of sources; # Problem solving; # To participate as a member of a team; # Intercultural sensitivity and understanding. <p>In addition, on completion of the subject, students should have developed the following skills specific to the discipline of law:</p> <ul style="list-style-type: none"> # Analysis of historical, philosophical and political sources for analysing the law; # Statutory reading, interpretation and analysis; # Legal research skills, including an ability to: <ul style="list-style-type: none"> - Find primary historical sources relevant to constitution-making and amendment; - Find case law; - Find statutes and constitutions; - Find secondary sources; - Identify the most relevant and up-to-date primary and secondary sources and justify the research process. # Legal writing skills, including an ability to: <ul style="list-style-type: none"> - Use case law as part of legal analysis; - Use statutes and constitutions as part of legal analysis; - Use secondary sources as part of legal analysis; - Analyse legal principles; - Use proper referencing and citation; - Present an appropriately structured and supported complex legal argument. # Oral communication skills in participating in classroom problem solving and discussion.
Notes:	The essay in this subject is regarded a substantial piece of legal writing for honours purposes.