

## LAWS70334 Bills of Rights

<b>Credit Points:</b>	12.50
<b>Level:</b>	7 (Graduate/Postgraduate)
<b>Dates &amp; Locations:</b>	<p>2013, Parkville</p> <p>This subject commences in the following study period/s: May, Parkville - Taught on campus.</p>
<b>Time Commitment:</b>	Contact Hours: The total class time is between 24 and 26 hours. Total Time Commitment: Not available
<b>Prerequisites:</b>	None
<b>Corequisites:</b>	None
<b>Recommended Background Knowledge:</b>	Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.
<b>Non Allowed Subjects:</b>	None
<b>Core Participation Requirements:</b>	The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of classes and actively engage in the analysis and critique 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 to 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 who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">www.services.unimelb.edu.au/disability/</a>
<b>Contact:</b>	<p>For more information, contact the Melbourne Law Masters office.</p> <p>Email: <a href="mailto:law-masters@unimelb.edu.au">law-masters@unimelb.edu.au</a> (<a href="mailto:law-masters@unimelb.edu.au">mailto:law-masters@unimelb.edu.au</a>)</p> <p>Phone: +61 3 8344 6190</p> <p>Website: <a href="http://www.law.unimelb.edu.au/masters">www.law.unimelb.edu.au/masters</a> (<a href="http://www.law.unimelb.edu.au/masters">http://www.law.unimelb.edu.au/masters</a>)</p>
<b>Subject Overview:</b>	<p>A constitution is the quintessential national document, a window on the national soul. However, the drafting and interpretation of bills of rights are now also globalised phenomena, drawing freely upon comparative experiences as sources of lessons learnt, models to be followed and dangers to be avoided. This subject provides an international perspective on bills of rights, offering a framework for how comparative materials can assist constitutional drafters and interpreters in framing and construing their national texts. It covers topics such as: arguments for and against bills of rights, the institutional arrangements for the enforcement of bills of rights, proportionality or limitation analysis, the application of bills of rights (also known as the state action doctrine) and socio-economic rights. The relevance of international experience to contemporary Australian constitutional debates will be a theme throughout the subject.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> <li># The context: Australia today – its current Constitution and the Bill of Rights debate</li> <li># Constitutional rights in Canada: When they arrived (1982); what they look like; how the Charter of Rights and Freedoms balances the powers of the courts and legislatures; and what Canada might have to offer Australia</li> <li># Comparisons to other forms of rights protection in the United States, the United Kingdom, and New Zealand;</li> </ul>

	<ul style="list-style-type: none"> <li># Constitutional rights in federal systems of government (i.e., Canada, the United States, Australia)</li> <li># The literature and theory of judicial review: The nature of the debate, the relationship between courts and legislatures, and what judicial review looks like under different models (i.e., 'strong' versus 'weak' rights-protecting instruments)</li> <li># Australia's options going forward.</li> </ul>
<b>Objectives:</b>	<p>This subject is designed to provide a forum for discussing, analysing and debating the merits of a constitutionalised or entrenched Bill of Rights. It will inform important debates taking place in Australia and enrich that discussion by direct comparisons to Canada and other nations who have adopted different models (some constitutional and others statutory) for the protection of rights. A student who has successfully completed this subject should:</p> <ul style="list-style-type: none"> <li># Be able to analyse and debate different regimes for the protection of rights</li> <li># Recognise the key similarities and differences between rights-protecting instruments (i.e., Canada, the United States, the United Kingdom and New Zealand)</li> <li># Understand the underlying assumptions and institutional choices involved in adopting a particular model for the protection of rights</li> <li># Reflect on the relationship between legislatures and courts under a constitutional Bill of Rights</li> <li># Have an introduction to the literature on judicial review and debates on the legitimacy of review, as it is discussed outside Australia</li> <li># Gain important insight into the question of a Bill of Rights for Australia.</li> <li>#</li> </ul>
<b>Assessment:</b>	Take-home examination (100%) (12–15 July) or 10,000 word research paper (100%) (14 August) on a topic approved by the subject coordinator
<b>Prescribed Texts:</b>	Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Visit the Melbourne Law Masters website for more information about this subject.
<b>Breadth Options:</b>	This subject is not available as a breadth subject.
<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>
<b>Links to further information:</b>	<a href="http://www.law.unimelb.edu.au/subject/LAWS70334/2013">http://www.law.unimelb.edu.au/subject/LAWS70334/2013</a>