

LAWS50101 Refugee Law

Credit Points:	12.5																					
Level:	5 (Graduate/Postgraduate)																					
Dates & Locations:	2015, Parkville This subject commences in the following study period/s: Semester 1, Parkville - Taught on campus.																					
Time Commitment:	Contact Hours: 36 hours of seminar classes offered as 12 weekly 3-hour seminars over the course of 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> <tr> <td>LAWS50028 Constitutional Law</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50032 Administrative Law</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	LAWS50028 Constitutional Law	Semester 2	12.50	LAWS50032 Administrative Law	Semester 1	12.50
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																				
LAWS50028 Constitutional Law	Semester 2	12.50																				
LAWS50032 Administrative Law	Semester 1	12.50																				
Corequisites:	None																					
Recommended Background Knowledge:	LAWS50041 Public International Law is recommended but not compulsory. Students who have not completed Public International Law will be provided with some additional background reading at the beginning of the course.																					
Non Allowed Subjects:	Students who complete this subject may not enrol in the following MLM subjects: <ul style="list-style-type: none"> # LAWS70394 International Refugee Law: Refugee Rights; # LAWS70366 International Refugee Law: Refugee Status. Similarly, students who have previously taken these MLM subjects may not enrol in this subject.																					
Core Participation Requirements:	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: www.services.unimelb.edu.au/disability/ .																					
Coordinator:	Prof Michelle Foster																					

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 subject offers JD students the opportunity to undertake advanced and specialised study in an important contemporary subset of public law. Refugee law in Australia (as in most of the 147 states party to the Refugee Convention) is inspired and guided by international treaty obligations but anchored in domestic constitutional and administrative law. It is therefore an excellent example of the interdependence of domestic and international public law.</p> <p>At the heart of the course is the constant tension between international and domestic public law, a tension that exists across the legal system as a whole but is particularly poignant in the context of human rights law. This theme is examined throughout the course as students are introduced to the way in which this struggle has manifested in Constitutional Law (both in the context of interpreting the Commonwealth's broad plenary powers over 'aliens' and 'immigration' and in understanding the limits on Commonwealth power) and Administrative Law (by examining the significant impact which refugee law has had on shaping and pushing the boundaries of administrative law principles). Another central theme is the tension between branches of government; in particular the courts on the one hand and the legislature and executive on the other.</p> <p>The subject will begin with an historical introduction to international refugee law, before turning to consider the key international instruments for the protection of refugees including the Refugee Convention and Protocol (including the role of the UNHCR); regional instruments; customary international law; and international human rights treaties. The course concentrates primarily on the 1951 Convention, exploring the key controversies in interpreting the refugee definition and extent of international protection afforded to refugees. This provides a framework for considering the implementation of the Refugee Convention in Australian domestic law. The course will also equip students to read, comprehend and contextualise comparative jurisprudence, because in examining the way in which Australian decision-makers have interpreted the definition of 'refugee', students will study high level case-law from across the common law world, as well as some key decisions from civil law jurisdictions.</p> <p>Refugee law is taught in the format of a 3 hour seminar per week, designed to facilitate deep engagement with the material in the form of class discussion and interaction. In addition, several guest speakers will address the students in order to provide an understanding of recent developments and cutting edge issues in refugee law and practice in Australia and internationally.</p>
Learning Outcomes:	<p>A student who has successfully completed the subject should have a rich and integrated understanding of the domestic and international aspects of the governance of refugee law in Australia. In particular, students should:</p> <ul style="list-style-type: none"> # Understand the international development of refugee law; # Have specialised knowledge of the different international instruments governing refugee law at the international level and understand the differences between them; # Have advanced knowledge of the framework for resolving the key controversies in interpreting the definition of 'refugee' in the 1951 Refugee Convention, namely, by reference to the rules of treaty interpretation and comparative jurisprudence; # Have an expert understanding of the way in which international refugee law is implemented in the Australian domestic legal system; # Understand at an advanced level the structure of decision-making in Australian refugee law, including the important role of tribunals and the limited nature of judicial review; # Have insight into the practical operation of refugee law in Australia and an ability to critically analyse and reflect on the challenges and limits of judicial review; # Have advanced and specialised knowledge of the way in which refugee law has shaped the development of administrative law principles; and # Have an advanced and nuanced understanding of the challenges in implementing international refugee law in Australia domestic law and be able to reflect critically on current refugee policy.
Assessment:	The assessment for Refugee Law has three components: Court report (25%): Students will be required to attend a hearing in respect of a claim for a protection visa (a refugee claim) in the Federal Court or Federal Magistrates' Court and prepare a 1,500 word written report related to that visit. The report may take the form of written submissions, a judgment, or another format

	approved in advance by the course coordinator; Take home exam or independent research essay (75%):Students have the option of fulfilling the remaining 75% of assessment by selecting EITHER:A. A take-home examination. The take home exam will be an 8 hour exam with a maximum word limit of 4,000 words;ORB. A 5,000 word research essay (due in accordance with the assessment schedule). Should students choose this option they will be expected to devise their own topic in consultation with the lecturer. Research essays are expected to demonstrate a highly advanced understanding of refugee law. It is expected that students will attend a lunch time session on research skills conducted by the library, undertake sophisticated research including both primary and secondary material, generate complex argumentation, and demonstrate highly developed analytical and critical skills; 75% class attendance (hurdle requirement).
Prescribed Texts:	Specialist printed materials will be made available from Melbourne Law School, and James C Hathaway and Michelle Foster, <i>The Law of Refugee Status</i> , Second Edition (CUP, 2014)
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 Refugee Law, students should have developed and demonstrated their skills in the following areas:</p> <ul style="list-style-type: none"> # Advanced and specialised skills in reading, comprehending and interpreting Australian legislation and case-law; # Advanced technical skills in treaty interpretation (drawing on and extending skills in statutory interpretation developed in previous public law compulsory subjects); # An expert ability to read, comprehend, reflect on and synthesise case-law interpreting the definition of 'refugee' from a wide range of common law and civil law jurisdictions; # An ability to understand and apply general principles and theories of international law and international human rights law to the specialised context of refugee law; # An advanced capacity for critical and independent thought and reflection, in particular to reflect critically on contemporary refugee law, policy and practice in Australia; and # An advanced ability to observe, evaluate, interpret and transmit an analysis of a discrete refugee law case in the form of written assessment.
Notes:	This subject has a quota of 60 students. Details on quota subject selection (http://www.law.unimelb.edu.au/jd/current-students/enrolments/quota-subject-selection/) are available on the JD website.