

LAWS70016 Comparative Law

Credit Points:	12.5
Level:	7 (Graduate/Postgraduate)
Dates & Locations:	2015, Parkville This subject commences in the following study period/s: August, Parkville - Taught on campus.
Time Commitment:	Contact Hours: The total class time is between 24 and 26 hours. Total Time Commitment: The pre-teaching period commences four weeks before the subject commencement date. From this time, students are expected to access and review the Reading Guide that will be available from the LMS subject page and the subject materials provided by the subject coordinator, which will be available from Melbourne Law School. Refer to the Reading Guide for confirmation of which resources need to be read and what other preparation is required before the teaching period commences.
Prerequisites:	All students should have completed an introductory course in comparative law or comparative constitutional law.
Corequisites:	None
Recommended Background Knowledge:	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.
Non Allowed Subjects:	None
Core Participation Requirements:	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: www.services.unimelb.edu.au/disability/
Contact:	For more information: Email: law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au) Phone: +61 3 8344 6190 Website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)
Subject Overview:	This subject will link different traditions, genres, and methods of comparative legal studies to a critical analysis of the ethical and political implications of comparative legal projects. Students will explore canonical texts representing the main academic traditions of comparative legal studies, key features of laws from different countries/legal cultures (in particular constitutions), and accounts of the practical application of the comparative method within and without the law school (such as legal consulting, legal reform, and harmonisation of legal regimes). The subject will examine the transnational and transcultural development of legal regimes and constitutional orders, and consider how the transfer of laws is facilitated by or resists globalisation. The goal is to overcome the marginalisation of comparative law in the legal curriculum and develop a conceptual framework for designing and interpreting the phases, outcomes and risks of legal transfer.

	<p>Principal topics include:</p> <ul style="list-style-type: none"> # An overview of the history and main academic traditions in comparative law (such as functionalism, structuralism, taxonomy, factualism). # An analysis of the different argumentative and methodological 'tracks' of comparative law and their internal connections with ethical agendas and political projects # A conceptual framework for designing and interpreting the phases, outcomes and risks of legal (constitutional) transfer # A critical evaluation of concepts like legal 'tradition', 'system', 'family', 'culture', 'transplant' used in the comparative legal literature # The key features of laws of different countries/legal cultures, in particular constitutions # Accounts of the practical application of the comparative method within and without the law school (legal consulting, legal reform, harmonisation of legal regimes) # Texts illustrating critical approaches to conventional legal comparison.
Learning Outcomes:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Have an advanced understanding of the traditions and paradigms of comparative law and the crucial importance of method for the self-perception of comparatists and the identity of the discipline # Be able to differentiate and critically analyse the dominant methodological approaches, in particular formalist taxonomies, structuralism, functionalism and factualism # Have the cognitive information and skills to analyse and critique the internal relationship between the different methods, ethics and politics of comparative law # Be able to recognize, evaluate and convey the conceptual and ideological implications of and differences between legal systems, legal cultures and legal traditions # Have a deepened understanding of the crucial role comparative law plays in projects of legal consulting and engineering and a globalized economy # Have a sophisticated understanding of how the transfer of law can be conceptualized and theoretically reconstructed # Have the cognitive and analytical skills to explore and articulate how processes of globalisation affect legal (constitutional) transfer and identify and interpret legal items which resist globalization in their political-cultural context # Be an engaged participant in debate regarding the problems and pitfalls as well as the value of comparative legal studies.
Assessment:	<p>Class participation (10%) 500 word appraisal of one of the canonical or critical texts (10%) (6 August) 8,000 word research paper (80%) (4 November) on a topic approved by the subject coordinator A minimum of 75% attendance is a hurdle requirement.</p>
Prescribed Texts:	<p>Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Details regarding any prescribed texts will be provided prior to the commencement of the subject.</p>
Breadth Options:	<p>This subject is not available as a breadth subject.</p>
Fees Information:	<p>Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees</p>
Links to further information:	<p>www.law.unimelb.edu.au/subject/LAWS70016/2015</p>
Notes:	<p>This subject has a quota of 30 students. Please refer to the website www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format (http://www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format) for further information about the management of subject quotas and waitlists.</p>