

# LAWS70463 The Judicialisation of Politics

<b>Credit Points:</b>	12.5
<b>Level:</b>	7 (Graduate/Postgraduate)
<b>Dates &amp; Locations:</b>	This subject is not offered in 2015.
<b>Time Commitment:</b>	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.
<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>	For more information: 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> ) Phone: +61 3 8344 6190 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> )
<b>Subject Overview:</b>	<p>One of the most important features of contemporary constitutionalism is the so-called 'judicialisation of politics', that is, the process by which courts have entered the political and policy-making arenas through the decisions they make in the course of constitutional adjudication. For a long time, the phenomenon was associated with the United States, with particular reference to decisions of the Supreme Court. More recently, it is recognised as relevant in the rest of the world as well. Courts increasingly have become key players of the political process, with implications for both politics and law.</p> <p>This subject will examine the origins, characteristics, potential and risks of the judicialisation of politics in both consolidated and non-consolidated democracies. It will encourage students to understand and engage with this crucial aspect of contemporary law and governance. In doing so, it will bring together the perspectives of constitutional law and the other social sciences. The lecturer is a constitutional scholar from Chile who has taught in many regions of the world and brings to the subject broad comparative understanding.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> <li># Conceptualising the judicialisation of politics (including the related concepts of '<i>judicial activism</i>' and '<i>rights talk</i>')</li> </ul>

	<ul style="list-style-type: none"> <li># The origins of the judicialisation of politics, in particular, the pioneering experience of the United States and the global spread of judicialisation after World War II</li> <li># The mechanism of judicialisation: concentrated and diffused modes of constitutional adjudication</li> <li># The domains of judicialisation of politics: civil and political rights; social, cultural and economic rights and the 'criminalisation' of politics</li> <li># The different roles of judicialisation in consolidated and transitional democracies.</li> <li># The factors that encourage processes of judicialisation of politics</li> <li># The impact of judicialisation on both the 'external' and 'internal' legal culture.</li> <li># An analysis of the so-called 'support structures' of judicialisation</li> <li># Judicialisation at the international level (the role of international courts in the judicialisation of international relations)</li> <li># The risks of judicialisation (the politicisation of the courts and 'the democratic deficit').</li> </ul>
<b>Learning Outcomes:</b>	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> <li># Understand the concept of judicialisation of politics, and its relation to constitutionalism and democracy.</li> <li># Be familiar with the causes, features, and impact of judicialisation.</li> <li># Understand the different types of judicialisation of politics.</li> <li># Identify the factors that favour processes of judicialisation.</li> <li># Identify the risks associated with judicialisation of politics, especially for judicial independence.</li> <li># Identify the different ways judicialisation plays out in diverse countries.</li> <li># Understand the role that judicialisation plays in furthering (or hindering) democratic processes, as well as in the advancement of social, cultural and economic rights.</li> <li># Relate different conceptions of constitutionalism and constitutional interpretation with processes of judicialisation of politics.</li> <li># Understand the impact of judicialisation on legal culture and on the legal profession.</li> <li># Be familiar with international instances of judicialisation.</li> <li># Assess the different impacts of both centralised and diffused modes of judicialisation.</li> </ul>
<b>Assessment:</b>	10,000 word research paper (100%) 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. Details regarding any prescribed texts will be provided prior to the commencement of the 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/LAWS70463/2014">www.law.unimelb.edu.au/subject/LAWS70463/2014</a>
<b>Notes:</b>	This subject has a quota of 30 students. Please refer to the website <a href="http://www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format">www.law.unimelb.edu.au/masters/courses-and-subjects/subjects/subject-timing-and-format</a> ( <a href="http://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</a> ) for further information about the management of subject quotas and waitlists.