

LAWS90019 Domestic Courts and International Law

Credit Points:	12.5
Level:	9 (Graduate/Postgraduate)
Dates & Locations:	2015, Parkville This subject commences in the following study period/s: June, 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 must have completed either an undergraduate international law subject or the subject Principles of International Law (http://www.law.unimelb.edu.au/masters/courses-and-subjects/subject-details/sid/11660) .
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:	With the rise of globalisation, the boundary separating domestic law from international law has become increasingly permeable. Consequently, states are making greater use of international law to regulate activity that was previously regulated exclusively at the domestic level. Additionally, modern international law has developed a growing emphasis on protecting the rights of private parties in areas as diverse as international human rights, transnational child custody disputes, and cross-border commercial transactions. As a consequence, domestic courts are playing an increasingly prominent role in the application and enforcement of international law. This subject provides an overview of the crucial role domestic courts play in the implementation and enforcement of various international legal regimes. Principal topics include:

	<ul style="list-style-type: none"> # A conceptual framework about the role of domestic courts in applying international law. This framework emphasizes the distinction between monist and dualist legal systems, also the distinction among horizontal, vertical, and transnational legal obligations. # The judicial decisions by domestic courts from various countries in cases where defendants raised a foreign sovereign immunity defense # The judicial decisions by domestic courts from various countries in cases involving the extraterritorial application of domestic statutes # The role of domestic courts in implementing three different treaty regimes that regulate transnational relationships among private parties # The Convention on the International Sale of Goods # The Montreal Convention for International Carriage by Air # The Hague Convention on International Child Abduction # The role of domestic courts in implementing three different treaty regimes that regulate vertical relationships between states and private parties (vertical treaty regimes) # The Convention on the Status of Refugees (and associated Protocol) # The Geneva Conventions on the laws of war # The Convention Against Torture. <p>At the end of the subject, we will revisit the conceptual framework, and consider the variation in behaviour by domestic judges confronted with claims based on different types of international legal regimes.</p>
Learning Outcomes:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Have an advanced and integrated understanding of the key functions performed by domestic courts in the international legal system, including recent developments in this field of law and practice # Be able to critically examine, analyse, interpret and assess the effectiveness of relevant legal doctrines and principles. # Be an engaged participant in debates regarding emerging and contemporary issues in the field, # Have a sophisticated appreciation of the factors and processes that tend to push courts to adopt a more nationalist or transnationalist approach. # Have an advanced understanding of the wide variety of circumstances in which domestic courts are asked to apply, interpret, or enforce international or transnational legal rules. # Have a firm understanding of the differences between monist and dualist legal systems, and how those differences affect the way in which domestic courts in different countries handle claims rooted in international law. # Have the cognitive and technical skills to generate critical and creative ideas relating to the application of international law by domestic courts # Have the cognitive and technical skills to independently examine, research and analyse existing and emerging legal issues relating to the application of international and transnational law by domestic courts. # Have the communication skills to clearly articulate and convey complex information regarding the domestic application of international law to relevant specialist and non-specialist audiences # Be able to demonstrate autonomy, expert judgment and responsibility as a practitioner and learner in the field of the domestic application of international law.
Assessment:	<p>Class participation (10%) 2,500 word take-home examination (20%) (24-27 July) 7,000 word research paper (70%) (16 September) 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/LAWS90019/2015</p>

Notes:

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.