

## LAWS70222 Constitutional Law in Practice

<b>Credit Points:</b>	12.5
<b>Level:</b>	7 (Graduate/Postgraduate)
<b>Dates &amp; Locations:</b>	This subject is not offered in 2016.
<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>Constitutional Law in Practice focuses principally, but not solely, on the litigation of constitutional matters in the High Court of Australia. In recent years, the High Court has been very active in the constitutional arena, and it is important to understand not only the substance of the issues the Court has dealt with but also how constitutional cases come before the High Court (and other courts), the process by which they are heard and decided and the relief that can be granted. In addition, constitutional law arises in practice in non-litigious settings, in particular in the provision of advice to government (both from government lawyers and from independent practitioners). This subject aims to critically evaluate the practice of constitutional law and to build key skills, such as written and oral advocacy. To that end, the assessment takes the form of preparation and presentation of both the written and oral aspects of an application for special leave to appeal to the High Court. The subject will also involve presentations from leading constitutional law academics and from practitioners who appear regularly in the High Court.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> <li># Initiating a constitutional case</li> <li># Bases of jurisdiction</li> </ul>

	<ul style="list-style-type: none"> <li># Remedies</li> <li># Applications for special leave</li> <li># Written submissions</li> <li># Oral argument</li> <li># Use of comparative and international materials</li> <li># Interpretation and overruling</li> <li># Interventions and amicus curiae</li> <li># Consequences of invalidity</li> <li># The case studies will be based on recent major constitutional litigation before the High Court. Issues to which attention will be paid in relation to each case study include: <ul style="list-style-type: none"> <li># The basis of the decision to litigate</li> <li># Any impediments to litigation</li> <li># The jurisdiction of the High Court, including the need for special leave</li> <li># Standing</li> <li># Justiciability</li> <li># The choice of remedy or remedies</li> <li># Forensic strategy</li> <li># Methodology of the High Court, as revealed by decision</li> <li># Reflection on the nature of judicial review.</li> </ul> </li> </ul>
<b>Learning Outcomes:</b>	<p>A student who has successfully completed this subject should:</p> <ul style="list-style-type: none"> <li># Understand the way in which constitutional disputes arise</li> <li># Have an overview of the issues involved in the management of constitutional litigation</li> <li># Be familiar with the documentation used in constitutional litigation</li> <li># Be familiar with the remedies for relief in constitutional litigation and their potential use</li> <li># Understand the doctrinal impediments to litigation: Jurisdiction of courts, standing, justiciability</li> <li># Understand and be able to analyse and apply the principles of constitutional interpretation used by the High Court</li> <li># Understand the relevance of international and comparative law in constitutional litigation</li> <li># Be familiar with oral advocacy techniques in the High Court</li> <li># Be familiar with the consequences of invalidity of legislation in particular contexts.</li> </ul>
<b>Assessment:</b>	Practical exercise (100%) or 10,000 word research paper 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/LAWS70222/2012">www.law.unimelb.edu.au/subject/LAWS70222/2012</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.
<b>Related Course(s):</b>	<ul style="list-style-type: none"> <li>Graduate Diploma in Dispute Resolution</li> <li>Graduate Diploma in Government Law</li> <li>Graduate Diploma in Legal Studies</li> <li>Master of Commercial Law</li> <li>Master of Laws</li> <li>Master of Public and International Law</li> </ul>