

LAWS70327 Prosecuting the War on Terror

Credit Points:	12.5												
Level:	7 (Graduate/Postgraduate)												
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: July, Parkville - Taught on campus. This subject has a quota of 30 students. Please refer to the Melbourne Law Masters website for further information about the management of subject quotas and waitlists.												
Time Commitment:	Contact Hours: 24-26 hours Total Time Commitment: 136-150 hours 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:	<p>Melbourne Law Masters Students: Successful completion of the below subject, or an equivalent subject:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS70173 Principles of International Law</td> <td>February</td> <td>12.5</td> </tr> </tbody> </table> <p>JD Students: Successful completion of the below subject, or an equivalent subject:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50041 Public International Law</td> <td>Semester 1</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS70173 Principles of International Law	February	12.5	Subject	Study Period Commencement:	Credit Points:	LAWS50041 Public International Law	Semester 1	12.5
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LAWS70173 Principles of International Law	February	12.5											
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LAWS50041 Public International Law	Semester 1	12.5											
Corequisites:	None												
Recommended Background Knowledge:	<p>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.</p> <p>Successful completion of the below subject, or an equivalent subject, is recommended:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS70234 International Humanitarian Law</td> <td>November</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS70234 International Humanitarian Law	November	12.5						
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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 Student Equity and Disability Support.												

Coordinator:	Prof Tim McCormack
Contact:	<p>Lecturers</p> <p>Professor Tim McCormack (http://www.law.unimelb.edu.au/staff/Tim%20McCormack) (Coordinator)</p> <p>Lt Colonel (Ret) Dan Mori (http://www.law.unimelb.edu.au/staff/Dan%20Mori)</p> <p>Email: law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au)</p> <p>Phone: +61 3 8344 6190</p> <p>Website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)</p>
Subject Overview:	<p>In the aftermath of 9/11, the Bush Administration embarked upon its self-declared 'War on Terror' which included the establishment of Military Commissions to try some of the detainees in Guantánamo Bay. The subject involves a critique of the Bush Administration's approach to trials by Military Commissions and contrasts the system with prosecutions of terrorist offences in United States civilian courts both pre and post-9/11. Students in the subject will discover that there are viable and effective alternatives to trial by Military Commissions which still guarantee basic fair trial rights. The subject also considers policy approaches of the Obama Administration —particularly the massive increase in drone strikes in preference to taking physical custody of targeted personnel and transferring them to Guantánamo Bay – as well as increasingly strident Australian counter-terrorism legislation. The lecturers combine extensive practical trial experience with detailed understanding of relevant legal regimes making the subject a dynamic learning experience.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> # Challenges of prosecuting terrorist offences # Alternative trial proceedings # United States criminal law and counter-terrorism legislation # Terrorism trials in United States civilian courts # United States Military Commissions: establishment, subject matter jurisdiction and trial procedures # Trials before United States Military Commissions # Decision to close the Commissions and options for future cases # Capture or kill: the increasing use of drone strikes in the War on Terror # Australian legislative approaches to counter-terrorism.
Learning Outcomes:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Understand the alternative legal frameworks for the prosecution of terrorist offences in the United States (US) and the underlying policy grounds for each of them # Be conversant with US domestic counter-terror legislation, the relevant procedural standards in US domestic criminal trials and the leading US counter-terror cases # Be aware of the purported legal bases for the establishment of the US Military Commissions and be able to critically evaluate the US Supreme Court's jurisprudence in relation to the Commissions # Comprehend the major criticisms of the US Military Commissions (both substantive legal and policy criticisms) and be in a position to argue for or against those criticisms # Be aware of the case law of the US Military Commissions, including the proceedings against Australian David Hicks.
Assessment:	Take-home examination(5,000-6,000 words as specified in the subject reading guide) (100%) (2 - 5 September) or 10,000 word research paper (100%) (26 October) on a topic approved by the subject coordinator A minimum of 75% attendance is a hurdle requirement.
Prescribed Texts:	Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period.
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

Links to further information:	www.law.unimelb.edu.au/subject/LAWS70327/2016
Related Course(s):	Graduate Diploma in International Law Graduate Diploma in Legal Studies Juris Doctor Master of Law and Development Master of Laws Master of Public and International Law