

LAWS70429 Philosophy of International Law

Credit Points:	12.5									
Level:	7 (Graduate/Postgraduate)									
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: August, 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: None</p> <p>JD Students: Successful completion of all the below subjects:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.5</td> </tr> <tr> <td>LAWS50041 Public International Law</td> <td>Semester 1</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50024 Principles of Public Law	Semester 1	12.5	LAWS50041 Public International Law	Semester 1	12.5
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LAWS50024 Principles of Public Law	Semester 1	12.5								
LAWS50041 Public International Law	Semester 1	12.5								
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 Student Equity and Disability Support.									
Coordinator:	Prof John Tasioulas									
Contact:	<p>Lecturers</p> <p>Professor John Tasioulas (http://www.law.unimelb.edu.au/staff/John%20Tasioulas) (Coordinator)</p> <p>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)</p>									

Subject Overview:	<p>The philosophy of international law has recently emerged as an exciting area of jurisprudential inquiry. This subject will explore the moral and political values that provide a basis for the critical appraisal of international law and institutions. It begins with a study of the legitimacy of international law: its claim to be binding on its subjects. Does legitimacy require consent, democracy or something else? This will lead to an investigation of the ideas of state sovereignty, communal self-determination and, in particular, human rights, as factors bearing on international law's legitimacy. The final section of the subject considers the implications for the critical evaluation of specific areas of international law, beginning with the doctrine of its sources. The selection of the other two or three areas to be discussed (eg international economic law, international environmental law, humanitarian intervention, international criminal law etc.) will be determined by class vote.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> # The legitimacy of international law (in particular, consent, democracy and service conceptions of legitimacy) # The value and limits of state sovereignty (and the compatibility of sovereignty with the legitimacy of international law) # The basis of communal self-determination (whether in the value of a shared communal identity or shared occupancy of a given territory) # The nature and justification of human rights (in particular, the conflict between 'orthodox' and 'political' conceptions of human rights, and the debate about the foundations of human rights, and whether human rights are merely parochial 'Western' constructs) # The theory of the sources of international law, esp. the debate between positivist and non-positive accounts of customary international law, the idea that new customary law can be made by violating existing customary law, the doctrine of <i>jus cogens</i> # Selected topics arising in at least two of the following areas of international law: international economic law, international environmental law, humanitarian intervention, international criminal law and laws of war.
Learning Outcomes:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Have developed a critical grasp of some of the key conceptual and normative questions that underlie international law and the various approaches to them advocated by leading theorists # Have developed their own critical, reflective answers to at least some of these questions; in particular, they will have: # An understanding of the problem of the 'legitimacy' of international law and of the various responses to it in the literature # Assessed the coherence and value of the idea of state sovereignty, and how it can be squared with the bindingness of international law # A critical understanding of the principle of communal self-determination, including whether it is best seen as based on considerations of identity or occupancy of a common territory # A critical appreciation of the questions surrounding the nature of human rights (including whether they are essentially political norms, concerned with state legitimacy or regulating international intervention) and their grounds (including whether they have a special connection with the value of freedom and whether they can be defended against the charge of Western parochialism) # Assessed rival accounts of the sources of international law, especially customary international law, in the light of an adequate theory of legitimacy, and ethical issues surrounding the idea that new customary law can be made by violating existing customary law # A critical appreciation of some key conceptual and normative questions arising in selected areas of international law, e.g. international economic law, interventional environmental law, humanitarian intervention, international criminal law.
Assessment:	<p>Take-home examination (5,000-6,000 words as specified in the subject reading guide) (100%) (21 - 24 October) or 10,000 word research paper (100%) (30 November) on a topic approved by the subject coordinator. A minimum of 75% attendance is a hurdle requirement.</p>
Prescribed Texts:	<p>Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period. S Besson and J Tasioulas (eds), <i>The Philosophy of International Law</i> (Oxford University Press, 2010)</p>
Breadth Options:	<p>This subject is not available as a breadth subject.</p>

Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Links to further information:	www.law.unimelb.edu.au/subject/LAWS70429/2016
Related Course(s):	Graduate Diploma in International Law Graduate Diploma in Legal Studies Juris Doctor Master of Laws Master of Public and International Law