

# LAWS70456 Law of Treaties

<b>Credit Points:</b>	12.5						
<b>Level:</b>	7 (Graduate/Postgraduate)						
<b>Dates &amp; Locations:</b>	2016, Parkville This subject commences in the following study period/s: June, 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.						
<b>Time Commitment:</b>	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.						
<b>Prerequisites:</b>	<p><b>Melbourne Law Masters Students:</b> None</p> <p><b>JD Students:</b> Successful completion of the below subject:</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> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50024 Principles of Public Law	Semester 1	12.5
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LAWS50024 Principles of Public Law	Semester 1	12.5					
<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 Student Equity and Disability Support.						
<b>Contact:</b>	<p><b>Lecturers</b></p> <p><b>Professor Duncan B Hollis</b> (<a href="http://www.law.unimelb.edu.au/staff/Duncan%20Hollis">http://www.law.unimelb.edu.au/staff/Duncan%20Hollis</a>) (Coordinator)</p> <p>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>)</p>						
<b>Subject Overview:</b>	Treaties have long served as one of the several sources of international law. Increasingly, they have come to serve as the dominant source. Being agreements between states, they are used to regulate all conceivable aspects of international and transnational affairs—bilaterally to						

effect one-off trades between states (for example the transfer of property) and multilaterally to make rules that aspire to be globally applicable (for example on the suppression of terrorism). This subject aims to consider the treaty from three perspectives. First, it examines the treaty *concept*, using historical, theoretical and functional materials to assess this instrument's role in international relations. Second, broadly following the structure of the 1969 Vienna Convention on the Law of Treaties – 'the treaty on treaties' – this subject examines the 'life-cycle' of treaties from their inception to their termination. Third, this subject examines how domestic legal systems regulate treaty-making and the status, if any, those systems give to treaties themselves. In short, this subject considers what treaties are as well as how they are made, applied and unmade.

Principal topics include:

- # Understanding the treaty concept – What is a treaty?
- # Treaty functions – Why make treaties? What do treaties do?
- # Treaty alternatives – political commitments, contracts, unilateral declarations
- # Authority to make treaties – States, International Organizations, 'other' subjects of international law
- # Treaty negotiations – bilateral and multilateral processes and participants
- # Methods of treaty consent
- # Obligations prior to entry into force – signature and provisional application
- # Entry into force
- # Reservations, Understandings, and Declarations
- # Methods of treaty interpretation
- # Grounds for the invalidity of a treaty
- # Exiting treaty commitments
- # Succession to a treaty in case of dissolution or merger of states
- # Interaction among treaties
- # Domestic authorisation of treaty-making – the role of executives and legislatures
- # Status of a treaty in a national legal system – federal and non-federal States
- # The future of multilateral treaty-making.

A treaty negotiation exercise forms a core part of the subject.

**Learning Outcomes:**

A student who has successfully completed this subject will:

- # Have a comprehensive understanding of the concept of the treaty from different historical, theoretical and functional perspectives
- # Be able to critically assess the pros and cons of using different forms of international agreements in different circumstances (treaties, political commitments, transnational contracts etc.)
- # Understand the treaty-making capacity of different actors including, but not limited to, States
- # Explain the different stages of the treaty-making process
- # Have a sophisticated appreciation of negotiating dynamics including incentives to cooperate and defect
- # Work effectively as team members to solve problems
- # Have a detailed understanding of the treaty interpretation rules and the different methods applied under those rules
- # Articulate various bases for terminating or suspending treaty commitments
- # Appreciate the different frameworks domestic legal systems use in allocating treaty-making powers and regulating the legal status of treaties
- # Have the required skills to be able to find and access the texts of treaties, use the status information of treaties and properly cite treaties in support of legal arguments
- # Appreciate the significance of cultural differences in professional practice.

**Assessment:**

Class participation (10%) In-Class exercise and accompanying 1,000 word report (20%) (11 July) 7,000 word research paper (70%) (19 September) on a topic approved by the subject coordinato A minimum of 75% attendance is a hurdle requirement.

<b>Prescribed Texts:</b>	Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period.
<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/LAWS70456/2016">www.law.unimelb.edu.au/subject/LAWS70456/2016</a>
<b>Related Course(s):</b>	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