

## LAWS90024 Law-making: Legislatures and Courts

<b>Credit Points:</b>	12.5
<b>Level:</b>	9 (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>This subject examines some persistent legal problems relating to the making and application of law. These include the following:</p> <ul style="list-style-type: none"> <li># What does it mean to speak of a system of binding precedent? What status might (should) foreign precedents have in other jurisdictions?</li> <li># Can judges make law? If they do, how is the law that they make different from that which legislatures make?</li> <li># Do legislatures have intentions? Are there any limits to what the legislature can enact?</li> <li># Should courts be constitutionally entitled to review the legality of laws that legislatures enact? Without this entitlement, what can courts do with those laws?</li> </ul> <p>The subject will cover issues of interest to students from both civil and common law jurisdictions.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> <li># The characteristics of, and differences between, enacted and judge-made law</li> <li># The nature and authority of precedent</li> </ul>

	<ul style="list-style-type: none"> <li># Retroactive law</li> <li># Judicial review of legislation</li> <li># Approaches to statutory interpretation.</li> </ul>
<b>Learning Outcomes:</b>	<p>Students who complete this subject should as a consequence be able independently and critically to:</p> <ul style="list-style-type: none"> <li># Formulate the distinction between judge-made and enacted law</li> <li># Explain the concept of the rule of law, as well as the rule-of-law implications of accepting the validity of certain forms of law (eg, retroactive laws)</li> <li># Assess the main principles of statutory interpretation, and distinguish law-interpretation from law-creation</li> <li># Explain the advantages and drawbacks of the principle of legislative supremacy</li> <li># Explain the advantages and drawbacks of allowing courts to review the legality of legislation.</li> </ul>
<b>Assessment:</b>	Take-home examination (100%) (4-7 September)
<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/LAWS90024/2015">www.law.unimelb.edu.au/subject/LAWS90024/2015</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>	<p>Graduate Diploma in Government Law  Graduate Diploma in Legal Studies  Master of Laws  Master of Public and International Law</p>