

LAWS90053 Transnat'l Corporations: Rights & Duties

Credit Points:	12.5
Level:	9 (Graduate/Postgraduate)
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: April, 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:	Melbourne Law Masters Students: None JD Students: None
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.
Contact:	Lecturers Dr Marcos A Orellana (http://www.law.unimelb.edu.au/staff/Marcos%20Orellana) (Coordinator) 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)
Subject Overview:	Transnational Corporations (TNCs) are increasingly relevant players in the global economy, and international law is evolving to account for their growing impact. These trends are particularly visible in respect of the protection of the environment and human rights, on the one hand, and in the operation of investment law and arbitration, on the other. This subject will examine the challenges posed upon international law by TNCs, with an emphasis on two focal areas: (i) the interaction between investment arbitration and the environment; (ii) the interaction between human rights and TNCs. Those two focal areas will enable students to visualize the imbalances apparent in the international legal order relating to TNCs. The lecturer combines many years of

	<p>academic experience with international practice at the Human Rights Council and in investment arbitration.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> # An analysis of the rise of the TNC as a critical player in the global economy, as well as a critical analysis of the imbalances apparent in the international legal order relating to TNCs # Review of the conceptual framework relevant to the legal relations between States and corporations, including notions of sovereignty and the law on diplomatic protection, human rights law and investment law # An examination of key cases involving the general law on diplomatic protection as applicable to corporate actors, including <i>Barcelona Traction</i> and <i>Diallo</i> # Debates regarding the policy issues at stake in investment arbitration and the environment, including the right and duty of States to regulate private actors and the tension between stability and change in investment law # Key investment arbitrations pertaining to the environment and human rights, including landmark cases such as <i>Methanex</i>, <i>Tecmed</i>, <i>PacRim</i>, <i>Chemtura</i> and <i>Clayton</i> # Historical evolution of the debates on TNCs at the United Nations, from the draft Code of Conduct on Transnational Corporations up to the Guiding Principles on Business and Human Rights # An examination of the content and scope of State duties to control the activities of non-state actors, within their jurisdiction and extraterritorially, in order to protect human rights # Current processes at the UN Human Rights Council toward a binding instrument on human rights and TNCs, including key building blocks and debates on principles, scope and mechanisms # The potential for future developments in the field.
Learning Outcomes:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Have an advanced and integrated understanding of the fault lines, gaps and tensions apparent in contemporary international law relating to TNCs # Be able to critically examine, analyse, interpret and assess the legal issues relevant to the application of investment law to environmental measures # Be an engaged participant in debate regarding the state of human rights law as it relates to business enterprises # Have a sophisticated appreciation of the forces underlying the trends in the development of international law relating to TNCs # Have an advanced understanding of situations in which issues of environmental measures and investment protection may clash # Have a detailed understanding of the operation of human rights principles on TNCs duties and responsibilities # Have the cognitive and technical skills to generate critical and creative ideas relating to the governance of TNCs # Have the cognitive and technical skills to independently examine, research and analyse existing and emerging legal issues relating to the rights and duties of TNCs # Have the communication skills to clearly articulate and convey complex information regarding TNCs' rights and duties to relevant specialist and non-specialist audiences # Be able to demonstrate autonomy, expert judgment and responsibility as a practitioner and learner in the field in which TNCs operate.
Assessment:	10,000 word research paper (100%) (6 July) 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/LAWS90053/2016
Related Course(s):	<p>Graduate Diploma in Environmental Law</p> <p>Graduate Diploma in Legal Studies</p> <p>Juris Doctor</p> <p>Master of Commercial Law</p>

Master of Environmental Law
Master of Law and Development
Master of Laws