



LAWS555

Remedies, Reparations and Resolution in Law

S3 Block 2016

Dept of Law

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Disclaimer

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

General Information

Unit convenor and teaching staff

Marie Hadley

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Convenor

Marie Hadley

marie.hadley@mq.edu.au

n/a

TBA

Credit points

3

Prerequisites

42cp in LAW or LAWS units including (LAW203 and LAW315 and (LAW317 or LAWS217))

Corequisites

LAWS398 or (LAW406 or LAW456)

Co-badged status

Unit description

This unit aims to consolidate student's knowledge and skills and prepare them for life beyond the law school. The unit will examine some of the remedies available in equity, the common law and statute as well as public and international law. It will also examine different mechanisms for the resolution of disputes such as ADR and restorative justice programs. Justice theories will provide the framework for examining the concept of a legal 'remedy' and will assist students to explore the broader issue of how to achieve a just remedial system of law.

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

Describe the principles upon which remedial action can be taken

Critically analyse different types of remedies and how they function in different contexts

Formulate, present and evaluate a range of arguments that draw on law and policy,

theoretical and/or ethical considerations about remedies and their effectiveness

Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal problems

Work independently to devise and produce a sophisticated research project based on some of the broad topics covered in the unit

Identify and propose reforms to create a more just remedial system of law

Follow instructions in writing and referencing primary and secondary research sources

Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

General Assessment Information

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via ask.mq.edu.au and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies policy for complete details of the policy and a description of the supporting documentation required. Applications for Disruption to Studies must be made before the due date.

Word limits will be strictly applied and work above the word limit will not be marked.

Referencing for all assignments must comply with the current version of the Australian Guide to Legal Citation. Assignments that do not comply will have marks deducted at the discretion of the marker.

All assignments must be typed in 12pt Times New Roman, with margins of not less than 2.5cm on both sides. Single spacing is preferred but not compulsory.

The Footnotes for all assignments should be in 10pt Times New Roman.

The Bibliography for Assignment 1 should be single spaced in 12pt Times New Roman with a single space in between each reference. The Bibliography is mandatory. Assignments that do not comply will have marks deducted at the discretion of the marker.

All assessments tasks in this unit are to be submitted electronically via Turnitin on the iLearn page on or before the due date. The marking of Assignment 1 and 2 will be moderated.

Plagiarism detection software is used in this unit.

ATTENDANCE AT ON CAMPUS SESSIONS: Students must register in an available on campus session group at the time of enrolment. There are three groups. Attendance is compulsory. Please see the Unit Schedule for more information about the topics that will be covered in the on campus sessions. A more detailed plan for the sessions will be published on iLearn in due course.

The on campus sessions are designed to assist students in completing the written assessments.

They are not mini-lectures. They will prepare students to answer the case analysis (Assignment 1) and think critically about legal and policy issues and involve working on hypothetical practice problems in preparation for Assignment 2 (Final Assessment). It is in the interests of students to prepare for the on campus sessions by completing all set readings, listening to all relevant lectures and attempting tutorial questions.

Quiz 1: Online Quiz: This task is worth 10% of the total mark for this course. The quiz will be accessible on iLearn between the 14th December 2016, 7pm and the 16th December 2016, 11:59pm. Once opened it must be completed in 20 minutes. It can only be attempted once.

Quiz 2: Online Quiz: This task is worth 10% of the total mark for this course. The quiz will be accessible on iLearn between the 1st January 2017, 7pm and the 3rd January 2017, 11:59pm. Once opened must be completed in 20 minutes. It can only be attempted once.

ASSIGNMENT 1: Case Analysis. The cases you may choose between will be specified in the Assignment instructions released on iLearn on Tuesday 13th December, 7am. Students are to elect one case only. This assignment is due 12th January, 2017 at 11:59pm via Turnitin. This task is worth 40% of the total marks for this course. The word count is 1800 words MAX (excluding footnotes and bibliography). A Bibliography is required.

Your work will be assessed according to the extent of your:

- Knowledge of the case and understanding of the issues arising from its principles.
- Research. Students may use the unit materials but are expected to research beyond these materials. Students are expected to determine for themselves how many additional references they need to support the development of their analysis of the significance of the case. Students will not be assessed on how much research they have done, but on how well they have used the research materials to advance their argument.
- Depth of analysis and enquiry. Students are expected to deepen their analysis by moving beyond descriptive recounting of the case and its ratio and develop an argument.
- Argument. Ideas drawn from the research materials should be synthesized in a systematic manner that shows reflection upon the policy concerns and legal issues raised by the case.
- Coherent Structure. Systematic and coherent organisation of ideas in sentences/ paragraphs/sections. Separate Introduction and Conclusion is required. Use of headings is encouraged.
- Written Expression. Clear written expression, ideas structured in sentences, correct grammar/spelling
- Use of AGLC Style Guide for footnotes and bibliography. Please include pinpoint references for all case citations

ASSIGNMENT 2: Final Assessment This assessment will be released on iLearn on Friday 13th January 2017, 7am. This task is worth 40% of the total marks for this course. Once the Final

Assessment is released to students the Unit Convenor will not be in a position to answer any questions about it. It is due on Monday 16th January 2017, 11:59pm. It will involve hypothetical problem solving. It will be based on material covered in the unit (more detailed information about the topics covered and the Assessment's format will be provided by the unit convenor in due course). The word limit is 2000 words (excluding footnotes). A bibliography is not required.

Your work will be assessed according to the extent that you:

- Identify the parties (knowledge)
- Identify the legal issues (knowledge)
- Identify the legal principles that could apply to the fact situation (knowledge)
- Determine how the principles apply to the fact situation and state clearly why you think these principles are relevant to the fact situation (analysis)
- Consider any policy considerations/value judgments that may be relevant to the outcome (advanced analysis)
- Reach a reasoned conclusion (analysis)
- Structure your answers coherently (use the HIRAC problem solving method and headings for the hypothetical questions), write clearly and in sentences, use correct grammar/spelling and written expression (style)
- Develop an argument and analysis of the materials for short answer questions
- Use AGLC Style Guide for footnotes

Assessment Tasks

| Name | Weighting | Due |
|------------------------------|-----------|---------------------|
| Quiz 1 | 10% | 16/12/2016 |
| Quiz 2 | 10% | 3/1/2017 |
| Assignment 1 | 40% | 12/01/2017, 11:59pm |
| Assignment 2 | 40% | 16/01/2017, 11:59pm |

Quiz 1

Due: **16/12/2016**

Weighting: **10%**

This assessment task is an online quiz to take place early in the semester. The quiz will be open between 7pm on the 14th December 2016 and 11:59pm on the 16th December 2016 and accessible through ILearn.

The quiz will consist of 20 questions to be completed in 20 minutes. It will involve a mixture of True/False questions and multiple choice questions. This assessment task's purpose is to engage students with their unit early in the session, encourage timely preparation for the on campus session, and to provide an opportunity for relatively early feedback. The questions will be drawn from the topics covered in lectures and readings of the first four topics of the unit schedule (the materials covered by Lectures 1-4).

Students who are unable to sit for the test within the designated timeframe must contact the unit convenor and make a disruption to study application and, if it is approved, will be given an equivalent task set by the unit convenor. Failure to complete the quiz will result in zero marks for this assessment.

On successful completion you will be able to:

- Describe the principles upon which remedial action can be taken

Quiz 2

Due: **3/1/2017**

Weighting: **10%**

This assessment task is an online quiz to take place prior to the on campus sessions that deals with some of the content covered on the second OCS day. The quiz will be open between 7pm on the 1st January 2017 and 11:59pm on the 3rd January 2017 and will be accessible through ILearn.

The quiz will consist of 20 questions to be completed in 20 minutes. It will involve a mixture of True/False questions and multiple choice questions. This assessment task's purpose is to engage students with the unit materials, encourage timely preparation for the on campus session, and to provide an opportunity for feedback. The questions will be drawn from the topics covered in lectures and readings of the final four topics of the unit schedule (the materials covered in Lectures 9-12).

Students who are unable to sit for the test within the designated timeframe must contact the unit convenor and make a disruption to study application and, if it is approved, will be given an equivalent task set by the unit convenor. Failure to complete the quiz will result in zero marks for this assessment.

On successful completion you will be able to:

- Describe the principles upon which remedial action can be taken

Assignment 1

Due: **12/01/2017, 11:59pm**

Weighting: **40%**

This task requires students to complete a case analysis on a case drawn from the course. The three cases you may choose between will be specified on the Assignment instructions released

on Tuesday 13th December at 7am. The maximum word length is 1800 words (excluding footnotes). The assignment is due on Thursday 12th January at 11:59pm.

The purpose of this task is to develop a deeper understanding of an area of law most of interest to the student. A bibliography is required. The case analysis does not require any particular format be adopted, however, students are expected to cover the facts (briefly), litigation history, reasoning of the decision, policy considerations raised, and significance of the case. Students are advised to dedicate a significant portion of their word count to the latter two factors. Additional research and commentary will be required in order to develop the analysis component of this task. This task is a research task.

Students should note that word limits will be strictly applied. Work above the word limit will not be marked. Footnotes that include substantive arguments/material as opposed to citations will receive a zero mark for referencing.

In completing their assignment, students must comply with the Australian Guide to Legal Citation (3rd ed). The Guide is available at <http://mulr.law.unimelb.edu.au/go/AGLC3>

Assignments submitted out of time will not be marked unless a Disruption to Study application is lodged and approved in accordance with the university's disruption to study policy which is available at: http://www.mq.edu.au/policy/docs/disruption_studies/policy.html.

On successful completion you will be able to:

- Describe the principles upon which remedial action can be taken
- Critically analyse different types of remedies and how they function in different contexts
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness
- Work independently to devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Identify and propose reforms to create a more just remedial system of law
- Follow instructions in writing and referencing primary and secondary research sources
- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

Assignment 2

Due: **16/01/2017, 11:59pm**

Weighting: **40%**

This Assessment Task will be released on Friday 13th January at 7am. It is due on Monday 16th January at 11:59pm. The examination will involve hypothetical problem solving. No research outside of the unit materials is required. A bibliography is not required. The word limit is 2,000 words (excluding footnotes). More detail about the format of the assessment will be released to students in due course.

Students should note that word limits will be strictly applied. Work above the word limit will not be

marked. Footnotes that include substantive arguments/material as opposed to citations will receive a zero mark for referencing. In completing their assignment, students must comply with the Australian Guide to Legal Citation (3rd ed). The Guide is available at <http://mulr.law.unimelb.edu.au/go/AGLC3>

Assignments submitted out of time will not be marked unless a Disruption to Study application is lodged and approved in accordance with the university's disruption to study policy which is available at: http://www.mq.edu.au/policy/docs/disruption_studies/policy.html.

On successful completion you will be able to:

- Describe the principles upon which remedial action can be taken
- Critically analyse different types of remedies and how they function in different contexts
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness
- Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal problems
- Follow instructions in writing and referencing primary and secondary research sources
- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

Delivery and Resources

You will find all resources including discussion questions and the required reading list in the online unit available at ilearn.mq.edu.au. All readings will be available online: eg. eReserve, library databases, iLearn

Lectures will be pre-recorded and available on Echo.

Students will also be required to use a computer for word processing of assignments, submitting assessments via Turnitin, accessing iLearn, and using online research databases and web-based research tools.

Unit Schedule

Unit Schedule S 3 LAWS 555

Topic 1 Introduction to the Unit, Unit Overview, Theory of Remedies

Topic 2 Self Help in Tort; Damages for Personal Injury

Topic 3 Damages for Personal Injury Cont'd; Damage to Property; Defamation

Topic 4 General Principles of Compensation in Tort

Topic 5 Contract/Equity 1

Topic 6 Contract Equity 2

Topic 7 Contract Equity 3

Topic 8 Restitution & Declarations

Topic 9 Alternative Dispute resolution

Topic 10 Public Law Remedies

Topic 11 Restorative Justice

Topic 12 International Law & Reparations for Human Rights Violations

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

New Assessment Policy in effect from Session 2 2016 http://mq.edu.au/policy/docs/assessment/policy_2016.html. For more information visit http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Complaint Management Procedure for Students and Members of the Public http://www.mq.edu.au/policy/docs/complaint_management/procedure.html

Disruption to Studies Policy http://www.mq.edu.au/policy/docs/disruption_studies/policy.html *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/support/student_conduct/

Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit ask.mq.edu.au.

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

IT Help

For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

Learning outcomes

- Critically analyse different types of remedies and how they function in different contexts
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness

Assessment tasks

- Assignment 1
- Assignment 2

Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

Learning outcomes

- Work independently to devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Follow instructions in writing and referencing primary and secondary research sources
- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

Assessment tasks

- Assignment 1
- Assignment 2

Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

Learning outcomes

- Work independently to devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Follow instructions in writing and referencing primary and secondary research sources
- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

Assessment tasks

- Assignment 1
- Assignment 2

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcomes

- Describe the principles upon which remedial action can be taken
- Critically analyse different types of remedies and how they function in different contexts
- Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal problems
- Identify and propose reforms to create a more just remedial system of law

Assessment tasks

- Quiz 1
- Quiz 2
- Assignment 1
- Assignment 2

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

Learning outcomes

- Describe the principles upon which remedial action can be taken
- Critically analyse different types of remedies and how they function in different contexts
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness
- Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal

problems

- Identify and propose reforms to create a more just remedial system of law

Assessment tasks

- Quiz 1
- Quiz 2
- Assignment 1
- Assignment 2

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Learning outcomes

- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness
- Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal problems
- Work independently to devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Identify and propose reforms to create a more just remedial system of law

Assessment tasks

- Assignment 1
- Assignment 2

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

Learning outcomes

- Critically analyse different types of remedies and how they function in different contexts
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness
- Work independently to devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Follow instructions in writing and referencing primary and secondary research sources
- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

Assessment tasks

- Assignment 1
- Assignment 2

Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

Learning outcomes

- Critically analyse different types of remedies and how they function in different contexts
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness
- Identify and propose reforms to create a more just remedial system of law

Assessment tasks

- Assignment 1
- Assignment 2

Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

Learning outcome

- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness

Assessment tasks

- Assignment 1
- Assignment 2

Changes from Previous Offering

This unit involves a change in Unit Convenor. The assessment scheme has also changed - two online quizzes have been added and there is now a Case Analysis task (Assignment 1).

The lectures for this unit were pre-recorded in S1 2016.

Changes since First Published

| Date | Description |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 07/11/2016 | Assignment 1 and Assignment 2 due dates have been pushed back to accommodate the scheduling of a fourth OCS tutorial group. New due date for Assignment 1 is 12/1/17. New due date for Assignment 2 is the 16/1/17. |