



LAW 888

International Dispute Settlement

S2 Day 2017

Dept of Law

Contents

| | |
|---------------------------------------|----|
| <u>General Information</u> | 2 |
| <u>Learning Outcomes</u> | 2 |
| <u>General Assessment Information</u> | 3 |
| <u>Assessment Tasks</u> | 3 |
| <u>Delivery and Resources</u> | 7 |
| <u>Unit Schedule</u> | 7 |
| <u>Policies and Procedures</u> | 8 |
| <u>Graduate Capabilities</u> | 9 |
| <u>Changes from Previous Offering</u> | 13 |

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

Convenor

Joanna Mitchell

joanna.mitchell@mq.edu.au

Contact via joanna.mitchell@mq.edu.au

W3A-626

Wednesdays, 12pm-1pm

Credit points

4

Prerequisites

Admission to MIntLawGovPP or MIntEnvLaw or LLM or MIntTrdeComLaw or MIntRelMIntTrdeComLaw or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 32cp in LAW or LAWS units at 800)

Corequisites

LAW891

Co-badged status

This unit is co-taught with LAW888.

Unit description

The intense interaction between different actors in the international system inevitably leads to opposing views on issues, as well as to conflict. This unit will consider traditional non-adversarial dispute settlement in the international system. It will then focus on how various international courts and tribunals resolve disputes in different areas of international law (such as trade, investment, human rights, and international criminal law). Students will be placed in the position of a lawyer deciding on international litigation options. An ongoing question will be the effectiveness of these procedures, and the parties' compliance with the decisions of the different bodies.

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:

Identify and evaluate the role of key actors and institutions involved in international

dispute settlement and the legal principles governing that activity.

Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.

Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.

Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.

Formulate and communicate original legal arguments having regard to a range of international perspectives.

Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

General Assessment Information

Macquarie Law School Assessment Policy

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.

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

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

Moderation

Detailed marking rubrics are available on iLearn. Failed papers will be double marked.

Assessment Tasks

| Name | Weighting | Hurdle | Due |
|---------------------------------------|-----------|--------|------------------------------|
| In Class Presentation | 15% | No | Ongoing (assigned in week 1) |
| Class participation | 10% | No | Ongoing |
| Research Paper | 45% | No | 11pm, 29 September 2017 |
| Final Assessment | 30% | No | 11pm, 12 November 2017 |

In Class Presentation

Due: **Ongoing (assigned in week 1)**

Weighting: **15%**

Students are to prepare and present one case summary in a tutorial during the session. Presentations will commence in week 3.

Each week a case relevant to the topic will be considered in depth. Three students will be required to present the positions of one of the "participants" in the case. A list will be posted on iLearn in week 1 assigning a week and role to each student: applicant, respondent and the decision maker (e.g. judge, arbitrator).

The presentation is to:

- be approximately 10 minutes
- state the legal position of the participant
- analyse the relevant legal and non-legal considerations of the participant
- consider how the dispute method selected contributed to the maintenance of international peace and security

On successful completion you will be able to:

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Class participation

Due: **Ongoing**

Weighting: **10%**

Students will be assessed on the basis of their knowledge, understanding and ability to critically

to evaluate the issues raised in each topic. Students should be prepared to talk about the assigned readings, provide their own assessment of those readings and lecture content, and contribute to the discussion of questions available on iLearn.

Internal students are to attend all tutorials during the semester. If a student cannot attend a tutorial and meets the criteria for Disruption to Studies, the student should so apply. Applications for Disruption to Studies are made online at ask.mq.edu.au. Such an absence will constitute an 'explained absence' and will be taken into consideration in assessing class participation.

On successful completion you will be able to:

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Research Paper

Due: **11pm, 29 September 2017**

Weighting: **45%**

Students are required to submit a written research paper of no more than 3,000 words (excluding footnotes). Substantive commentary is not to be included in footnotes. A bibliography is not required.

A list of topics will be posted on the course iLearn page during Week 1 from which you are to select one topic for the research paper.

The research paper requires high level independent legal research, critical analytical ability, and coherent legal writing and presentation skill. Students will be required to demonstrate original ideas that have been developed from the course material and a wider survey of the literature.

Papers will be assessed against the rubric posted on iLearn. Research Papers must comply with the Australian Guide to Legal Citation (3 ed), available here: <http://mulr.law.unimelb.edu.au/go/AGLC3>

AGLC3

Research papers are to be submitted via Turnitin

On successful completion you will be able to:

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Final Assessment

Due: 11pm, 12 November 2017

Weighting: 30%

Students are to provide legal advice in response to a factual scenario. It will address issues covered in the prescribed readings, lectures or tutorials. The total word length for the assignment must not exceed 2,000 words (excluding footnotes).

The assignment is designed to be answered within a 4 hour window. However, the assignment is available over a 38 hour period to allow for obligations (e.g. work, family and other commitments) within that window.

The questions will be released at 9am Saturday 11 November and will be due 11pm Sunday 12 November 2017.

Formal and substantive criteria will be posted on iLearn; the assignment is to be submitted via Turnitin on the iLearn site.

On successful completion you will be able to:

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.

- Formulate and communicate original legal arguments having regard to a range of international perspectives.

Delivery and Resources

Technology Used

An iLearn page will be available for this unit and include information vital for the successful completion of this unit. Internet access is therefore required to undertake this unit. Topical items will be posted on iLearn for discussion and engagement with the unit content.

The Research Paper and Final Assessment must be submitted via turnitin.

Delivery

Lectures on each of the 12 topics will be pre-recorded and available on iLearn. The schedule of topics to be covered in the lectures is available on iLearn and a list is available below (unit schedule).

Internal students must attend a weekly one hour tutorial. The location and time of classes available for internal students are provided in the University's Timetable.

Required Text

There is no prescribed text for this unit, but readings will be placed on eReserve and the reading list will be posted on iLearn.

Recommended Texts

The following texts will be referred to throughout the Unit:

- J.G Merrills, *International Dispute Settlement* (Cambridge University Press, Cambridge, 5th ed, 2011)
- C.Romano et al, *The Oxford Handbook of International Adjudication* (Oxford University Press, Oxford, 2014)
- J Collier and V Lowe, *The Settlement of Disputes in International Law: Institutions and Procedures* (Oxford University Press, Oxford, 1999) [A new edition is underway but not likely to be available for teaching this unit]
- Ruth Mackenzie, Cesare Romano, Yuval Shany, Phillipe Sands, *The Manual on International Courts and Tribunals* (Oxford University Press, Oxford, 2nd ed, 2010).

These texts have all been placed on Reserve at the Library.

Unit Schedule

A full Unit Schedule will be posted on iLearn. The weekly schedule is as follows:

1. History of international dispute settlement in international and proliferation of international

courts and tribunals

2. Negotiation, mediation and conciliation
3. Individuals in international dispute settlement
4. Judges, advocates, participants
5. Jurisdiction and admissibility
6. Provisional measures
7. Intervention and third parties

Mid-Session break - Research Paper due 11pm, 29 September 2017

8. Contentious proceedings
9. Interactions with national courts
10. Advisory opinions and other judicial functions
11. Remedies and reparations
12. Enforcement and compliance

13. No tutorials for internal students - Final assessment due 11pm, 12 November 2017

Note that the date for your in class tutorial presentation will be assigned in week 1 (and commence in week 3). Tutorial participation will be ongoing throughout the session.

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

Assessment Policy http://mq.edu.au/policy/docs/assessment/policy_2016.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 (in effect until Dec 4th, 2017): http://www.mq.edu.au/policy/docs/disruption_studies/policy.html

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

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

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Assessment tasks

- In Class Presentation
- Research Paper
- Final Assessment

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Assessment tasks

- In Class Presentation
- Class participation
- Research Paper
- Final Assessment

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Assessment tasks

- In Class Presentation
- Class participation
- Research Paper
- Final Assessment

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Assessment tasks

- In Class Presentation
- Class participation
- Research Paper
- Final Assessment

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

Learning outcomes

- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.

Assessment tasks

- In Class Presentation
- Class participation
- Research Paper
- Final Assessment

PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the role of key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Critically analyse and evaluate the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Appraise the effectiveness of different methods of international dispute settlements in the maintenance of international peace and security.

Assessment tasks

- Class participation
- Research Paper
- Final Assessment

Changes from Previous Offering

Introduction of in-class presentation (10%) to assess oral communication skills; changes to weighting of research paper and final assessment.