



# LAWS588

## International Dispute Settlement

S2 External 2017

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Convenor

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W3A-626

Wednesdays, 12pm-1pm

Credit points

3

Prerequisites

Corequisites

LAWS510 or LAWS516 or LAWS519 or LAWS562 or LAWS569 or LAWS586 or LAWS587

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 and conflict. This unit considers traditional, non-adversarial dispute settlement in the international system, and then focuses on how various international courts and tribunals resolve disputes. An ongoing question is 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 key actors and institutions involved in international dispute settlement and the legal principles governing that activity.

Evaluate and critique 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 solutions to current and emerging problems in international law.

Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.

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

## 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](http://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                      |
|---------------------------------------|-----------|--------|--------------------------|
| <a href="#">In Class Presentation</a> | 15%       | No     | OCS (assigned in week 1) |
| <a href="#">Class participation</a>   | 10%       | No     | 25 to 26 September 2017  |
| <a href="#">Research Paper</a>        | 40%       | No     | 11pm, 29 September 2017  |
| <a href="#">Final Assessment</a>      | 35%       | No     | 11pm, 12 November 2017   |

### In Class Presentation

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

Weighting: **15%**

Students are to prepare and present one case summary in the on campus session (OCS) on 25 and 26 September 2017.

A case relevant to each 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 topic and role to each student: applicant, respondent and the decision maker (e.g. judge, arbitrator).

The presentation is to:

- be approximately 5-10 minutes
- state the legal position of the participant
- analyse the relevant legal and non-legal considerations of the participant

On successful completion you will be able to:

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

## Class participation

Due: **25 to 26 September 2017**

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.

**For external students, the on-campus session is compulsory (25 to 26 September 2017). Students who are unable to attend must apply for a disruption to studies. If that application is accepted, alternative work will be set in lieu of on-campus attendance.**

On successful completion you will be able to:

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

## Research Paper

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

Weighting: **40%**

Students are required to submit a written research paper of no more than 2,000 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 independent legal research, critical analytical ability, and coherent legal writing and presentation skill. 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>

Research papers are to be submitted via Turnitin

On successful completion you will be able to:

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

## Final Assessment

Due: **11pm, 12 November 2017**

Weighting: **35%**

Students will be required to respond to problem questions based on 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 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 solutions to current and emerging problems in international law.
- Formulate and communicate different 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).

**For external students, the on-campus session is compulsory. The on-campus session is on 25 and 26 September 2017.** Students who are unable to attend must apply for a disruption to studies. If that application is accepted, alternative work will be set in lieu of on-campus attendance

### 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, Phillippe 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 - on campus session on 25 to 26 September 2017; 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 the presentation at the on campus session will be assigned in week 1. Tutorial participation will be assessed at the on campus session on 25 to 26 September 2017.

## 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](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](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](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](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/](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](http://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](http://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](http://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/](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.

Students in this unit are expected to have access to internet sources to engage with learning and teaching in the unit and to prepare their assessment tasks.

## **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**

- Evaluate and critique 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 solutions to current and emerging problems in international law.

#### **Assessment tasks**

- In Class Presentation
- Class participation

### **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**

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

## Assessment tasks

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

## 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

- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

## Assessment tasks

- In Class Presentation
- Research Paper

## 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

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

## **Assessment tasks**

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

## **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**

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

## **Assessment tasks**

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

## 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

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

### Assessment tasks

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

## 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 outcome

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

### Assessment tasks

- In Class Presentation
- Class participation

- Research Paper
- Final Assessment

## 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

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

### Assessment tasks

- In Class Presentation
- Research Paper
- Final Assessment

## 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

- Evaluate and critique the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions

## **Changes from Previous Offering**

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