



# LAWS518

## Indigenous Peoples and the Law

S2 External 2017

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

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W3A619

TBA on iLearn

Credit points

3

Prerequisites

(24cp in LAW or LAWS units) or (39cp at 100 level or above including LAWS260) or (12cp in ABST units at 200 level)

Corequisites

Co-badged status

Unit description

The special place of Indigenous peoples in Australia gives rise to unique questions of law. Most fundamentally, there is the challenge of acknowledging the existence of more than one legal order in the one geographical space. Following this, there are the terms of coexistence of these legal orders. And finally, to the extent that Indigenous peoples are subject to the official State and Commonwealth legal systems, there is a question of how effectively these legal systems regulate issues particular to Indigenous peoples.

## 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:

Develop student knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.

Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.

Develop student knowledge of the operation of Australian law and structure of

government in continuing to impact on Indigenous Australians.

Develop student critical capabilities to identify the strengths and weaknesses of the Australian legal and political system to further Indigenous peoples' aims and to evaluate the role of law reform in key areas affecting Indigenous Australians.

Develop student written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.

Develop student independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

## **General Assessment Information**

### **Task 1: Class Participation and Attendance**

**Internal Students** should register in one of the available tutorial slots when they enrol in the unit. Additional readings and discussion questions for each tutorial will be available on the iLearn page for the unit. Lectures commence in Week 1. Tutorials commence in Week 2.

Lectures may be pre-recorded, but there may be lectures where attendance is compulsory (see iLearn). Internal Students are expected to attend a minimum of 80% of all tutorials ie/ at least 10 tutorials. In the event that students cannot attend a tutorial (or compulsory lecture) they must comply with the "Disruption to Studies" policy. In cases of where a student's circumstances have affected their participation and attendance in more than two tutorials, the students should contact the unit convenor immediately and alternative arrangements may be made. In cases of unexplained absences the tutor may deduct marks for class participation at her discretion. (NB –'unexplained absence' does not include tutorials cancelled because of public holidays.)

Students will be given an interim class participation mark during the mid-semester break worth 10%, and a final class participation at the end of semester also worth 10%.

Attendance for **External students** on both days of the on-campus session is compulsory: students cannot attend for a third or a half day for instance and think they have fulfilled the requirements for attendance. In the event that a student cannot attend the entire OCS they are required to apply for disruption. In that event, you will be required to make up the missed time by completing extra written work. The onus is on you to ensure that the Unit Convenor knows your situation and sets the make up work, and that you submit it at the agreed time.

Please note that attendance is compulsory for pedagogical reasons, and exemption is granted only in cases where a successful application for disruption has been made.

#### **Moderation**

Detailed marking rubrics will be made available on iLearn.

### **Task 2: Quiz on Native Title**

A summary of this assessment task is available in the Assessment Tasks section of this unit guide.

#### **Disruption to Studies**

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](mailto: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.

Where a disruption has been approved, the student will be required to complete alternative written work in lieu of the quiz.

#### **Moderation**

Detailed marking rubrics will be made available on iLearn. If there are other markers assisting the convenor then a process of 'blind marking' to establish a common marking standard will be adopted and all Fail papers will be double marked.

### **Task 3: Research Essay**

A summary of this assessment task is available in the available on iLearn. Assessment Tasks section of this unit guide.

#### **Disruption to Studies**

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](mailto: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.

Where a disruption has been approved, the student will be given an extension to complete the essay.

#### **Submission**

All written assessments in the unit are to be submitted electronically by way of Turnitin on the iLearn page. Plagiarism detection software is used in this unit.

#### **Word Limits**

Maximum word length is 2500 (excluding footnotes and bibliography).

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

#### **Moderation**

Detailed marking rubrics will be made available on iLearn. If there are other markers assisting the convenor then a process of 'blind marking' to establish a common marking standard will be adopted and all Fail papers will be double marked.

#### Style

All written assessments should use the latest edition of the AGLC.

#### Format

It must be typed in 12pt Times New Roman, double spaced with margins of not less than 2.5cm on both sides. Bibliography should be single spaced in 12pt Times New Roman. Footnotes should be in 10pt Times New Roman.

Please submit in **Word format** and not in PDF.

Footnotes and bibliography are required.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Class Participation</u>	20%	No	Ongoing
<u>Quiz on Native Title</u>	20%	No	Thursday 5 October (Week 8)
<u>Research Essay</u>	60%	No	10 Nov, 5pm

### Class Participation

Due: **Ongoing**

Weighting: **20%**

Class Participation: Preparation and understanding of prescribed materials. The ability to understand and respond in an oral communication context.

See the General Assessment Information section in this unit guide for instructions about attendance requirements.

The disruption applies to Internal and External students.

Instructions on how class participation will be assessed will be available on iLearn.

On successful completion you will be able to:

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- Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Develop student knowledge of the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Develop student critical capabilities to identify the strengths and weaknesses of the Australian legal and political system to further Indigenous peoples' aims and to evaluate the role of law reform in key areas affecting Indigenous Australians.
- Develop student written and verbal communication skills in formulating arguments about

the Australian legal and political system and their impact on Indigenous Australians.

## Quiz on Native Title

Due: **Thursday 5 October (Week 8)**

Weighting: **20%**

Students will complete a quiz on native title (Lectures 6 and 7).

The quiz will be administered in iLearn.

The quiz will open from 9 am and close at 9 pm.

Once the quiz has been commenced by a student s/he will have 1 hour to complete the quiz.

This means the latest a student can commence the quiz is 8 pm.

The disruption policy applies.

See the General Assessment Information section in this unit guide for further administrative details for the quiz.

Instructions on how the quiz will be assessed will be available on iLearn.

There will be no tutorials on that day.

On successful completion you will be able to:

- Develop student knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Develop student knowledge of the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Develop student critical capabilities to identify the strengths and weaknesses of the Australian legal and political system to further Indigenous peoples' aims and to evaluate the role of law reform in key areas affecting Indigenous Australians.
- Develop student written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.

## Research Essay

Due: **10 Nov, 5pm**

Weighting: **60%**

Students are to complete the Set Topic or Student Topic of their Choice (but within the scope of the topics covered in the unit).

The Set Topic will be available on iLearn by the end of Week 7.

Word length: 2500 words MAX excluding footnotes and bibliography.

Style: AGLC (latest ed).

Submission: Turnitin.

The Disruption policy applies.

See the General Assessment Information section in this unit guide for further administrative details for the Research Essay.

Instructions on how the essay will be assessed will be available on iLearn.

On successful completion you will be able to:

- Develop student knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Develop student knowledge of the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Develop student critical capabilities to identify the strengths and weaknesses of the Australian legal and political system to further Indigenous peoples' aims and to evaluate the role of law reform in key areas affecting Indigenous Australians.
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- Develop student independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

## **Delivery and Resources**

The unit will be delivered in a Lecture and Tutorial format.

Attendance at tutorials is compulsory for Internal students. Students are required to attend 1 tutorial per week. Attendance at lectures may also be compulsory (see General Assessment Information section for attendance requirements).

Attendance at the OCS is compulsory for External students (see General Assessment Information section for attendance requirements).

The lectures and tutorials are scheduled on Thursday: Lectures start in Week 1; Tutorials in Week 2. The OCS is scheduled on 20 and 21 September. See <https://timetables.mq.edu.au/2017/> for further details.

Students will be required to use a computer to access the iLearn page for the unit ([ilearn.mq.edu.au](https://ilearn.mq.edu.au)) and to interact with online research databases and web-based research tools



and to submit assignments.

The prescribed text for the unit is Heather McRae et al, *Indigenous Legal Issues: Commentary and Materials* (Lawbook Co, 2009, 4th Ed) available for purchase at the Macquarie University Co-op Bookshop.

Recommended text (but not compulsory for students to buy) is Larissa Behrendt et al, *Indigenous Legal Relations in Australia* (OUP, 2009).

All other information about the unit (additional reading, tutorial discussion questions etc) will be available on the iLearn page for the unit.

## Unit Schedule

Lectures commence in Week 1. Tutorials commence in Week 2

Lecture Schedule:

Week 1: History, Law and Government Policies (and Reconciliation Chapter 13 of McRae et al)

Week 2: Indigenous Customary Law

Week 3: Indigenous Governance

Week 4: The Indigenous Estate

Week 5: Land Rights Legislation

Week 6: Native Title: An Overview of its Development in Australia

Week 7: Native Title: Specific Features of Law and Process

Mid-Semester Break

OCS 20 and 21 Sept

Week 8: Indigenous Intellectual Property and Indigenous Cultural Heritage (Quiz on Native Title 5 October)

Week 9: Racial Discrimination

Week 10: Criminal Justice Issues

Week 11: Child Welfare

Week 12: International Law

Week 13: Final class participation marks released.

Set Topic or Student Topic Essay (due Friday, 10 November 2017, 5:00pm)

## 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).

### 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.

## 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.

## Graduate Capabilities

### 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

- Develop student knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
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- Develop student independent research skills in analysing the operation of the legal and

political institutions of Australia as they impact on Indigenous Australians.

## **Assessment tasks**

- Class Participation
- Research Essay

## **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**

- Develop student knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Develop student knowledge of the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Develop student written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.
- Develop student independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

## **Assessment tasks**

- Class Participation
- Quiz on Native Title
- Research Essay

## **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

- Develop student knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
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- Develop student independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

## Assessment tasks

- Class Participation
- Quiz on Native Title
- Research Essay

## 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

- Develop student written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.
- Develop student independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

## Assessment task

- Research Essay

## 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

- Develop student written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.
- Develop student independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

### Assessment tasks

- Class Participation
- Quiz on Native Title
- Research Essay

## 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

- Develop student knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Develop student knowledge of important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
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## **Assessment tasks**

- Class Participation
- Quiz on Native Title
- Research Essay