



# LAWS555

## Remedies, Reparations and Resolution in Law

S1 Day 2018

*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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Contact via [francesca.dominello@mq.edu.au](mailto:francesca.dominello@mq.edu.au)

W3A 619

TBA on iLearn

Unit Convenor

Doron Goldbarsht

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TBA on iLearn

TBA on iLearn

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:

Explain 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 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 appropriate for hypothetical problem solving and research essay writing.

Take responsibility for their own learning in research writing and hypothetical problem solving by managing time productively; planning the tasks; and working effectively towards their completion.

## General Assessment Information

### All Students

| Task | Task Name   | %           | Due Date                                    |
|------|---|-------------|---|
| 1    | Class Participation                               | 10          | Tutorials/OCS                               |
| 2    | Hypothetical Problem<br>(Submit through Turnitin) | 50          | Released 21 April, 6 pm; due 27 April, 8 pm |
| 3    | Essay<br>(Submit through Turnitin)                | 40          | 8 June, 8 pm                                |
|      |   |             |   |
|      | <b>Total:</b>                                     | <b>100%</b> |   |

### Special Consideration

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments

submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

### **Class Attendance and Participation**

**Attendance:** For Internal students attendance at the tutorials from Week 5 on is compulsory. Students who miss a tutorial from Week 5 on can apply for special consideration through Ask.mq.edu.au. It is advisable that you apply for special consideration if your circumstances meet the policy. If a student misses more than 2 tutorials due to special consideration they should contact the unit convenor and other arrangements will be made to make up for the missed tutorials.

For External students attendance at the OCS is compulsory. Students should apply for special consideration if their circumstances meet the policy. If they miss one or both days of the OCS due to special consideration they should contact the unit convenor and other arrangements will be made.

The OCS will be on 18 and 19 April 2018.

**Class participation** mark is an aggregate of attendance and participation. A mark out of 10 will be given to students at the end of semester. Assessment will commence in Week 5.

### **Early non-compulsory assessment**

In Week 3 (2nd tutorial) tutors will give students informal feedback on class participation. While attendance at the first 3 tutorials (Weeks 2-4) is not compulsory it is highly recommended students attend these tutorials.

### **Submission of Written Assignments**

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

### **Word Limits**

Where there is a specified word limit it will be strictly applied and work above the word limit will not be assessed.

### **Moderation**

Detailed marking rubrics will be made available on iLearn for all assessments. 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 assignments should comply with the latest edition of the AGLC.

## Assessment Tasks

| Name                         | Weighting | Hurdle | Due                   |
|------------------------------|-----------|--------|-----------------------|
| <u>Class Participation</u>   | 10%       | No     | Ongoing               |
| <u>Hypothetical Problems</u> | 50%       | No     | Friday 27 April, 8 pm |
| <u>Research Essay</u>        | 40%       | No     | Friday 8 June, 8 pm   |

### Class Participation

Due: **Ongoing**

Weighting: **10%**

Preparation and understanding of the prescribed materials. The ability to understand and respond in an oral communication context, generate discussion and facilitate student learning. Class Participation will take into account the entirety of the student's in-class performance and attendance.

A mark out of 10 will be given to students at the end of semester. Assessment will commence in Week 5.

See also General Assessment Information tab in this unit guide.

On successful completion you will be able to:

- Explain 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.

### Hypothetical Problems

Due: **Friday 27 April, 8 pm**

Weighting: **50%**

#### Hypothetical Problem

Hypothetical problems based on materials covered in Lectures 1-7.

**Release Date:** 21 April, 6 pm.

**Word Length:** 2500 words MAX (excluding footnotes). No Bibliography required. Markers will not read more than 2500 words.

**Submission:** Turnitin in iLearn. Submit in Word NOT PDF.

**Format:** Double spaced in 12 point Times New Roman. Footnotes can be in 10 point Times New Roman.

**Style:** AGLC

Once the Hypothetical Problem is released to students the Unit Convenor/Tutors will not be in a position to answer any questions about it.

See also General Assessment Information tab in this unit guide.

On successful completion you will be able to:

- Explain 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 appropriate for hypothetical problem solving and research essay writing.

## Research Essay

Due: **Friday 8 June, 8 pm**

Weighting: **40%**

### Essay

Students to complete a research essay based on some of the topics covered in the unit. These topics will be available on iLearn before the mid-semester break. The emphasis is on independent research and analysis and critique with the view to proposing reform in the chosen topic.

**Word Length:** 3000 words MAX (excluding footnotes). Bibliography and Footnotes required. Markers will not read more than 3000 words.

**Submission:** Turnitin in iLearn. Submit in Word NOT PDF.

**Format:** Double spaced in 12 point Times New Roman. Footnotes can be in 10 point Times New Roman.

**Style:** AGLC

See also General Assessment Information tab in this unit guide.

On successful completion you will be able to:

- Explain 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 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 appropriate for hypothetical problem solving and research essay writing.
- Take responsibility for their own learning in research writing and hypothetical problem solving by managing time productively; planning the tasks; and working effectively towards their completion.

## Delivery and Resources

Lectures commence in Week 1. Tutorials will commence in Week 2.

Lectures will be delivered live or will be pre-recorded (see iLearn for instructions).

Discussion questions for each tutorial will be available on the iLearn page for the unit.

You will find the required reading list in the online unit available at [ilearn.mq.edu.au](http://ilearn.mq.edu.au).

All readings will be available online: eg. eReserve, library databases, iLearn

Students will also be required to use a computer for word processing of assignments and have access to the internet for submission of assignments in Turnitin and to interact with iLearn and online research databases and web-based research tools.

## Unit Schedule

| LAWS555 Lecture and Tutorial Schedule |          |                                      |                          |
|---------------------------------------|----------|--------------------------------------|--------------------------|
| Week                                  | Dates    | Lecture                              | Tutorial                 |
| Week 1                                | 26 Feb   | Introduction to the Unit             | NO TUTORIAL              |
| Week 2                                | 5 March  | Self Help in Tort; Damages in Tort 1 | Introduction tot he Unit |
| Week 3                                | 12 March | Damages in Tort 2                    | Damages in Tort 1        |
| Week 4                                | 19 March | Damages in Tort 3                    | Damages in Tort 2        |

|         |                       |   |   |
|---------|-----------------------|---|---|
| Week 5  | 26 March              | Contract/Equity 1   | Damages in Tort 3   |
| Week 6  | 2 April               | Contract/Equity 2   | Contract/Equity 1   |
| Week 7  | 9 April               | Contract/Equity 3   | Contract/Equity 2   |
| Break   | (OCS 19 and 20 April) |   |   |
| Week 8  | 30 April              | Contract/Equity 4   | Contract/Equity 3   |
| Week 9  | 7 May                 | Alternative (Appropriate) Dispute Resolution                  | Contract/Equity 4   |
| Week 10 | 14 May                | Public Law Remedies   | Alternative (Appropriate) Dispute Resolution                  |
| Week 11 | 21 May                | Restorative Justice   | Public Law remedies   |
| Week 12 | 28 May                | International Law and Reparations for Human Rights Violations | Restorative Justice   |
| Week 13 | 4 June                |   | International Law and Reparations for Human rights Violations |

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)



Undergraduate students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/student-policy-gateway) (<https://students.mq.edu.au/support/study/student-policy-gateway>). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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.

## 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.
- Work independently to produce a sophisticated research project based on some of the broad topics covered in the unit.

#### Assessment task

- Research Essay

### 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 produce a sophisticated research project based on some of the broad topics covered in the unit.
- Take responsibility for their own learning in research writing and hypothetical problem solving by managing time productively; planning the tasks; and working effectively towards their completion.

#### Assessment tasks

- Class Participation
- Hypothetical Problems
- Research Essay

## 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

- Identify and propose reforms to create a more just remedial system of law.
- Take responsibility for their own learning in research writing and hypothetical problem solving by managing time productively; planning the tasks; and working effectively towards their completion.

### Assessment tasks

- Class Participation
- Hypothetical Problems
- 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

- Explain the principles upon which remedial action can be taken.
- 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.
- Follow instructions in writing and referencing primary and secondary research sources appropriate for hypothetical problem solving and research essay writing.

## Assessment tasks

- Class Participation
- Hypothetical Problems
- 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

- Explain 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.
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- Identify and propose reforms to create a more just remedial system of law.
- Take responsibility for their own learning in research writing and hypothetical problem solving by managing time productively; planning the tasks; and working effectively towards their completion.

## Assessment tasks

- Class Participation
- Hypothetical Problems
- 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**

- 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 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 appropriate for hypothetical problem solving and research essay writing.
- Take responsibility for their own learning in research writing and hypothetical problem solving by managing time productively; planning the tasks; and working effectively towards their completion.

## **Assessment tasks**

- Class Participation
- Hypothetical Problems
- 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**

- Explain 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 produce a sophisticated research project based on some of the broad topics covered in the unit.
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- Take responsibility for their own learning in research writing and hypothetical problem solving by managing time productively; planning the tasks; and working effectively towards their completion.

## **Assessment tasks**

- Class Participation
- Hypothetical Problems
- 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**

- 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 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 task**

- Research Essay

## Changes from Previous Offering

This unit involves a change in Unit Convenor. The assessment scheme has also been changed - class participation has been added and there will only be 1 instead of 2 hypothetical problem assessments.

The lectures for this unit were pre-recorded in S1 2015 and the lecture order has been changed. Students should consult the Unit Schedule and prepare tutorial questions for classes and written assignments according to the new lecture regime.