



# LAWS8066

## Indigenous Peoples and the Law

Session 2, Special circumstance 2020

*Macquarie Law School*

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#### **Disclaimer**

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

#### **Notice**

As part of [Phase 3 of our return to campus plan](#), most units will now run tutorials, seminars and other small group learning activities on campus for the second half-year, while keeping an online version available for those students unable to return or those who choose to continue their studies online.

To check the availability of face-to-face and online activities for your unit, please go to [timetable viewer](#). To check detailed information on unit assessments visit your unit's iLearn space or consult your unit convenor.

## General Information

Unit convenor and teaching staff

Convenor

Francesca Dominello

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

Contact via iLearn

6 First Walk, 619

Monday 1pm during teaching weeks or by appointment

Credit points

10

Prerequisites

(Admission to JD and 80cp in LAW or LAWS unit at 6000 level or above) or (admission to LLM)

Corequisites

Co-badged status

Unit description

This unit entails a detailed study of Indigenous people's experience with the legal system in Australia and the interactions between non-Indigenous and Indigenous legal systems. With regard to both historical and contemporary social policies in Australia, the unit examines questions of how effectively the Australian legal system regulates issues particular to Indigenous peoples. The unit explores these issues in Australia, and also looks to the International legal community and the experience of other settler-colonised states in understanding the limits of law in protecting the rights of Indigenous peoples. The unit canvasses indigenous law in a variety of contexts including land rights and native title, family law and child protection, the criminal justice system, and Indigenous ownership of intellectual and cultural property.

## 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:

**ULO1:** Analyse and critique the place of Indigenous customary law within the history of

Australian law and system of government

**ULO2:** Critically analyse legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.

**ULO3:** Apply advanced critical analysis to the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.

**ULO4:** Compare and contrast the place of indigenous customary law in the legal landscape of diverse jurisdictions

## General Assessment Information

### Attendance

All lectures will be recorded and available on iLearn.

Attendance during the **OCS/Block** session is compulsory on both days. Students cannot attend 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 one or both days they are required to apply for special consideration via Ask ([ask.mq.edu.au](http://ask.mq.edu.au)). 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.

### Participatory Tasks

Participatory Tasks are worth 30% of the final mark and will involve the following:

Online Discussion Forum (10%): In Week 3, students will discuss their research plans/essays in an online discussion forum.

Class Participation at OCS/Block session (10%): On 12 and 13 September students will attend the OCS/Block session to discuss materials covered in the unit. Participation will be worth 5% each day.

Presentation at OCS/Block session (5%): During the second half of Day 2 (13 Sept), students will make a 3-5 minute presentation on their individual research plans/essays.

Online Discussion Forum (5%): In Week 9, reflect on the progress on their research essays in an online discussion forum.

### Research Plan and Essay

A summary of these assessment tasks are available in the Assessment Tasks section of this unit guide. More information will be available on the iLearn page.

### Special Consideration

All applications for special consideration whether in relation to attendance or the written assessments must be made through Ask. Special Consideration applications must be made within five working days of the assessment task due date (including date of attendance).

This policy applies to written assessments. 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.

### Submission

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 in marking the written assessments then a process of 'blind marking' to establish a common marking standard will be adopted and all Fail papers will be double marked.

### Style

The research essay should comply with the latest edition of the AGLC (ie, AGLC4).

### Format

All written assessments 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 bibliographies are required for all written assessments.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Research Plan</a>	30%	No	26 August, 6pm
<a href="#">Research Essay</a>	40%	No	4 November, 6pm
<a href="#">Online and in class tasks</a>	30%	No	Ongoing during semester

### Research Plan

Assessment Type <sup>1</sup>: Plan

Indicative Time on Task <sup>2</sup>: 35 hours

Due: **26 August, 6pm**

Weighting: **30%**

Students will develop a research plan as the basis for their research essay.

On successful completion you will be able to:

- Analyse and critique the place of Indigenous customary law within the history of Australian law and system of government
- Critically analyse legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Apply advanced critical analysis to the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Compare and contrast the place of indigenous customary law in the legal landscape of diverse jurisdictions

## Research Essay

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 45 hours

Due: **4 November, 6pm**

Weighting: **40%**

Students will submit a research essay that builds on their essay plan and reflective writing tasks

On successful completion you will be able to:

- Analyse and critique the place of Indigenous customary law within the history of Australian law and system of government
- Critically analyse legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Apply advanced critical analysis to the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Compare and contrast the place of indigenous customary law in the legal landscape of diverse jurisdictions

## Online and in class tasks

Assessment Type <sup>1</sup>: Participatory task

Indicative Time on Task <sup>2</sup>: 34 hours

Due: **Ongoing during semester**

Weighting: **30%**

Students will engage in online and/or in class discussion, presentations, debates and law reform tasks and submit reflective writing activities online

On successful completion you will be able to:

- Analyse and critique the place of Indigenous customary law within the history of Australian law and system of government
- Critically analyse legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
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<sup>1</sup> If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

<sup>2</sup> Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

## Delivery and Resources

The Lectures will be recorded and available on iLearn. The OCS/Block is scheduled on 12 and 13 September. All students should refer to <https://timetables.mq.edu.au/2020/> for further details.

Students will be required to use a computer to access the iLearn page for the unit ([ilearn.mq.edu.au](http://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 Larissa Behrendt et al, *Aboriginal and Torres Strait Islander Legal Relations* (OUP, 2nd ed, 2019) available for purchase from Booktopia. Hard copies and e-copies of this text should also be available in the library.

Recommended text is Heather McRae et al, *Indigenous Legal Issues: Commentary and Materials* (Lawbook Co, 4th ed, 2009). Hard copies and e-copies of this text should also be available in the library.

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

## Unit Schedule

Lecture Schedule:

Week 1: Dispossession and Colonisation

Week 2: Overview of Government Policies

Week 3: Contemporary Aboriginal and Torres Strait Islander Children's Welfare

Week 4: Juvenile Justice

Week 5: Criminal Justice (Research Plan due 26 August, 6pm)

Week 6: Indigenous Women and Criminal (In)Justice

Week 7: Land Rights

Mid-Semester Break

OCS/Block 12 and 13 Sept

Week 8: Native title

Week 9: Cultural Heritage

Week 10: Racial Discrimination and the Law

Week 11: Indigenous Rights v The New Paternalism

Week 12: Unfinished Business

Week 13: No Lecture/Last Tutorial (Essay Due 4 November, 6pm)

## 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.*)

Students seeking more policy resources can visit the [Student Policy Gateway \(https://students.mq.edu.au/policies\)](https://students.mq.edu.au/policies)

[mq.edu.au/support/study/student-policy-gateway](http://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 published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@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 help you improve your marks and take control of your study.

- [Getting help with your assignment](#)
- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

## 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)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@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.

## Changes since First Published

Date	Description
20/07/2020	I changed the title of the prescribed text to Aboriginal and Torres Strait Islander Legal Relations as I had inaccurately titled the text Indigenous Legal Relations in Australia.