



LAWS5018

Indigenous Peoples and the Law

Session 2, Online-scheduled-weekday 2022

Macquarie Law School

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General Information

Unit convenor and teaching staff

Convenor

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Contact via iLearn

TBA

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Credit points

10

Prerequisites

(130cp in Law or LAWS units) or (130cp including LAWS260 or LAWS2060 or ABST304 or ABST3040)

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:

ULO1: Demonstrate advanced knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.

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

ULO3: Critically analyse the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.

ULO4: Identify the strengths and weaknesses of the Australian legal and political system to further Indigenous peoples' aims and evaluate the role of law reform in key areas affecting Indigenous Australians.

General Assessment Information

Please note that the unit has weekly lectures that are approximately 2 hours long and weekly tutorials that are 1 hour long. Lectures commence in Week 1 and tutorials commence in Week 2. The Lectures will be pre-recorded. To help students manage their workloads and encourage work readiness, the lectures and tutorial questions will be available one week in advance. For example, materials for Week 3, will be made available in Week 2. Please do not ask the convenor to have materials provided earlier than this.

Participatory Tasks

These tasks relate to the tutorials. 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. The tutorials are a mix of face-to-face and online tutorials scheduled on Monday and Wednesday.

The participatory tasks in the unit will be assessed according to an on-call system. **Attendance at tutorials when students are on-call is compulsory as students will be assessed for class participation during these tutorials.** More details, including the schedule of on-call allocations, will be posted on iLearn on Saturday 30 July.

There will also be three other compulsory tutorials:

Week 2 (the first tutorial on 1 or 3 August),

Week 6 (29 or 31 August), and

Week 12 (24 or 26 October).

During these tutorials there will be discussion of the essay topics.

Rationale for these other compulsory tutorials is as follows:

The first tutorial in Week 2 is compulsory for all students as this is when students will have the opportunity to meet their tutor and other students in their class, and be introduced to the unit content and provided with an overview of the unit. The tutorial will provide foundational coverage essential for completion of all the assessments. This approach is also consistent with Macquarie University's inclusive learning and teaching pedagogy.

In Week 6, a guest panel from knowmore legal service will be visiting the University to talk to students on Monday 29 August at 2pm about the work they do assisting applicants in

Commonwealth schemes that have been established to assist survivors of sexual abuse. As many of knowmore's clients identify as Aboriginal and/or Torres Strait Islander peoples, this panel presentation is also to commemorate 25 years since the *Bringing Them Home* report, which documented the effects of past laws and policies authorising the forced removal of Indigenous children, and set out a reparations scheme to address these effects. To further commemorate this report, Essay 1 in the unit will be on the *Bringing Them Home* report and progress made to fulfill its recommendations. In the tutorials in Week 6, it is compulsory for students in the 2pm class to attend the guest presentation. More details about permitting students from other tutorials to attend will be made available on iLearn. The presentation will be recorded for students who cannot attend. In all tutorials there will also be discussion about the essay topic. For all of these reasons, the tutorials in Week 6 are compulsory for all students.

The tutorials in Week 12 are also compulsory as there will be discussion about the final essay.

These tutorials are compulsory for all students for pedagogical reasons to ensure students are sufficiently engaged and included in the unit and prepared to complete the assessments in the unit.

In enrolling in this unit, you are expected to attend all compulsory tutorials (when you are on-call and the other compulsory tutorials). If you know you cannot attend one or more compulsory tutorial, please let the unit convenor know before **11:59pm on 29 July** and alternative arrangements may be accommodated without requiring a student to apply for special consideration.

After **11:59pm on 29 July**, if a student's absence fits within the special consideration policy they should submit an application for Special Consideration via Ask (ask.mq.edu.au). In cases where a student is absent due to special consideration, alternative arrangements will be made.

Essays

A summary of these assessment tasks are available in the Assessment Tasks section of this unit guide. Essay 1 topic will be released in Week 2 and Essay 2 topic will be released in the mid-semester break. More information will be available on the iLearn page.

Special Consideration

All applications for special consideration whether in relation to compulsory tutorials (for the on-call tutorials and the other compulsory tutorials) or the written essays must be made through Ask. See the Special Consideration Policy link in this unit guide.

Note to new policy for written assignments as follows:

Late Assessment Submission Penalty

Unless a Special Consideration request has been submitted and approved, **a 5% penalty (of the total possible mark) will be applied each day a written assessment is not submitted**, up until the 7th day (including weekends). After the 7th day, a mark of '0' (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55pm. A 1-hour grace period is provided to students who experience a technical issue.

This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters,

portfolios, journals, recordings etc). **Late submission of time sensitive tasks** (such as tests/exams, performance assessments/presentations, scheduled practical assessments/labs etc) **will only be addressed by the unit convenor in a Special consideration application. Special Consideration outcome may result in a new question or topic.**

Note the first paragraph applies to the essays, and the second paragraph applies to the participatory tasks.

Submission

The written essays 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 both written essays.

Assessment Tasks

| Name | Weighting | Hurdle | Due |
|------------------------------------|-----------|--------|---------------------|
| Participation | 20% | No | ongoing |
| Mid semester essay | 40% | No | 14/09/2022, 11:55pm |
| Final essay task | 40% | No | 05/11/2022, 11:55pm |

Participation

Assessment Type ¹: Participatory task

Indicative Time on Task ²: 30 hours

Due: **ongoing**

Weighting: **20%**

Discussion, debate, collaboration and other activities based on unit readings and independent research.

On successful completion you will be able to:

- Demonstrate advanced knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Explain and analyse important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Critically analyse the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Identify the strengths and weaknesses of the Australian legal and political system to further Indigenous peoples' aims and evaluate the role of law reform in key areas affecting Indigenous Australians.

Mid semester essay

Assessment Type ¹: Essay

Indicative Time on Task ²: 40 hours

Due: **14/09/2022, 11:55pm**

Weighting: **40%**

An essay on a topic related to Indigenous peoples and the law.

On successful completion you will be able to:

- Demonstrate advanced knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Explain and analyse important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Critically analyse the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Identify the strengths and weaknesses of the Australian legal and political system to

further Indigenous peoples' aims and evaluate the role of law reform in key areas affecting Indigenous Australians.

Final essay task

Assessment Type ¹: Essay

Indicative Time on Task ²: 40 hours

Due: **05/11/2022, 11:55pm**

Weighting: **40%**

This topic will require independent research and comprehensive understanding of the unit materials

On successful completion you will be able to:

- Demonstrate advanced knowledge of the history of Australian law and system of government and the place of Indigenous customary law within that system.
- Explain and analyse important legal and political issues that have impacted on Indigenous Australians, linking the issues to past policies and laws.
- Critically analyse the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Identify the strengths and weaknesses of the Australian legal and political system to further Indigenous peoples' aims and evaluate the role of law reform in key areas affecting Indigenous Australians.

¹ 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.

² 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 unit will be delivered in a Lecture and Tutorial format.

Lectures start in Week 1; Tutorials in Week 2. Refer to <https://timetables.mq.edu.au/2022/> for further details on scheduled class times and room locations.

Students will be required to use a computer to access the iLearn page for the unit

(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 here [Booktopia Web site](#). Hard copies and e-copies should also be available in the library.

Recommended text is Heather McRae et al, *Indigenous Legal Issues: Commentary and Materials* (Lawbook Co, 4th ed, 2008). Hard copies and e-copies should 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

Lectures commence in Week 1. Tutorials commence in Week 2

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

Week 6: Indigenous Women and Criminal Justice

Week 7: Land Rights

Mid-Semester Break (Essay Due 14 September, 11:55pm as per new special consideration policy)

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 5 Nov, 11:55pm as per new special consideration policy)

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au). 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](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

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

To find other policies relating to Teaching and Learning, visit [Policy Central](https://policies.mq.edu.au) (<https://policies.mq.edu.au>) and use the [search tool](#).

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/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 or if you are a Global MBA student contact globalmba.support@mq.edu.au

Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

The Writing Centre

[The Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)

- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the 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

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)

Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

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.