



# LAWS8066

## Indigenous Peoples and the Law

Session 2, Online-scheduled-weekday 2023

*Macquarie Law School*

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#### **Disclaimer**

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## 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

Thursday 5pm during teaching weeks or by appointment

Credit points

10

Prerequisites

Admission to LLM or MSusDev or (Admission to JD and LAWS600 or LAWS8001)

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.

Tutorials are fortnightly commencing in Week 3 and then in Weeks 5, 7, 9, 11, 13. Student participation will be on-call and required to answer set tutorial questions. There will also be weeks when students will make presentations about their research-in-progress to the class. Attendance when students are on-call and when they required to make presentations will be compulsory. If a student cannot attend the tutorials when they are on-call or have presentations they are required to apply for special consideration via Ask ([ask.mq.edu.au](http://ask.mq.edu.au)). Alternative work will be set in lieu in cases when special considerations applications have been approved.

### Participatory Tasks

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

**In-class Presentation on Research Plan (5%):** In the Week 3 tutorial, students will present their initial ideas for their research plan in class (3 minutes max).

**Class Participation during the tutorials (20%):** Students will be on-call 4 times during the semester to discuss set tutorial questions and each time it will be worth 5%.

**In-class Presentation on Research Essay (5%):** In the Week 11 tutorial students will make a presentation on their developed individual research essays (3 minutes max).

More details about these assessments will be available on iLearn.

### 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 is the new policy for special consideration:

### 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.**

The first paragraph applies to the written assessments and the second paragraph applies to the participatory tasks.

### 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 plan and 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
<u>Research Plan</u>	30%	No	25/08/2023

Name	Weighting	Hurdle	Due
<a href="#">Research Essay</a>	40%	No	04/11/2023
<a href="#">Participation</a>	30%	No	fortnightly

## Research Plan

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

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

Due: **25/08/2023**

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: **04/11/2023**

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

## Participation

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

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

Due: **fortnightly**

Weighting: **30%**

Activities such as discussions, presentations, debates, reflection and law reform 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
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- Compare and contrast the place of indigenous customary law in the legal landscape of diverse jurisdictions

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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 fortnightly tutorials commence in Week 3. All students should refer to <https://timetables.mq.edu.au/2023/> for further details.

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 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 25 August, 11:55pm as per new special consideration policy)

Week 6: Indigenous Women and Criminal (In)Justice

Week 7: Land Rights

Mid-Semester Break (11-22 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, 11:55pm as per new special consideration policy)

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](#). 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](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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 Advocacy](#) provides independent advice on MQ policies, procedures, and processes

## 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/](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.