



# LAWS555

## Remedies, Reparations and Resolution in Law

S3 Block 2019

*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.

## General Information

Unit convenor and teaching staff

convenor and tutor

Roderick Smith

[roderick.smith@mq.edu.au](mailto:roderick.smith@mq.edu.au)

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:

Describe 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 devise and 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 case analysis, hypothetical problem solving and/or essay writing

Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

## General Assessment Information

**ATTENDANCE AT ON CAMPUS SESSIONS:** Students must register in an available on campus session group at the time of enrolment. Please see the Unit Schedule for more information about the topics that will be covered in the on campus sessions. A more detailed plan for the sessions will be published on iLearn in due course. If you can not attend an on campus session you should not enrol in this course.

The on campus sessions are designed to assist students in completing Assignment 1 and the Take-Home Exam. They are not mini-lectures. They will prepare students to answer the case analysis (Assignment 1) and think critically about legal and policy issues and involve working on hypothetical practice problems in preparation for the Take Home Exam. It is in the interests of students to prepare for the on campus sessions by completing all set readings, listening to all relevant lectures and attempting tutorial questions.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Quiz 1</u>	10%	No	23/12/2019
<u>Quiz 2</u>	10%	No	5/1/2020
<u>Assignment 1</u>	40%	No	10/01/2020, 11:59pm
<u>Take Home Exam</u>	40%	No	19/01/2020, 1:00 pm

## Quiz 1

Due: **23/12/2019**

Weighting: **10%**

This assessment task is an online quiz to take place early in the semester. The quiz will be open between 7pm on the 16th December 2019 and 11:59pm on the 23rd December 2019 and accessible through ILearn.

The quiz will consist of 20 questions to be completed in 40 minutes. It will involve a mixture of True/False questions and multiple choice questions. This assessment task's purpose is to engage students with their unit early in the session, encourage timely preparation for the on campus session, and to provide an opportunity for relatively early feedback. The questions will be drawn from the topics covered in lectures and readings in Weeks 1-6.

Students who are unable to sit for the test within the designated timeframe must contact the unit convenor and make a special consideration application and, if it is approved, will be given an equivalent task set by the unit convenor. Failure to complete the quiz will result in zero marks for this assessment.

On successful completion you will be able to:

- Describe the principles upon which remedial action can be taken

## Quiz 2

Due: **5/1/2020**

Weighting: **10%**

This assessment task is an online quiz to take place prior to the on campus sessions that deals with some of the content covered on the second OCS day. The quiz will be open between 7pm on the 3 January 2020 and 11:59pm on the 5 January 2020 and will be accessible through ILearn.

The quiz will consist of 20 questions to be completed in 20 minutes. It will involve a mixture of True/False questions and multiple choice questions. This assessment task's purpose is to engage students with the unit materials, encourage timely preparation for the on campus session, and to provide an opportunity for feedback. The questions will be drawn from the topics covered in lectures and readings of Weeks 7-12.

Students who are unable to sit for the test within the designated timeframe must contact the unit convenor and make a special consideration application and, if it is approved, will be given an equivalent task set by the unit convenor. Failure to complete the quiz will result in zero marks for this assessment.

On successful completion you will be able to:

- Describe the principles upon which remedial action can be taken

# Assignment 1

Due: **10/01/2020, 11:59pm**

Weighting: **40%**

This task requires students to complete a case analysis on a case drawn from the course. The two cases you may choose between will be specified on the Assignment instructions released on 10th December at 7am. The maximum word length is 1800 words (excluding footnotes). The assignment is due on 10th January at 11:59pm.

The purpose of this task is to develop a deeper understanding of an area of law most of interest to the student. A bibliography is required. The case analysis does not require any particular format be adopted, however, students are expected to cover the facts (briefly), litigation history, reasoning of the decision, and policy considerations raised and/or significance of the case. Additional research and commentary will be required in order to develop the analysis component of this task. This task is a research task.

Students should note that word limits will be strictly applied. Work above the word limit will not be marked. Footnotes that include substantive arguments/material as opposed to citations will receive a zero mark for referencing.

In completing their assignment, students must comply with the Australian Guide to Legal Citation (4th ed). The Guide is available at <http://mulr.law.unimelb.edu.au/go/AGLC4>

Any assessment that is received after the due date and time without an approved Special Consideration application will attract a 2% per day late penalty (2 marks per 100 for the individual assessment item). No assessments will be accepted beyond 7 days after the due date and time.

Special Consideration applications must be lodged and approved in accordance with the university's special consideration policy which is available at: <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

On successful completion you will be able to:

- Describe 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 devise and 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 case analysis, hypothetical problem solving and/or essay writing
- Take responsibility for their own learning by managing time productively; planning the

tasks; and working effectively towards their completion.

## Take Home Exam

Due: **19/01/2020, 1:00 pm**

Weighting: **40%**

This is a take-home examination. It will consist of two parts: the first part consists of fact pattern problem/s, asking you to apply remedies law to a new set of facts; and the second part consists of one general essay question asking you to develop an argument appealing to an area of remedies doctrine, principles, and/or theory. The problem question part is worth 60% of the mark for this exam. The essay question is worth 40% of the mark for this exam. The exam can cover any material in the unit.

Students will be able to access the examination paper on iLearn from 10am, **Sunday 19 January** and must submit their answers by 6 pm, **Sunday 19th January 2020**. All work is to be submitted via Turnitin on iLearn.

A bibliography is not required. While referencing is required, footnoting is not. Rather, a student may reference for the examination in this manner:

e.g. 'Damages are received as an unconditional award (*Todorovic v Waller*).'

The **word limit** for the examination (including both questions) is **2,500 words**. This is a limit, rather than a target. If a complete answer is given in less than 2,500 words, that is acceptable.

Late submissions will not be marked and will receive a mark of 0. Where a Special Consideration application is lodged and approved in accordance with the university's special consideration policy which is available at: <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>, the student will be offered a supplementary exam to be sat on January 25th, 2019 between 10am and 6pm.

As with all Law units, LAWS555 has an exception to the assessment policy allowing a take-home examination during the formal exam period.

Further details and assessment guidance will be provided via iLearn.

On successful completion you will be able to:

- Describe 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
- 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 case analysis, hypothetical problem solving and/or essay writing

- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

## Delivery and Resources

You will find all resources including discussion questions and 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. Leganto, eReserve, library databases, or iLearn

Lectures will be pre-recorded and available on Echo.

Students will also be required to use a computer for word processing of assignments, submitting assessments via Turnitin, accessing iLearn, and using online research databases and web-based research tools.

Students will require a secure and reliable internet connection for the sitting and submission of the Take Home Exam and to complete the two online quizzes.

## Unit Schedule

### Unit Schedule S 3 LAWS 555

Topic 1 Introduction to the Unit, Unit Overview, Theory of Remedies

Topic 2 Damages in Tort 1

Topic 3 Damages in Tort 2

Topic 4 Damages in Tort 3

Topic 5 Contract/Equity 1

Topic 6 Contract/Equity 2

Topic 7 Contract/Equity 3

Topic 8 Contract/Equity 4

Topic 9 Alternative Dispute resolution

Topic 10 Public Law Remedies

Topic 11 Restorative Justice

Topic 12 International Law & 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 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 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)

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.

## 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

### Assessment tasks

- Assignment 1
- Take Home Exam

### 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 devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Follow instructions in writing and referencing primary and secondary research sources appropriate for case analysis, hypothetical problem solving and/or essay writing
- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

## Assessment tasks

- Assignment 1
- Take Home Exam

## 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

- Work independently to devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Follow instructions in writing and referencing primary and secondary research sources appropriate for case analysis, hypothetical problem solving and/or essay writing
- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

## Assessment tasks

- Assignment 1
- Take Home Exam

## 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**

- Describe the principles upon which remedial action can be taken
- Critically analyse different types of remedies and how they function in different contexts
- 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

## **Assessment tasks**

- Quiz 1
- Quiz 2
- Assignment 1
- Take Home Exam

## **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**

- Describe 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
- Identify and propose reforms to create a more just remedial system of law

## **Assessment tasks**

- Quiz 1
- Quiz 2
- Assignment 1

- Take Home Exam

## 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 devise and 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 tasks

- Assignment 1
- Take Home Exam

## 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

- 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 devise and produce a sophisticated research project based on some of the broad topics covered in the unit
- Follow instructions in writing and referencing primary and secondary research sources

appropriate for case analysis, hypothetical problem solving and/or essay writing

- Take responsibility for their own learning by managing time productively; planning the tasks; and working effectively towards their completion.

## **Assessment tasks**

- Assignment 1
- Take Home Exam

## **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
- Identify and propose reforms to create a more just remedial system of law

## **Assessment tasks**

- Assignment 1
- Take Home Exam

## **Socially and Environmentally Active and Responsible**

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

## **Learning outcome**

- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness

## **Assessment tasks**

- Assignment 1

- Take Home Exam

## Changes from Previous Offering

This unit involves a change in Unit Convenor. The assessment scheme is different to the Semester 1 offering.

The lectures for this unit were pre-recorded in S1 2019.

## Changes since First Published

Date	Description
16/12/2019	I changed the date for the exam to the correct reference of 19th Jan. I have noted the supplementary exam as 25th. The hours for the exam and supplementary exam have been extended to 8 hours (originally 4 hours).