



LAW 888

International Dispute Settlement

S2 External 2019

Macquarie Law School

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Disclaimer

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General Information

Unit convenor and teaching staff

Convenor

Paul Maluga

paul.maluga@mq.edu.au

Consultation by appointment

Credit points

4

Prerequisites

Admission to MIntLawGovPP or MIntEnvLaw or LLM or MIntTrdeComLaw or MIntRelMIntTrdeComLaw or MCTerrorism or MIntell or MSecStrategicStud or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 32cp in LAW or LAWS units at 800)

Corequisites

LAW891

Co-badged status

This unit is co-taught with LAWS588.

Unit description

This unit explores the peaceful resolution of international disputes within the broader principles of international law, particularly the maintenance of international peace and security. It will consider the role and objects of different international actors in dispute settlement. The Unit will also undertake a detailed consideration of the applicable law in international courts and tribunals (such as trade, investment, human rights, and international criminal law). Students will be placed in the position of a lawyer deciding on international litigation options. Having also considered compliance and enforcement of decisions of international courts and tribunals, students will critically evaluate the utility and effectiveness of different dispute resolution mechanisms.

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:

Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.

Evaluate and critically analyse the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.

Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.

Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.

Formulate and communicate original legal arguments having regard to a range of international perspectives.

Appraise the effectiveness of different methods of international dispute settlements in maintaining international peace and security.

General Assessment Information

Late submissions

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

Moderation

Detailed marking rubrics are available on iLearn. Failed papers will be double marked.

Assessment Tasks

| Name | Weighting | Hurdle | Due |
|-----------------------------------|-----------|--------|------------|
| <u>Class participation</u> | 10% | No | OCS Week 1 |
| <u>Pleadings and legal advice</u> | 45% | No | Week 7 |
| <u>Final Assessment</u> | 45% | No | Week 13 |

Class participation

Due: **OCS Week 1**

Weighting: **10%**

Students are required to attend an on-campus session (two days).

It is expected that students will have read all the required readings for each week and will come to classes prepared to discuss the questions for each topic. Class participation marks will be based on the quality of contributions to discussion and, where relevant, the frequency of contributions; evidence of preparation for each topic; and performance in specific tasks set by the tutor (for instance, group work). Attendance alone will not attract any marks.

Students must attend both days.

A failure to meet these requirements will lead to a mark of zero for class participation unless: a) the student submits a successful application for special consideration AND b) submits work in lieu of the on campus session. Note that the on-campus session equates to 12 hours class time. Any work assigned in lieu of the on-campus session is estimated to take at least 12 hours to complete. It will also require a separate appointment with the Convenor to assess participation.

Class participation will be assessed on the following criteria:

- **Preparation:** the student demonstrates reading and engagement with the materials, lectures and any other content provided for each week's tutorial. Students will volunteer answers to questions; respond to, and participating effectively in, class debates; and ask questions to clarify anything not understood in the readings or lectures;
- **Ability to critically discuss the material:** the student critically discusses the tutorial materials and contributes to class discussions in a way that assists the learning of others. This will be demonstrated through the ability to respond to questions, suggest counter-arguments and link readings and lecture materials to class activities, current events, and hypothetical scenarios;
- **Oral expression:** the student verbally expresses their ideas about the materials in a clear, coherent, and concise manner;
- **Engaging with other students:** the student engages with others in the class, displays respect for others' opinions and differences; actively listens, and provides constructive feedback;
- **Collaboration:** the student works collaboratively and productively in small groups, fosters discussion, shares opinions, and explores and resolves points of consensus and disagreement;
- **Demonstration of skills:** the student demonstrates legal skills taught in the unit, including statutory interpretation, problem solving, oral and written communication skills and general legal reasoning.

On successful completion you will be able to:

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critically analyse the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.

- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in maintaining international peace and security.

Pleadings and legal advice

Due: **Week 7**

Weighting: **45%**

Students are required to complete a written task comprising two parts: a draft pleading for an international dispute and preparation of a legal advice. Students will be asked to demonstrate their skills in preparing an application in an international dispute and providing legal advice to a client.

Instructions will be posted on iLearn during Week 4.

The pleadings and legal advice:

- must be no more than 2,500 words (excluding footnotes)
- will be assessed against the rubric posted on iLearn
- must comply with the Australian Guide to Legal Citation (4th ed)
- are to be submitted via Turnitin.

On successful completion you will be able to:

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.

Final Assessment

Due: **Week 13**

Weighting: **45%**

Students are required to submit a written research paper. The research paper requires high level independent legal research, critical analytical ability, and coherent legal writing and presentation skill. Students will be required to demonstrate original ideas that have been

developed from the course material and a wider survey of the literature.

A list of topics will be posted on the course iLearn page during Week 1 from which you are to select one topic for the research paper.

The submissions for the Research Papers:

- no more than 2,500 words (excluding footnotes). Substantive commentary is not to be included in footnotes. A bibliography is not required
- will be assessed against the rubric posted on iLearn
- must comply with the Australian Guide to Legal Citation (4th ed)
- are to be submitted via Turnitin.

On successful completion you will be able to:

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critically analyse the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
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Delivery and Resources

Technology Used

An iLearn page will be available for this unit and includes information vital for the successful completion of this unit. Internet access is therefore required to undertake this unit. Topical items will be posted on iLearn for discussion and engagement with the unit content.

The Research Paper and Pleadings/Legal Advice must be submitted via turnitin.

Delivery

Lectures on each of the 12 topics will be pre-recorded and available on iLearn (through Echo). The schedule of topics to be covered in the lectures is available on iLearn and a list is available below (unit schedule).

This Unit is delivered as a Block. There are no weekly tutorials. All students are required to attend one on-campus session (two days) on 17 and 18 September 2018. The on-campus session is compulsory.

Students who are unable to attend the on-campus session must apply for a special consideration. If that application is approved, alternative work will be set in lieu of on-campus attendance. Note that the on-campus session equates to 12 hours class time. Any work assigned in lieu of the on-campus session is estimated to take at least 12 hours to complete. It will also require a separate appointment with the Convenor to assess participation.

Required Text

There is no prescribed text for this unit. Readings are available via the Library website and can easily be accessed via multi search by typing in the Unit course code. Where students are required to only read extracts from the readings, the relevant pages or sections are indicated on iLearn.

Recommended Texts

The following texts will be referred to throughout the Unit:

- Y Tanaka, *The Peaceful Settlement of International Disputes* (Cambridge University Press, Cambridge, 2018)
- J.G Merrills, *International Dispute Settlement* (Cambridge University Press, Cambridge, 5th ed, 2011)
- C.Romano et al, *The Oxford Handbook of International Adjudication* (Oxford University Press, Oxford, 2014)
- J Collier and V Lowe, *The Settlement of Disputes in International Law: Institutions and Procedures* (Oxford University Press, Oxford, 1999) [A new edition is underway but not likely to be available for teaching this unit]
- Ruth Mackenzie, Cesare Romano, Yuval Shany, Phillipe Sands, *The Manual on International Courts and Tribunals* (Oxford University Press, Oxford, 2nd ed, 2010).

These texts have all been placed on Reserve at the Library.

Unit Schedule

A full Unit Schedule will be posted on iLearn.

1. History of international dispute settlement in international and proliferation of international courts and tribunals
2. Negotiation, mediation and conciliation
3. Individuals in international dispute settlement
4. Judges, advocates, participants

5. Jurisdiction and admissibility
6. Provisional measures
7. Intervention and third parties

Mid-Session break

8. Contentious proceedings
9. Interactions with national courts
10. Advisory opinions and other judicial functions
11. Remedies and reparations
12. Enforcement and compliance

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 \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central).

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](#) or if you are a Global MBA student contact 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) 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](#)

If you are a Global MBA student contact 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/.

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.

Students in this unit are expected to have access to internet sources to engage with learning and teaching in the unit and to prepare their assessment tasks.

Graduate Capabilities

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their

professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
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- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Appraise the effectiveness of different methods of international dispute settlements in maintaining international peace and security.

Assessment tasks

- Pleadings and legal advice
- Final Assessment

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
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- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
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- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in

maintaining international peace and security.

Assessment tasks

- Class participation
- Pleadings and legal advice
- Final Assessment

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critically analyse the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
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Assessment tasks

- Class participation
- Pleadings and legal advice
- Final Assessment

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or

practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critically analyse the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.
- Appraise the effectiveness of different methods of international dispute settlements in maintaining international peace and security.

Assessment tasks

- Class participation
- Pleadings and legal advice
- Final Assessment

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

Learning outcomes

- Identify and apply relevant legal principles in international dispute settlement to develop original solutions to current and emerging problems in international law.
- Formulate and communicate original legal arguments having regard to a range of international perspectives.

Assessment tasks

- Class participation
- Pleadings and legal advice
- Final Assessment

PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcomes

- Identify and evaluate the key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critically analyse the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions.
- Reflect on past and present international developments and critically analyse and interpret such developments within the context of international dispute settlement; consider their relevance to contemporary and future issues in international dispute settlement.
- Appraise the effectiveness of different methods of international dispute settlements in maintaining international peace and security.

Assessment tasks

- Class participation
- Pleadings and legal advice
- Final Assessment

Changes from Previous Offering

Unit delivered as a Block in 2018. Changes to assessment: In Class presentation removed; assessment adapted to incorporate drafting legal pleadings.