



LAWS518

Indigenous Peoples and the Law

S2 Day 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff

Unit Convenor

Francesca Dominello

francesca.dominello@mq.edu.au

Contact via francesca.dominello@mq.edu.au

6 First Walk, 619

Mon, 10-11am (teaching weeks or by appointment)

Credit points

3

Prerequisites

(24cp in LAW or LAWS units) or (39cp at 100 level or above including LAWS260) or (12cp in ABST units at 200 level)

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:

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 to evaluate the role of law reform in key areas affecting Indigenous Australians.

Demonstrate advanced written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.

Utilise independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

General Assessment Information

Class Participation and Attendance

Internal 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. Lectures commence in Week 1. Tutorials commence in Week 2.

Lectures will be delivered live and there are guest lectures scheduled in Weeks 7 and 8 which students will be expected to attend. Students are expected to attend a minimum of 10 tutorials. 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 has been absent for more than two tutorials due to special consideration, they should contact the unit convenor immediately and alternative arrangements may be made. In cases of unexplained absences the tutor may deduct marks for class participation at their discretion. (NB –'unexplained absence' does not include tutorials cancelled because of public holidays.)

Students will be given an interim class participation mark during the mid-semester break worth 5%, and a final class participation at the end of semester worth 10%.

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. 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.

Please note that attendance is compulsory for pedagogical reasons, and exemption is granted only in cases where a successful application for special consideration has been made.

Essays

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
<u>Class Participation</u>	15%	No	Ongoing
<u>Essay on Children</u>	25%	No	Monday 2 Sept, 9pm
<u>Essay on Land Rights</u>	30%	No	Monday 14 October, 9pm
<u>Essay on Unfinished Business</u>	30%	No	Wednesday 6 November, 9pm

Class Participation

Due: **Ongoing**

Weighting: **15%**

Class Participation: Preparation and understanding of prescribed materials. The ability to understand and respond in an oral communication context.

See the General Assessment Information section in this unit guide for instructions about attendance requirements.

The Special Consideration policy applies to Internal and External students.

Instructions on how class participation will be assessed will be available on iLearn.

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 to evaluate the role of law reform in key areas affecting Indigenous Australians.
- Demonstrate advanced written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.

Essay on Children

Due: **Monday 2 Sept, 9pm**

Weighting: **25%**

Students are to complete a short essay on a topic related to Aboriginal and Torres Strait Islander children and the law.

The topics will be available on iLearn at the end of Week 2.

Word length: 1000 words MAX excluding footnotes and bibliography.

Style: AGLC4.

Submission: Turnitin.

The Special Consideration policy applies.

See the General Assessment Information section in this unit guide for further administrative details for the essay.

Instructions on how the essay will be assessed will be available on iLearn.

On successful completion you will be able to:

- 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.
- Demonstrate advanced written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.
- Utilise independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

Essay on Land Rights

Due: **Monday 14 October, 9pm**

Weighting: **30%**

Students are to complete a short essay on a topic related to land rights and Aboriginal and Torres Strait Islander peoples.

The Topics will be made available on iLearn during the mid-semester break.

Word length: 1300 words MAX excluding footnotes and bibliography.

Style: AGLC4.

Submission: Turnitin.

The Special Consideration policy applies.

See the General Assessment Information section in this unit guide for further administrative details for this Essay.

Instructions on how the essay will be assessed will be available on iLearn.

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.
- Critically analyse the operation of Australian law and structure of government in continuing to impact on Indigenous Australians.
- Demonstrate advanced written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.
- Utilise independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

Essay on Unfinished Business

Due: **Wednesday 6 November, 9pm**

Weighting: **30%**

Students are to complete a short essay on a topic related to Unfinished Business and Aboriginal and Torres Strait Islander peoples.

The Topics will be made available on iLearn in Week 10.

Word length: 1300 words MAX excluding footnotes and bibliography.

Style: AGLC4.

Submission: Turnitin.

The Special Consideration policy applies.

See the General Assessment Information section in this unit guide for further administrative details for this Essay.

Instructions on how the essay will be assessed will be available on iLearn.

On successful completion you will be able to:

- 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 to evaluate the role of law reform in key areas affecting Indigenous Australians.
- Demonstrate advanced written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous

Australians.

- Utilise independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

Delivery and Resources

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

Lectures start in Week 1; Tutorials in Week 2. The OCS/Block is scheduled on 18 and 19 September. All students should refer to <https://timetables.mq.edu.au/2019/> 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, *Indigenous Legal Relations in Australia* (OUP, 2019, 2nd ed) available for purchase at the Macquarie University Co-op Bookshop.

Recommended text (but not compulsory for students to buy) is Heather McRae et al, *Indigenous Legal Issues: Commentary and Materials* (Lawbook Co, 2009, 4th ed).

All other information about the unit (additional reading, tutorial discussion questions etc) will be available on the iLearn page for the unit. Additional materials used in this unit are based on the materials developed by Ms Linda Telai, Unit Co-ordinator of Indigenous People of Australia and the Law, College of Law and Justice, Victoria University, Melbourne.

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 (In)Justice

Week 6: Indigenous Women and Criminal (In)Justice (Essay Due 2 Sept, 9pm)

Week 7: Land Rights

Mid-Semester Break

OCS 18 and 19 Sept

Week 8: Native title

Week 9: Cultural Heritage

Week 10: Racial Discrimination and the Law (Essay Due 14 Oct, 9pm)

Week 11: Indigenous Rights v The New Paternalism

Week 12: Unfinished Business

Week 13: No Lecture/Last Tutorial (Essay Due 6 Nov, 9pm)

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://stu>

dents.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.

Graduate Capabilities

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

- 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

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- Utilise independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

Assessment tasks

- Class Participation
- Essay on Children
- Essay on Land Rights
- Essay on Unfinished Business

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

- 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.
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Assessment tasks

- Class Participation
- Essay on Children
- Essay on Land Rights
- Essay on Unfinished Business

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

- 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.
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Assessment tasks

- Class Participation
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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

- Demonstrate advanced written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.
- Utilise independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

Assessment tasks

- Essay on Children
- Essay on Land Rights
- Essay on Unfinished Business

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

- Demonstrate advanced written and verbal communication skills in formulating arguments about the Australian legal and political system and their impact on Indigenous Australians.
- Utilise independent research skills in analysing the operation of the legal and political institutions of Australia as they impact on Indigenous Australians.

Assessment tasks

- Class Participation
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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

- 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.
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