



LAWS588

International Dispute Settlement

S2 Day 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff Convenor Paul Maluga paul.maluga@mq.edu.au Consultation by appointment
Credit points 3
Prerequisites
Corequisites LAWS510 or LAWS516 or LAWS519 or LAWS562 or LAWS569 or LAWS586 or LAWS587
Co-badged status This unit is co-taught with LAW888.
Unit description The intense interaction between different actors in the international system inevitably leads to opposing views on issues, as well as to conflict. This unit will consider traditional non-adversarial dispute settlement in the international system. It will then focus on how various international courts and tribunals resolve disputes in different areas of international law (such as trade, investment, human rights, and international criminal law). An ongoing question will be the effectiveness of these procedures, and the parties' compliance with the decisions of the different bodies.

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

Evaluate and critique 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 solutions to current and emerging problems in international law.

Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.

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

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>	20%	No	See MQ timetable
<u>Pleadings and legal advice</u>	40%	No	Week 7
<u>Final Assessment</u>	40%	No	Week 13

Class Participation

Due: **See MQ timetable**

Weighting: **20%**

Internal Students:

Class participation will be assessed on a weekly basis in your respective tutorials and will make up 20% of your overall mark.

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.

External Students:

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).

Both Internal and External Students:

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 key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

Pleadings and legal advice

Due: **Week 7**

Weighting: **40%**

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 2,000 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 key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

Final Assessment

Due: **Week 13**

Weighting: **40%**

Students will be required to respond to problem questions based on a factual scenario. It will cover material in the prescribed readings, lectures or tutorials.

The assignment is designed to be answered within a 4 to 6 hour window. The assignment is available over a 32 hour period to allow for obligations (e.g. work, family and other commitments) within that window. In line with the Faculty of Arts Late Assessment policy, **no late submissions will be accepted**.

The response to the problem questions:

- must be no more than 2,000 words (excluding footnotes)
- will be assessed against the rubric posted on iLearn
- is to be submitted via Turnitin.

On successful completion you will be able to:

- Identify 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 solutions to current and emerging problems in international law.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

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 Pleadings/Legal Advice and Final Assessment 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). The on-campus session is compulsory. Students should enrol in a class via the MQ timetable.

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)
- 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. The weekly schedule is as follows:

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
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 <https://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

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

- Evaluate and critique 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 solutions to current and emerging problems in international law.

Assessment task

- Class Participation

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

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

Assessment tasks

- Class Participation
- Pleadings and legal advice
- Final Assessment

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

- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

Assessment tasks

- Class Participation
- Pleadings and legal advice

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

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

Assessment tasks

- Class Participation
- Pleadings and legal advice
- Final Assessment

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

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.

- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

Assessment tasks

- Class Participation
- Pleadings and legal advice
- Final Assessment

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

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

Assessment tasks

- Class Participation
- Pleadings and legal advice
- Final Assessment

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 outcome

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

Assessment tasks

- Class Participation
- Pleadings and legal advice
- Final Assessment

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

- Identify key actors and institutions involved in international dispute settlement and the legal principles governing that activity.
- Evaluate and critique 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 solutions to current and emerging problems in international law.
- Reflect on past and present international developments, and analyse and interpret such developments within the context of international dispute settlement.
- Formulate and communicate different legal arguments having regard to a range of international perspectives.

Assessment tasks

- Class Participation
- Pleadings and legal advice
- Final Assessment

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

- Evaluate and critique the operation of international courts and tribunals and the actions of stakeholders in engaging (or not) with those institutions

Changes from Previous Offering

This unit was previously offered as a block unit. This is no longer available unless the students are external students.