



# LAWS579

## Refugees and Forced Migration

S2 Day 2019

*Macquarie Law School*

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## General Information

Unit convenor and teaching staff

Convenor and Lecturer

Daniel Ghezelbash

[daniel.ghezelbash@mq.edu.au](mailto:daniel.ghezelbash@mq.edu.au)

Contact via 98507042

6 First Walk, Rm 618

Tue, 12-1pm

Credit points

3

Prerequisites

24cp in LAW or LAWS units

Corequisites

Co-badged status

Unit description

There are more people forcibly displaced around the world today than at any other time in modern history. This unit examines the legal frameworks governing the rights of these persons. The focus will be on providing students with a practical and theoretical understanding of the growth and operation of refugee law as a specialist area of legal expertise. Students will develop a robust understanding of the international refugee law system, as well as its implementation and operation in Australia. This will involve an examination of the role of international organisations such as UNHCR, the mechanisms in place for refugee status determination and appeals in Australia and abroad, and the jurisprudence that has developed internationally and in Australia relating to the qualification and rights of asylum seekers, refugees and other persons in need of protection.

## 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:

Articulate the basic elements of the definition of a refugee in the UN Convention relating to the Status of Refugees

Describe and evaluate Australia's current refugee and border control policies, their

compatibility with international law, and their impact on the refugee policies of other countries.

Engage in original and critical reflection on the social and political dimensions of the refugee debate

Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad

Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## General Assessment Information

Details of the assessment tasks, due dates and detailed marking rubrics are available on iLearn. All written assessments are to be submitted electronically via Turnitin. Plagiarism detection software is used in this unit and the University's Academic Honesty Policy is strictly applied.

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

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#"><u>Research Proposal</u></a>	30%	No	Week 6, Friday 6 September, 5pm
<a href="#"><u>Research/Policy paper</u></a>	60%	No	Week 13, Friday 8 November, 5pm
<a href="#"><u>Class Participation</u></a>	10%	No	n/a

### Research Proposal

Due: **Week 6, Friday 6 September, 5pm**

Weighting: **30%**

This task will involve developing 1500 word proposal for a research paper or policy proposal. Students will be required to develop their own research question, in consultation with the tutors and/or convenor. This can focus on controversial doctrinal legal issues in the refugee context, the politics of refugee protection, or a combination of both.

The research proposal will set out and justify the research or policy question you intend to address, the proposed methodology, and a short literature review.

On successful completion you will be able to:

- Articulate the basic elements of the definition of a refugee in the UN Convention relating to the Status of Refugees
- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## Research/Policy paper

Due: **Week 13, Friday 8 November, 5pm**

Weighting: **60%**

3000 word Research or Policy Paper based on the Research Proposal submitted in Week 6.

On successful completion you will be able to:

- Articulate the basic elements of the definition of a refugee in the UN Convention relating to the Status of Refugees
- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## Class Participation

Due: **n/a**

Weighting: **10%**

Students will be assessed on how actively they engage in tutorial discussions, and the quality of their contributions.

On successful completion you will be able to:

- Articulate the basic elements of the definition of a refugee in the UN Convention relating to the Status of Refugees
- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## Delivery and Resources

There are more people forcibly displaced around the world today than at any other time in modern history. This unit adopts an interdisciplinary approach to understand and critically engage with the legal frameworks governing the rights of these persons. Students will develop a robust understanding of the international refugee law system, as well as its implementation and operation in Australia and abroad.

This will involve an examination of the elements of the refugee definition in the Convention on the Status of Refugees and other relevant protections under international law, mechanisms in place for refugee status determination and appeals, and the jurisprudence that has developed internationally and in Australia relating to the rights of asylum seekers, refugees and other persons in need of protection.

Refugee protection is one of the most controversial issues in Australian and international politics today. We will explore the historical and political climate in which international instruments and domestic policies were created, and the contemporary context in which they are implemented. The doctrinal and political understanding of the current state of refugee protection will lay the groundwork for a critical engagement with current practices and developing policy and law reform proposals aimed at enhancing refugee protection.

There is no prescribed textbook for the unit. Links to the weekly readings can be found on the ilearn page. The readings for the international law sections are drawn predominantly from James C Hathaway and Michelle Foster, *The Law of Refugee Status* (Cambridge University Press, 2nd ed, 2014), which is available electronically through the MQ library website.

### Internal Students

This unit adopts a blended learning approach. Each week's content will be delivered through a combination of a one hour live lecture (Tuesdays, 11am-12pm) and one hour of pre-recorded material published under the weekly headings in ilearn. The weekly one hour tutorials will be devoted to a guided discussion of the lecture materials and readings.

### External Students

External students will attend the intensive on campus session (OCS) instead of the weekly tutorials. This will take place on Friday 20 September and Saturday 21 September, from 9am - 4pm.

## **Unit Schedule**

### ***Part 1 - History, Politics and Key Concepts***

#### **Week 1 - The politics of refugee protection**

- Evolution of the international protection regime
- The global context – A system in crisis
- Australia's experience

#### **Week 2 - Legal and institutional frameworks**

- A right to seek asylum?
- Refugee Convention
- Human Rights treaty framework
- The role of UNHCR
- Implementation into domestic Australian law

### ***Part 2 - Who is a refugee?***

#### **Week 3 - The definition of a refugee I**

#### **Week 4 - The definition of a refugee II**

#### **Week 5 - Exclusion, cessation and protection elsewhere**

#### **Week 6 - Complementary protection**

### ***Part 3 - How states evade their obligations to refugees***

#### **Week 7 - Procedural: Streamlined RSD**

- The importance of process
- Requirements under international law
- Overview of RSD process in AU, with a focus on Fast-track Processes
- Examples of other fast-track (expedited) procedures around the world

#### **Week 8 - Detention, temporary protection, and return**

#### **Week 9 - Blocking access to asylum I**

- Carrier sanctions
- Airport liaison officers
- Interdiction and push-backs

#### **Week 10 - Blocking access to territory II**

- Third country processing
- Third country transfers

### **Part III - The search for durable solutions**

#### **Week 11 – Resettlement**

#### **Week 12 – Co-operation and responsibility sharing**

- Global Compacts
- Regional initiatives

#### **Week 13 – Enhancing refugee protection in Australia and abroad**

## **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](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

- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other



countries.

- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## **Assessment tasks**

- Research Proposal
- Research/Policy paper
- 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**

- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## **Assessment tasks**

- Research Proposal
- Research/Policy paper
- Class Participation

## 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

- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

### Assessment tasks

- Research Proposal
- Research/Policy paper
- Class Participation

## 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

- Articulate the basic elements of the definition of a refugee in the UN Convention relating to the Status of Refugees
- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad

- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## **Assessment tasks**

- Research Proposal
- Research/Policy paper
- Class Participation

## **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 and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## **Assessment tasks**

- Research Proposal
- Research/Policy paper
- Class Participation

## **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

- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## Assessment tasks

- Research Proposal
- Research/Policy paper
- Class Participation

## 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

- Engage in original and critical reflection on the social and political dimensions of the refugee debate
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## Assessment tasks

- Research Proposal
- Research/Policy paper
- Class Participation

## 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

- Articulate the basic elements of the definition of a refugee in the UN Convention relating to the Status of Refugees
- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad
- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

### Assessment tasks

- Research Proposal
- Research/Policy paper
- Class Participation

## 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 outcomes

- Describe and evaluate Australia's current refugee and border control policies, their compatibility with international law, and their impact on the refugee policies of other countries.
- Create policy and law reform proposals aimed at enhancing refugee protection in Australia and abroad

- Critically evaluate the strengths and shortcomings of the current international refugee protection regime

## **Assessment tasks**

- Research Proposal
- Research/Policy paper
- Class Participation