



LAW 853

Comparative Environmental Law

S2 Day 2014

Dept of Law

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General Information

Unit convenor and teaching staff

Unit Convenor

Paul Govind

paul.govind@mq.edu.au

Contact via paul.govind@mq.edu.au

Tutor

Mostafa Naser

mostafa.naser@mq.edu.au

Credit points

4

Prerequisites

Admission to MEnvLaw or PGCertEnvLaw or PGDipEnvLaw or MIntEnvLaw or PGCertIntEnvLaw or PGDipIntEnvLaw or MIntTrdeComLaw or PGCertIntTrdeComLaw or PGDipIntTrdeComLaw or MIntRel or MIntRelMIntTrdeComLaw or LLM in (Environmental Law or International Environmental Law) or 42cp in LAW units at 400 or 500 level or (admission to JD and 32cp in LAW units at 800 level)

Corequisites

Co-badged status

This unit will be co-taught with LAW 575 - the undergraduate version of this subject.

Unit description

This unit examines the different legal traditions in the world today and the role of comparative legal study in the context of environmental legal governance. Domestic environmental law in civil law and common law traditions will be explored as well as other legal traditions involving customary law and religious law. Environmental law in Asia, the European Union and the Pacific Region will be a particular focus, but the unit will also draw upon examples from Africa, North America and Latin America. The unit will cover culturally specific approaches to implementation of international environmental law in the domestic arena.

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:

Application of comparative legal method in the context of global environmental issues.
Understanding the role of NGOs, civil society movements, judges and lawyers in national, regional and global environmental governance.

Understanding the rights based approach of environmental governance from a comparative and multidisciplinary perspective.

Comparing and evaluating the effectiveness of legal response of different countries to the emerging environmental issues.

Engaging in debate on critical and complex environmental legal issues from a multidisciplinary perspective.

Enhancing research skills of analysing the effectiveness of environmental legal governance system using comparative law method.

Assessment Tasks

Name	Weighting	Due
<u>Class Participation</u>	20%	Cotinuuous
<u>Fundamental concepts test</u>	10%	22 August 2014
<u>Comparative Essay</u>	30%	19 September 2014
<u>Research Essay II</u>	40%	14 November 2014

Class Participation

Due: **Cotinuuous**

Weighting: **20%**

Students should ensure they have completed the required reading before each seminar, and be prepared to discuss this material critically in the seminar. Students will not be awarded participation marks just for attending class. Participation will be graded on the basis of students' participation evidencing their understanding of comparative perspective of environmental legal governance in different legal traditions and regions. Students' ability to analyse the effectiveness of different environmental legal systems using comparative law method will also be taken into account.

Class Participation marks for external students will be assessed during the course of the On Campus Session.

On successful completion you will be able to:

- Application of comparative legal method in the context of global environmental issues.
- Comparing and evaluating the effectiveness of legal response of different countries to

the emerging environmental issues.

Fundamental concepts test

Due: **22 August 2014**

Weighting: **10%**

This task that aims to assist the student's understanding of the comparative methodology and its relevance in legal analysis.

This is a written task that requires students to complete a collection of short answer questions.

It is to be submitted via Turnitin.

On successful completion you will be able to:

- Application of comparative legal method in the context of global environmental issues.

Comparative Essay

Due: **19 September 2014**

Weighting: **30%**

Students must submit a paper that compares the legal and policy approach to a particular environmental problem in Australia and one other country. The length is 2,000 words in total

Legal and policy approaches include *inter alia* relevant legislation; role of institutions; enforcement and compliance; contribution to a global environmental challenge.

Students are to select the international treaty regime but can request guidance from the Convenor.

Included as part of their response the student must justify the selection of the different nations that are the focus of the essay; explain the basis for comparison; illustrate how and why the comparison is useful in terms of better understanding the prospects and limitations of different domestic environmental regimes.

These factors are critical – an essay that lacks a useful basis for comparison will be poorly received.

On successful completion you will be able to:

- Application of comparative legal method in the context of global environmental issues.
- Comparing and evaluating the effectiveness of legal response of different countries to the emerging environmental issues.
- Engaging in debate on critical and complex environmental legal issues from a multidisciplinary perspective.

Research Essay II

Due: **14 November 2014**

Weighting: **40%**

The essay must take a comparative approach and must submit a compelling argument on the topic – a submission that merely describes an environmental issue does not constitute an essay.

The task will also assess research, analytical and other generic skills in accordance with the learning outcomes.

Word limit is 3,000 words.

On successful completion you will be able to:

- Application of comparative legal method in the context of global environmental issues.
- Understanding the role of NGOs, civil society movements, judges and lawyers in national, regional and global environmental governance.
- Understanding the rights based approach of environmental governance from a comparative and multidisciplinary perspective.
- Comparing and evaluating the effectiveness of legal response of different countries to the emerging environmental issues.
- Engaging in debate on critical and complex environmental legal issues from a multidisciplinary perspective.
- Enhancing research skills of analysing the effectiveness of environmental legal governance system using comparative law method.

Delivery and Resources

This course deals with **Comparative Environmental Law**. As such the course is dedicated to environmental law content taught through using **comparative methodology**. The objective is to understand the scope and evolution of national and international environmental law through the patterns of legislative, administrative and judicial decision making.

Some changes have been made to the course. There will be an upfront focus on comparative methodology that students will then be expected to carry through the course. These changes are reflected in the assessment tasks. The modules are ordered in a more systematic way than in the past focusing upon theory and concepts and followed by a collection of case studies. The selection of content for the modules reflects a more thematic approach that ensures more consistent coverage of key environmental issues.

This course will be taught through weekly seminars. The seminars will consist of a brief lecture followed by intensive discussion of the readings of the relevant module.

The consistent use of and reference to iLearn is absolutely essential. Students need to follow the course by completing the readings and exercises listed in the weekly reading list and seminar questions/discussion points [both of these are to be supplied as separate documents via the iLearn page]. **The materials will be uploaded onto the library e-reserve - please note there is not prescribed textbook for this subject.**

The on-campus sessions will be conducted as seminars – not lectures. They are designed to provide students with the opportunity for critical discussion of the law and students must come having read the course materials and ready to participate. The on-campus session is compulsory for all students and is assessed as set out below. You should anticipate spending an additional 8 hours per week on the subject engaged in reading, reflection and research and undertaking assessment tasks.

In terms of assignment submission, all written assessment work is to be submitted via Turnitin and marked using the Grademark platform. Turnitin is accessed via the iLearn page for this unit.

There are to be no hard copy, paper based submissions in this course.

No assignment submitted after the due date will be accepted unless the student has sought and received special consideration through the correct channels.

University regulations require that all classes, assignments and compulsory on campus sessions be satisfactorily attended and completed. Non-completion of any piece of work, non-attendance at a compulsory On-Campus Session (external students) without sufficient excuse will result in an F grade.

Unit Schedule

Module 1	Introduction to International and Comparative Environmental Law
Module 2	Comparative Law Methodology - Theory and Practice
Module 3	History of Environmental Law in different domestic legal systems - comparing common law, civil law, socialist legal systems and religious based legal systems
Module 4	Environmental Law in federalist and unitary/centralist politico-legal systems/Implementation of international environmental law in domestic legal systems
Module 5	Human Rights and the Environment
Module 6	Environmental law and development
Module 7	Environmental justice

Module 8	Legal and Judicial Activism for Protection of the Environment
Module 9	Legal Pluralism - Environmental law - Indigenous populations and Customary Law
Module 10	Regional Cooperation and the Environment - Case study of Africa
Module 11	Regional Organisations and Harmonisation—case study of the European Union
Module 12	Global case study - climate change - from international to the local level - a comparison
Module 13	Review and reflection on Comparative Environmental Law

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy http://mq.edu.au/policy/docs/grievance_management/policy.html

Disruption to Studies Policy http://www.mq.edu.au/policy/docs/disruption_studies/policy.html *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of 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/support/student_conduct/

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

IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

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

- Comparing and evaluating the effectiveness of legal response of different countries to the emerging environmental issues.
- Enhancing research skills of analysing the effectiveness of environmental legal governance system using comparative law method.

Assessment tasks

- Class Participation
- Fundamental concepts test
- Comparative Essay
- Research Essay II

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

- Application of comparative legal method in the context of global environmental issues.
- Understanding the role of NGOs, civil society movements, judges and lawyers in national, regional and global environmental governance.
- Understanding the rights based approach of environmental governance from a comparative and multidisciplinary perspective.
- Comparing and evaluating the effectiveness of legal response of different countries to the emerging environmental issues.
- Engaging in debate on critical and complex environmental legal issues from a multidisciplinary perspective.

Assessment task

- Research Essay II

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 outcome

- Application of comparative legal method in the context of global environmental issues.

Assessment tasks

- Comparative Essay
- Research Essay II

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

- Application of comparative legal method in the context of global environmental issues.
- Engaging in debate on critical and complex environmental legal issues from a multidisciplinary perspective.
- Enhancing research skills of analysing the effectiveness of environmental legal governance system using comparative law method.

Assessment tasks

- Class Participation
- Comparative Essay
- Research Essay II

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

- Understanding the role of NGOs, civil society movements, judges and lawyers in national, regional and global environmental governance.
- Understanding the rights based approach of environmental governance from a comparative and multidisciplinary perspective.
- Engaging in debate on critical and complex environmental legal issues from a multidisciplinary perspective.

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

- Application of comparative legal method in the context of global environmental issues.
- Understanding the rights based approach of environmental governance from a comparative and multidisciplinary perspective.