



LAW 575

Advanced Topics in Environmental Law

S2 External 2014

Dept of Law

Contents

| | |
|---|----|
| <u>General Information</u> | 2 |
| <u>Learning Outcomes</u> | 2 |
| <u>Assessment Tasks</u> | 3 |
| <u>Delivery and Resources</u> | 5 |
| <u>Unit Schedule</u> | 6 |
| <u>Policies and Procedures</u> | 8 |
| <u>Graduate Capabilities</u> | 9 |
| <u>Extensions and Special Consideration</u> | 12 |
| <u>Technology used</u> | 14 |
| <u>Changes since First Published</u> | 14 |

Disclaimer

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

General Information

Unit convenor and teaching staff

Madeleine Hartley

madeleine.hartley@mq.edu.au

Paul Govind

paul.govind@mq.edu.au

Credit points

3

Prerequisites

(6cp in LAW or LAWS units at 300 level) or (39cp including ENV267)

Corequisites

Co-badged status

This unit will be taught concurrently with the post graduate version of the subject - LAW 853.

Unit description

This unit examines specialised topics in environmental law, rotating on a yearly basis. Some of the topics covered include biodiversity and biotechnology law, environmental litigation and mediation, Indigenous peoples and resource management, and water and marine biodiversity law. Students will be advised as to the content of the unit each year.

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 the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.

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% | Continuous |
| <u>Fundamental concepts test</u> | 10% | 22 August 2014 |
| <u>Essay I</u> | 30% | 19 September 2014 |
| <u>Major Essay</u> | 40% | 14 November 2014 |

Class participation

Due: **Continuous**

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 the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.
- 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 is a very straightforward task that aims to test student's understanding of the basic and fundamental concepts of \ comparative methodology with a particular focus upon the environmental context.

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 the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.

Essay I

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 the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.
- 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.

Major Essay

Due: **14 November 2014**

Weighting: **40%**

This task requires students to submit a research essay in response to a set question. The length is to 2,500 words (excluding footnotes and bibliography).

The question shall be released in due course.

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.

On successful completion you will be able to:

- Application of the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.
- 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.

When a student suffers a disruption to study which is 'serious and unavoidable' they may apply for special consideration (**see below 'Extensions and Special Consideration'**). In order to do so the student must meet the criteria under the Macquarie University "Disruption to Studies" policy and be approved by the Unit Convenor. Applications are made online at ask.mq.edu.au. Outcomes for recognised serious and unavoidable disruptions to studies are as set out in the University schedule - http://www.mq.edu.au/policy/docs/disruption_studies/schedule_outcomes.html

When a disruption to study is not serious or unavoidable, the approach to special consideration and the impact on your assessment will be as is set out in Box 2 under '**Extensions and Special Consideration'** below.

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

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 outcome

- Understanding the role of NGOs, civil society movements, judges and lawyers in national, regional and global environmental governance.

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

- 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
- Essay I
- Major Essay

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

- Application of the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.
- 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 tasks

- Class participation
- Essay I
- Major Essay

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

- Application of the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.
- Comparing and evaluating the effectiveness of legal response of different countries to the emerging environmental issues.

Assessment tasks

- Essay I
- Major Essay

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

- Understanding the role of NGOs, civil society movements, judges and lawyers in national, regional and global environmental governance.
- 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 task

- Major Essay

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

- Application of the skills of comparative legal methodology to the environmental legal governance systems of different legal traditions and countries.
- 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

- Essay I
- Major Essay

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 outcome

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

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

- 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.

Extensions and Special Consideration

Disruptions to Study and Special Consideration

Unit Convenors must grant appropriate Special Consideration in all cases where the University has found that a disruption is *serious and unavoidable*. The schedule for disruptions to study specifies what this 'special consideration' is in relation to the type of assessment that has been disrupted.

1. When the disruption has been found to be 'serious and unavoidable':

Box 1

| | ASSESSMENT | RESULT OF DISRUPTION | SPECIAL CONSIDERATION |
|----|---|---|--|
| 1. | Marked Attendance: lecture, tutorial, on campus session, field trip, practicum | Absence | Waive attendance requirement |
| 1. | Graded Participation: tutorial, class, lecture | Absence | Provision of additional assessment task |
| 1. | In Class Assessment: tutorial, class, lecture | Absence | Provision of additional assessment task |
| 1. | Final Examination | Absence | Provision of additional assessment task; supplementary exam |
| 1. | Final Examination | Examination performance affected | Provision of additional assessment task; supplementary exam |
| 1. | Final Examination | Preparation affected | Provision of additional assessment task; supplementary exam |
| 1. | Assessment Task (other than final examination tutorial, class test, lecture, examination, other assessment task) | Preparation affected | Provision of additional assessment task |
| 1. | Assessment (other than final exam) Result of disruption: | Late Submission | Extension of time to complete an assessment task; provision of an additional assessment task |
| 1. | Assessment (other than final exam) | Ongoing impact on performance | Extension of time to complete an assessment task; provision of an additional assessment task; recommendation to withdraw. |

1. In cases where a disruption is found not to be *serious and unavoidable*, a Unit Convenor may still exercise discretion in granting Special Consideration. **The conditions and processes that apply to the granting of this discretionary Special Consideration are specified below** in accordance with the *Disruption to Studies Outcomes Schedule* to this Policy. Note the disruption to studies outcomes schedule provides the following:

Box 2

| | ASSESSMENT | RESULT OF DISRUPTION | SPECIAL CONSIDERATION |
|--|------------|----------------------|-----------------------|
|--|------------|----------------------|-----------------------|

| | | | |
|----|---|-----------------------------|---|
| 1. | Marked Attendance and graded participation (20%): lecture, tutorial, on campus session, field trip, practicum | Absence | As class participation is worth 20% and must be fulfilled at the OCS, 5% of the mark will be lost for any missed day. |
| 1. | Fundamental concepts test (10%) | Absence | Penalty of 10% per day for every day of late submission |
| 1. | Essay 1 (30%) (other than final examination tutorial, class test, lecture, examination, other assessment task) | Preparation affected | Penalty of 10% per day for every day of late submission |
| 1. | Assessment – Final Research Essay (40%) (other than final exam) | Late Submission | It is Law School Policy to grade any late submissions where special consideration does not apply at zero. |

Failure to Submit Work or Attend Classes

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

Technology used

This unit will rely heavily upon the use of the iLearn platform. Students must engage with the iLearn page regularly for information about the unit, assessment tasks, participation etc.

Changes since First Published

| Date | Description |
|------------|--|
| 03/08/2014 | The assessment dates have changed according to the 2014 academic year and a full description of potential penalties for late submission of work has been included. |