



LAW 853

Comparative Environmental Law

S1 Block 2016

Dept of Law

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General Information

Unit convenor and teaching staff

Convenor

Sarah Waddell

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Contact via TBC

TBC

TBC

Sarah Waddell

sarah.waddell@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 or GradDipIntRel or MPPP or GradDipPP or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 32cp in LAW or LAWS units at 800 level)

Corequisites

Co-badged status

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:

1. Apply comparative legal theory and method in the context of global environmental issues.
2. Critically analyze legal policy options to support environmental sustainability.
3. Critically evaluate the effectiveness of the legal response of different countries to global environmental issues.
4. Reflect on the roles of NGOs, civil society movements, legislators, judges and lawyers in environmental governance.
5. Gain an advanced understanding the rights-based approach to environmental governance from a comparative perspective.
6. Apply independent research skills in analyzing and interpreting the effectiveness of environmental legal governance systems using a comparative law method.

Assessment Tasks

Name	Weighting	Due
<u>Class Participation</u>	20%	Continuous
<u>Fundamental concepts test</u>	20%	8 April 2016
<u>Synopsis for Research Essay</u>	10%	29 April 2016
<u>Research Essay</u>	50%	17 June 2106

Class Participation

Due: **Continuous**

Weighting: **20%**

Students should ensure they have completed the required reading for the first six modules prior to the three-day intensive on-campus session and be prepared to discuss this material critically. Students will not be awarded participation marks just for attending class. Participation will be graded on the basis of each student's participation evidencing their understanding of comparative perspective of environmental legal governance in different legal traditions and regions. A student's ability to analyse the effectiveness of different environmental legal systems using comparative law method will also be taken into account. Depending on the number of students in the class, those students who wish to enhance their assessment of class participation may be given the opportunity to give a brief presentation to the class on an agreed topic.

On successful completion you will be able to:

- 2. Critically analyze legal policy options to support environmental sustainability.
- 4. Reflect on the roles of NGOs, civil society movements, legislators, judges and lawyers in environmental governance.
- 5. Gain an advanced understanding the rights-based approach to environmental governance from a comparative perspective.

Fundamental concepts test

Due: **8 April 2016**

Weighting: **20%**

This task that aims to assist the student's understanding of the comparative methodology in Environmental Law and its relevance in legal analysis and to provide feedback to understanding gained from accessing the lecture material from the first six modules. This is a written task that requires students to complete a collection of short answer questions. It is to be submitted via Turnitin prior to the on-campus sessions.

On successful completion you will be able to:

- 1. Apply comparative legal theory and method in the context of global environmental issues.

Synopsis for Research Essay

Due: **29 April 2016**

Weighting: **10%**

Students must submit a 500 word synopsis for their proposed research essay providing the working topic, the research question, the methodology and literature review, and the value of the research.

On successful completion you will be able to:

- 1. Apply comparative legal theory and method in the context of global environmental issues.
- 2. Critically analyze legal policy options to support environmental sustainability.
- 3. Critically evaluate the effectiveness of the legal response of different countries to global environmental issues.
- 5. Gain an advanced understanding the rights-based approach to environmental governance from a comparative perspective.
- 6. Apply independent research skills in analyzing and interpreting the effectiveness of

environmental legal governance systems using a comparative law method.

Research Essay

Due: 17 June 2106

Weighting: 50%

Students must submit an essay that presents independent research comparing the legal and policy approaches available to overcoming a particular environmental problem that has been recognized as having international importance. A comparison will be made between at least two countries one of which may be Australia.

Legal and policy approaches include *inter alia*: choice of policy tools; provisions within relevant legislation; the role of institutions including the courts; and enforcement and compliance.

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

Included as part of their response, the student must justify the selection of the countries that are the focus of the research essay; explain the basis for comparison; identify any obstacles that arise in making comparisons; illustrate how and why the comparison is useful in terms of better understanding of the prospects and limitations of legal approach adopted in each country; and lessons learned for effective environmental governance.

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

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

Assessment will be based on the extent of research; demonstration of analytical skills; clarity of argument; structure and style of writing; and other generic skills in accordance with the learning outcomes.

Word limit is 5,000 words. Word limits will be strictly applied and work above the word limit will not be marked. The word limit will not include footnotes providing references but will include explanatory footnotes.

On successful completion you will be able to:

- 1. Apply comparative legal theory and method in the context of global environmental issues.
- 2. Critically analyze legal policy options to support environmental sustainability.

- 3. Critically evaluate the effectiveness of the legal response of different countries to global environmental issues.
- 5. Gain an advanced understanding the rights-based approach to environmental governance from a comparative perspective.
- 6. Apply independent research skills in analyzing and interpreting the effectiveness of environmental legal governance systems using a comparative law method.

Delivery and Resources

This course is on **Comparative Environmental Law** and as such the course is dedicated to environmental law content taught through using **comparative methodology**. The objective is to develop critical skills in assessing options that are available in meeting internationally agreed environmental protection goals. This will be done through understanding the scope and evolution of national and international environmental law, analysis of options in choice of legal policy tools; critical evaluation of legislative frameworks, as well as analysis of judicial decision making.

There will be an upfront focus on comparative methodology and environmental law policy tools and approaches that students will then be expected to carry through the course. This is reflected in the assessment tasks. The earlier modules will cover theory and concepts and the last five modules will focus on particularly pressing areas for development of environmental law allowing for more in depth case studies namely pollution control, protection of biodiversity, management of water resources and mitigation of greenhouse gas emissions.

The course will be taught through recorded lectures complemented by on-campus teaching through a three-day intensive series of seminars (six hours each day). The first two days will consist of brief lectures picking up the key points from each of the modules covered to date followed by discussion of the readings. There will be an opportunity to introduce the content that will arise in modules after the on-campus teaching although students will not be expected to have read the modules for these seminars. The face-to-face contact during the on-campus teaching will provide an opportunity for students to discuss their research topic with their teacher.

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. These will be supplied as separate documents via the iLearn page.

The materials will be uploaded onto the library e-reserve - please note there is no 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.

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

New Assessment Policy in effect from Session 2 2016 http://mq.edu.au/policy/docs/assessment/policy_2016.html. For more information visit http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

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

Complaint Management Procedure for Students and Members of the Public http://www.mq.edu.au/policy/docs/complaint_management/procedure.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/

Results

Results shown in *iLearn*, 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.

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.

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. Plagiarism detection software is used in this unit.

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

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via

ask.mq.edu.au and should be accompanied by supporting documentation. Students should refer to the [Disruption to Studies policy](#) for complete details of the policy and a description of the supporting documentation required.

The expected method of citation is known as the Australian Guide to Legal Citation Third Edition (AGLC). Students must be familiar with this guide and apply the citation methodology. It is available to be downloaded at http://law.unimelb.edu.au/__data/assets/pdf_file/0007/1586203/FinalOnlinePDF-2012Reprint.pdf

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://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

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

- 3. Critically evaluate the effectiveness of the legal response of different countries to global environmental issues.
- 4. Reflect on the roles of NGOs, civil society movements, legislators, judges and lawyers in environmental governance.
- 6. Apply independent research skills in analyzing and interpreting the effectiveness of environmental legal governance systems using a comparative law method.

Assessment task

- Research Essay

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

- 1. Apply comparative legal theory and method in the context of global environmental issues.
- 2. Critically analyze legal policy options to support environmental sustainability.
- 3. Critically evaluate the effectiveness of the legal response of different countries to global environmental issues.
- 5. Gain an advanced understanding the rights-based approach to environmental governance from a comparative perspective.
- 6. Apply independent research skills in analyzing and interpreting the effectiveness of environmental legal governance systems using a comparative law method.

Assessment tasks

- Class Participation
- Fundamental concepts test
- Synopsis for Research Essay
- Research Essay

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

- 1. Apply comparative legal theory and method in the context of global environmental issues.
- 2. Critically analyze legal policy options to support environmental sustainability.
- 3. Critically evaluate the effectiveness of the legal response of different countries to global environmental issues.
- 5. Gain an advanced understanding the rights-based approach to environmental governance from a comparative perspective.
- 6. Apply independent research skills in analyzing and interpreting the effectiveness of environmental legal governance systems using a comparative law method.

Assessment tasks

- Fundamental concepts test
- Synopsis for Research Essay
- Research Essay

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 outcomes

- 1. Apply comparative legal theory and method in the context of global environmental issues.
- 2. Critically analyze legal policy options to support environmental sustainability.
- 6. Apply independent research skills in analyzing and interpreting the effectiveness of environmental legal governance systems using a comparative law method.

Assessment tasks

- Synopsis for Research Essay
- Research Essay

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

- 3. Critically evaluate the effectiveness of the legal response of different countries to global environmental issues.
- 6. Apply independent research skills in analyzing and interpreting the effectiveness of environmental legal governance systems using a comparative law method.

Assessment tasks

- Class Participation
- Synopsis for Research Essay
- Research Essay

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

- 2. Critically analyze legal policy options to support environmental sustainability.
- 4. Reflect on the roles of NGOs, civil society movements, legislators, judges and lawyers in environmental governance.
- 5. Gain an advanced understanding the rights-based approach to environmental governance from a comparative perspective.

Assessment task

- Class Participation