



# LAWS569

## International Environmental Law

S2 Day 2018

*Dept of Law*

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#### **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

Unit Convenor

Paul Govind

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Credit points

3

Prerequisites

(24cp in LAW or LAWS units including LAWS259) or (39cp at 100 level or above including LAWS259)

Corequisites

Co-badged status

Unit description

The unit begins with an introduction to International Law and the evolution of international environmental law in the context of the sustainable development debate. The focus is on the response of global and regional legal regimes to changing scientific knowledge and public pressure for urgent cooperative action to address transboundary and global environmental problems. Particular issues explored include: ozone depletion; climate change; loss of biodiversity; trade and environment; access to genetic resources and biotechnology; and human rights and the environment.

## 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:

Demonstrate a thorough understanding of the basic functions and overarching principles of international environmental law including sustainable development; differentiated responsibility and global cooperation;

Recognise and recall the key institutions and actors involved in international environmental law, understand their respective roles and the internal and external factors that influence

Critically analyze the application and operation of international environmental law in key areas relating to biodiversity and wildlife, air and atmosphere, water and marine environmental law, waste and pollution, cultural and natural heritage and habitats; Appraise the benefits and challenges of the treaty based approach to international environmental law and the role of customary law, jus cogens and erga omnes; Construct and evaluate arguments that survey the effectiveness of international environmental law having regard to the purpose of enforcement and compliance and consideration given to the issue of fragmentation; Produce recommendations for law reform and/or further research needed to address cross cutting issues taking into account the perspectives of various actors including ethical considerations. Propose where international environmental law should develop in the future having regard to the objectives of sustainable development. Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument

## General Assessment Information

General Assessment Information:

**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.**

Detailed marking rubrics will be made available on iLearn.

All assessments that receive a FAIL grade are double marked.

All assessments in the Unit are to be submitted electronically. Plagiarism detection software is used in this Unit.

Where there is a word limit no work over the limit will be read by the marker.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Research essay</u>	40%	No	24/9/2018
<u>Final Assessment</u>	40%	No	9/11/2018

Name	Weighting	Hurdle	Due
<u>Class Participation</u>	20%	No	Ongoing

## Research essay

Due: **24/9/2018**

Weighting: **40%**

All students must answer a set essay question utilising the course readings as set out in this Unit Guide and additional independent research. The question will be designed to ensure that students understand and can explain key concepts and the foundation of international environmental law in relation to discrete areas of environmental regulation.

The question(s) will be provided via the iLearn page.

Essays must analyse issues relevant issues critically. Students must display independent research in accordance with the 500 level status of this unit. The answers should be fully referenced according to the Australian Guide to Legal Citation.

[Word Length maximum 2500 words, excluding footnotes and bibliography]

On successful completion you will be able to:

- Demonstrate a thorough understanding of the basic functions and overarching principles of international environmental law including sustainable development; differentiated responsibility and global cooperation;
- Recognise and recall the key institutions and actors involved in international environmental law, understand their respective roles and the internal and external factors that influence
- Critically analyze the application and operation of international environmental law in key areas relating to biodiversity and wildlife, air and atmosphere, water and marine environmental law, waste and pollution, cultural and natural heritage and habitats;
- Appraise the benefits and challenges of the treaty based approach to international environmental law and the role of customary law, jus cogens and erga omnes;
- Propose where international environmental law should develop in the future having regard to the objectives of sustainable development.

## Final Assessment

Due: **9/11/2018**

Weighting: **40%**

An assessment task involving hypothetical scenarios and giving appropriate legal advice testing

practical application of law to facts will be released via the iLearn page. Further details will be provided during the course of the semester.

This is a timed assessment and no late submissions will be accepted.

The question is released November 7 at 9am.

The task is designed to be completed within two days.

This task (like all assessment tasks) is to be submitted via turnitin through iLearn.

On successful completion you will be able to:

- Demonstrate a thorough understanding of the basic functions and overarching principles of international environmental law including sustainable development; differentiated responsibility and global cooperation;
- Recognise and recall the key institutions and actors involved in international environmental law, understand their respective roles and the internal and external factors that influence
- Appraise the benefits and challenges of the treaty based approach to international environmental law and the role of customary law, jus cogens and erga omnes;
- Construct and evaluate arguments that survey the effectiveness of international environmental law having regard to the purpose of enforcement and compliance and consideration given to the issue of fragmentation;
- Produce recommendations for law reform and/or further research needed to address cross cutting issues taking into account the perspectives of various actors including ethical considerations.

## Class Participation

Due: **Ongoing**

Weighting: **20%**

Assessment for this unit includes class participation AND online participation. **For external students this is assessed during the compulsory OCS session - please consult the timetable for dates and location.**

### Class Participation

Students should ensure they have completed the required reading for that week before each class, and be prepared to discuss this material in the tutorial session. Students will not be awarded participation marks just for attending class. Assessment is based on the following:

- The level of preparedness for each seminar/on campus session gauged by your responses to questions and answers and opinions offered throughout each class
- The level of analysis you display in class

- Your ability to answer questions put directly to you in class
- Your ability to make an educated and legally feasible argument in class
- The way in which you engage in a constructive way with other students and the convenor/tutor in the class
- The quality NOT quantity of your work in class

Please note that the onus to participate in class is on you not on the convenor/tutor. In other words, it is not the job of the convenor/tutor to engage you in discussion so that you may avail yourself of the class participation assessment.

### Online Participation

Starting in Week 3 a forum will be open each week for a period of two weeks.

Each forum will be based upon a media article selected and posted by the convenor that focuses upon an issue relevant to environmental planning law.

Students are to post a reflective response [300 words] to topics/issues raised in the article. Your reflections should draw on your past knowledge and experience, your new knowledge (from the textbook, readings and lectures) and your conclusions about any changes in your attitudes or future practice that will be based on this experience. Further guidance on how to draft a reflective response will be provided through the iLearn page for the unit.

You need to complete a forum posting that meets the relevant rubric (made available on iLearn) in at least 2 of the 4 forums over the session in order to be eligible to submit and receive a grade for your Assessment Task.

Students may post on as many forums as they like through the session and nominate the 2 postings of their preference for the purposes of assessment.

Once you have posted your own reflection, you will be able to see the questions and answers of your fellow seminar colleagues. You must respond also respond to a posting by a colleague in order to receive a mark for the task.

On successful completion you will be able to:

- Demonstrate a thorough understanding of the basic functions and overarching principles of international environmental law including sustainable development; differentiated responsibility and global cooperation;
- Recognise and recall the key institutions and actors involved in international environmental law, understand their respective roles and the internal and external factors that influence
- Critically analyze the application and operation of international environmental law in key areas relating to biodiversity and wildlife, air and atmosphere, water and marine

- environmental law, waste and pollution, cultural and natural heritage and habitats;
- Construct and evaluate arguments that survey the effectiveness of international environmental law having regard to the purpose of enforcement and compliance and consideration given to the issue of fragmentation;
  - Produce recommendations for law reform and/or further research needed to address cross cutting issues taking into account the perspectives of various actors including ethical considerations.
  - Propose where international environmental law should develop in the future having regard to the objectives of sustainable development.
  - Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument

## Delivery and Resources

### REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

#### Prescribed Textbook

Philippe Sands and Jacqueline Peel (et al) *Principles of Environmental Law* (Fourth edition) (Cambridge University Press, 2018) ISBN: 978-1-108-43112-5

**Recommended Additional Texts** If you have not done international law before it may be useful to have access to a basic international law text, such as: Dixon, M, *Textbook on International Law*, London: Blackstone Press Ltd, 6th ed 2007; OR Shaw, M N, *International Law*, Cambridge University Press, 6th ed 2008; OR Triggs, G., *International Law: Contemporary Principles and Practices*, LexisNexis Australia, 2nd ed, 2011.

### UNIT WEBPAGE AND TECHNOLOGY USED AND REQUIRED

The unit will be taught as both an External unit and as an Internal unit. Attendance at the On Campus Session (OCS) is **compulsory**. **If you cannot attend the OCS then you are advised to not enrol in the course. If you refer to the assessment section you will see that class participation is assessed during the OCS.**

#### Workload

The workload in a 3cp undergraduate unit and a 4cp postgraduate unit is equivalent to 150 hours. A student should devote ten hours of study per week to the unit (inclusive of listening to lectures, required reading, tutorials and assessment preparation.) However, this is a guide only and each student should assess the hours required based on his/her own specific needs. Note that students are expected to work on private study, assignments completion, etc, in the two-week mid-semester break.

#### Delivery

This unit heavily utilizes iLearn for all communication purposes. Announcements, lecture recordings, assessments etc. all operate upon the iLearn platform.

It is therefore vital that students familiarize themselves with the iLearn platform and its operations if they haven't done so previously.

Students should regularly check the unit web page on iLearn to keep up with information for students entered by the Unit Convenor. There may be information placed on the web page at short notice concerning attendance, cancelled or postponed classes and relevant assessment items and dates. Attending on the right dates is your responsibility and mistakes with attendance may result in your failing of the unit.

Further, iLearn is utilised for the purposes of discussion forums, both teacher led and those that are exclusively for the use of students. It is highly recommended that students keep up to date with forum discussion as it features topical news items relevant to the course etc.

## **CLASSES**

There is a **two hour lecture** and **one hour tutorial** each week unless specified in the schedule. Please note that **classes begin in Week 1 of the semester**.

The tutorials will discuss the topics covered in the lecture from the previous week, e.g. the tutorials in week 2 will cover the topics covered in the lecture from week 1.

All lectures are recorded. Recordings can be uploaded from the iLearn page.

Each weekly tutorial discussion will be based upon the listed questions for that week. Students are expected to attend each tutorial having considered their answers and be prepared for discussion.

All assessment tasks are to be completed.

## **Unit Schedule**

### Week 1

Lecture - Global environmental problems and the IEL response

Tutorial - Introduction/Overview of course

### Week 2

Lecture - IEL and environmental justice

Tutorial - Global environmental problems and the IEL response

### Week 3

Lecture - International Actors in IEL and Law-making

Tutorial - IEL and environmental justice

### Week 4

Lecture - IEL principles and making IEL work

Tutorial - International Actors in IEL and Law-making

### Week 5



Lecture - Air and Atmosphere

Tutorial - IEL principles and making IEL work

### Week 6

Lecture - Biodiversity and wildlife/Habitat Protection

Tutorial - Air and Atmosphere

### Week 7

Lecture - Marine Environmental Law: UNCLOS

Tutorial - Biodiversity and wildlife/Habitat Protection

### Week 8

Lecture - International Freshwater and Watercourse Law

Tutorial - Marine Environmental Law: UNCLOS

### Week 9

Lecture - International regulation of waste and chemicals

Tutorial - International Freshwater and Watercourse Law

### Week 10

Lecture – Compliance and Dispute Resolution in IEL

Tutorial - International regulation of waste and chemicals

### Week 11

Lecture - Human rights and collective Indigenous rights

Tutorial - Compliance and Dispute Resolution in IEL

### Week 12

Lecture - Cross cutting issues/Revision

Tutorial - Human rights and collective Indigenous rights/ Cross cutting issues/Revision

### Week 13

*Submission of final assessment*

Lecture – Optional

Tutorial – Optional

## **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>). 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](#) (<http://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 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](http://ask.mq.edu.au).

### Macquarie Law School Assessment Policy

**Word limits in Macquarie Law School assessments are strictly applied. The word limit does not include footnotes or bibliographies where they are required.**

**Unless explicitly indicated otherwise, referencing must comply with the current version of the *Australian Guide to Legal Citation***

**In the absence of a successful application for special consideration, any assessment task submitted after its published deadline will not be graded and receive a mark of zero.**

**Students are expected to attend all tutorials. A student must attend at least 80% attendance rule to meet the learning outcomes of the unit.**

## 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)

## 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

- Critically analyze the application and operation of international environmental law in key areas relating to biodiversity and wildlife, air and atmosphere, water and marine environmental law, waste and pollution, cultural and natural heritage and habitats;
- Appraise the benefits and challenges of the treaty based approach to international environmental law and the role of customary law, jus cogens and erga omnes;

- Produce recommendations for law reform and/or further research needed to address cross cutting issues taking into account the perspectives of various actors including ethical considerations.
- Propose where international environmental law should develop in the future having regard to the objectives of sustainable development.

### **Assessment task**

- Research essay

## 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 outcome**

- Critically analyze the application and operation of international environmental law in key areas relating to biodiversity and wildlife, air and atmosphere, water and marine environmental law, waste and pollution, cultural and natural heritage and habitats;

### **Assessment task**

- 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 outcome**

- Propose where international environmental law should develop in the future having regard to the objectives of sustainable development.

## 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**

- Appraise the benefits and challenges of the treaty based approach to international environmental law and the role of customary law, jus cogens and erga omnes;
- Construct and evaluate arguments that survey the effectiveness of international environmental law having regard to the purpose of enforcement and compliance and consideration given to the issue of fragmentation;
- Produce recommendations for law reform and/or further research needed to address cross cutting issues taking into account the perspectives of various actors including ethical considerations.
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument

## **Assessment tasks**

- Research essay
- Final Assessment
- 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**

- Appraise the benefits and challenges of the treaty based approach to international environmental law and the role of customary law, jus cogens and erga omnes;
- Construct and evaluate arguments that survey the effectiveness of international environmental law having regard to the purpose of enforcement and compliance and consideration given to the issue of fragmentation;
- Produce recommendations for law reform and/or further research needed to address cross cutting issues taking into account the perspectives of various actors including

ethical considerations.

- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument

## Assessment tasks

- Research essay
- Final Assessment
- 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

- Demonstrate a thorough understanding of the basic functions and overarching principles of international environmental law including sustainable development; differentiated responsibility and global cooperation;
- Recognise and recall the key institutions and actors involved in international environmental law, understand their respective roles and the internal and external factors that influence
- Construct and evaluate arguments that survey the effectiveness of international environmental law having regard to the purpose of enforcement and compliance and consideration given to the issue of fragmentation;
- Produce recommendations for law reform and/or further research needed to address cross cutting issues taking into account the perspectives of various actors including ethical considerations.

## Assessment task

- 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 outcomes**

- Construct and evaluate arguments that survey the effectiveness of international environmental law having regard to the purpose of enforcement and compliance and consideration given to the issue of fragmentation;
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument

## **Assessment tasks**

- Research essay
- Final Assessment
- 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**

- Demonstrate a thorough understanding of the basic functions and overarching principles of international environmental law including sustainable development; differentiated responsibility and global cooperation;
- Recognise and recall the key institutions and actors involved in international environmental law, understand their respective roles and the internal and external factors that influence
- Critically analyze the application and operation of international environmental law in key areas relating to biodiversity and wildlife, air and atmosphere, water and marine environmental law, waste and pollution, cultural and natural heritage and habitats;
- Appraise the benefits and challenges of the treaty based approach to international environmental law and the role of customary law, jus cogens and erga omnes;
- Propose where international environmental law should develop in the future having regard to the objectives of sustainable development.

## 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

- Demonstrate a thorough understanding of the basic functions and overarching principles of international environmental law including sustainable development; differentiated responsibility and global cooperation;
- Recognise and recall the key institutions and actors involved in international environmental law, understand their respective roles and the internal and external factors that influence
- Propose where international environmental law should develop in the future having regard to the objectives of sustainable development.

### Assessment task

- Class Participation

## Changes from Previous Offering

The prescribed textbook has changed from 2017 (please see the Delivery and Resources Tab).

The assessment scheme has changed through the addition of online participation forums as detailed under the Assessment Tasks Tab.