



LAW 860

International Environmental Law

S2 External 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

4

Prerequisites

Admission to MEnv or MEnvLaw or MEnvMgt or MIntEnvLaw or MIntTrdeComLaw or MIntRel or MIntRelMIntTrdeComLaw or MDevCult or LLM or MIntLawGovPP or MSocEntre or GradDipIntRel or MPPP or GradDipPP or MConsBio or MPlan or MTransInterMIntRel or GradDipSusDev or MMarScMgt or MSusDev or GradCertSocEntre or MPPPIntRel or MDevStud 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

This subject is co-taught with LAW 569 International Environmental Law. Whilst lectures and tutorials are the same materials may differ and assessment follows a different schedule.

Unit description

This unit provides a broad introduction to the major areas of international environmental law. The unit commences with an examination of the sources and principles of international law in relation to the environment, related non- state actors, the law -making process and issues associated with compliance and enforcement. The unit explores key conventions and soft law instruments relating to climate change, ozone depletion, biodiversity, habitat protection, hazardous waste and pollution, and sustainable development. The unit also considers contemporary debates at the intersection of trade, human rights, Indigenous peoples 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 principles and key institutions of international environmental law and how they may be used to achieve international environmental goals;

Explain and critically assess how law, politics, and the self interest of nation states play a critical role in dealing with global environmental problems;

Demonstrate a detailed understanding of the range and scope 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 about the effectiveness of international environmental law having regard to the challenges of enforcement and compliance;

Make 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;

Critically analyse cross-cutting and emerging interdisciplinary issues in international environmental law such as human rights, Indigenous people, conflict and the environment;

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>Independent Research Report</u>	40%	No	12/11/2018
<u>Class Participation</u>	20%	No	Ongoing

Research Essay

Due: **24/9/2018**

Weighting: **40%**

All students must answer a set 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. The questions will be provided via the iLearn page.

All responses MUST 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 principles and key institutions of international environmental law and how they may be used to achieve international environmental goals;
- Explain and critically assess how law, politics, and the self interest of nation states play a critical role in dealing with global environmental problems;
- 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 about the effectiveness of international environmental law having regard to the challenges of enforcement and compliance;
- Critically analyse cross-cutting and emerging interdisciplinary issues in international environmental law such as human rights, Indigenous people, conflict and the environment;

Independent Research Report

Due: **12/11/2018**

Weighting: **40%**

The Research Report is based upon a hypothetical scenario provided by the Convenor involving a potential legal dispute in International Environmental Law.

The hypothetical scenario will require the student to research the discrete and relevant areas of International Environmental Law and draft a response. The relevant areas of International Environmental Law will be drawn from the modules covered through the entire unit.

The primary emphasis should be on a critical evaluation of international environmental law and an analytical approach to the issues being considered.

Students will be assessed on the basis of their understanding and identification of the relevant legal principles, analysis and evaluation of the issues, quality and depth of research, critical and interdisciplinary approach, organisation, structure and proper referencing style. Clarity of expression, presentation of argument, responsiveness to question will also be taken into account.

Students must consult the prescribed reading materials. However, this is a research based assessment and students are expected to extend research beyond course materials and references prescribed in the Unit Guide.

All responses **MUST** be fully referenced according to the Australian Guide to Legal Citation.

[Word Length maximum 3,000 words, excluding footnotes and bibliography]

On successful completion you will be able to:

- Demonstrate a thorough understanding of the basic principles and key institutions of international environmental law and how they may be used to achieve international environmental goals;
- Explain and critically assess how law, politics, and the self interest of nation states play a critical role in dealing with global environmental problems;
- Make 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.

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 upon 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 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 Convener. In other words, it is not the job of the Convener 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 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 principles and key institutions of international environmental law and how they may be used to achieve international environmental goals;
- Demonstrate a detailed understanding of the range and scope 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;
- 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) (<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) (<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.

Citations/Footnotes/Bibliography

All assignments must be footnoted (including pinpoint referencing) and have a comprehensive Bibliography. Students should use a proper legal citation method in all their written work. Footnotes, bibliography and other referencing must be consistent with the Australian Guide to Legal Citation, which can be downloaded at <http://www.law.unimelb.edu.au/mulr>. Hard copies may be purchased from the Co-op Bookshop.

All academic writing must be adequately and appropriately referenced. This is important because, first, it is required as a matter of style and, secondly, referencing supports your argument.

Rozenberg P, Australian Guide to Uniform Legal Citation (Sydney: Lawbook Co, 2nd ed, 2003), p 20, provides the following as a guide to when footnotes are required and what needs to be in a footnote:

You must reference everything that is sourced or taken from another work. Whether or not you actually quote from it, you must still reference any ideas that appear in some

other work. If you do not, you are under referencing and are passing off as your ideas the work and ideas of others.

You will always need to provide the most specific references you can. This includes identifying the specific pages you are referring to: this is called a 'pinpoint reference'. The ability to reference appropriately also means that you can instantly understand and easily locate material that another person has referred to in their work.

Citation Style

You should note that different disciplines have different approaches to citation. Legal writing generally uses footnotes for citation of sources. You should use footnotes for citation in your essays.

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

- Demonstrate a thorough understanding of the basic principles and key institutions of international environmental law and how they may be used to achieve international environmental goals;
- Explain and critically assess how law, politics, and the self interest of nation states play a critical role in dealing with global environmental problems;
- Demonstrate a detailed understanding of the range and scope 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 about the effectiveness of international environmental law having regard to the challenges of enforcement and compliance;
- Make 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 task

- Independent Research Report

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

- Demonstrate a thorough understanding of the basic principles and key institutions of international environmental law and how they may be used to achieve international environmental goals;
- Demonstrate a detailed understanding of the range and scope 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;

- Make 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 tasks

- Research Essay
- Independent Research Report
- Class Participation

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

- Explain and critically assess how law, politics, and the self interest of nation states play a critical role in dealing with global environmental problems;
- 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 about the effectiveness of international environmental law having regard to the challenges of enforcement and compliance;
- Make 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;
- Critically analyse cross-cutting and emerging interdisciplinary issues in international environmental law such as human rights, Indigenous people, conflict and the environment;
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument

Assessment tasks

- Research Essay
- Independent Research Report
- Class Participation

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

- Explain and critically assess how law, politics, and the self interest of nation states play a critical role in dealing with global environmental problems;
- 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 about the effectiveness of international environmental law having regard to the challenges of enforcement and compliance;
- Critically analyse cross-cutting and emerging interdisciplinary issues in international environmental law such as human rights, Indigenous people, conflict and the environment;

Assessment task

- 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

- Demonstrate a thorough understanding of the basic principles and key institutions of international environmental law and how they may be used to achieve international environmental goals;
- Explain and critically assess how law, politics, and the self interest of nation states play a critical role in dealing with global environmental problems;
- Construct and evaluate arguments about the effectiveness of international environmental law having regard to the challenges of enforcement and compliance;
- Make 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
- Class Participation

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

- Demonstrate a detailed understanding of the range and scope 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;
- Critically analyse cross-cutting and emerging interdisciplinary issues in international environmental law such as human rights, Indigenous people, conflict and the environment;

Assessment task

- Independent Research Report

Changes from Previous Offering

The prescribed textbook has changed from the 2017 offering of the course.

The assessment schedule has changed from 2017 to include Online Participation Forums.