



DIVISION OF LAW

LAW817/853

**COMPARATIVE
ENVIRONMENTAL LAW**

STUDY GUIDE

2008



**MACQUARIE UNIVERSITY
DIVISION OF LAW
STUDY GUIDE**

Year and Semester: 2008, First Semester

**Unit Code
& Unit Name:** LAW 817/LAW853
COMPARATIVE ENVIRONMENTAL LAW

Credit Points: LAW 817 – 6 credit points
LAW 853 – 4 credit points

Unit Convenor: Professor Donna Craig

Students in this unit should read this study guide carefully at the start of semester. It contains important information about the unit. If anything in it is unclear, please consult the teaching staff in the unit.

1. ABOUT THIS UNIT

Unit description

This unit examines the field of public international law for sustainable development and how it affects, and is shaped by, domestic environmental law in civil law, common law and other forms of legal systems. The comparative development of environmental law in the Asian and Pacific Regions will be a particular focus. The Unit will also include an introduction to European Community Environmental Law for comparative purposes. The course will emphasise culturally specific approaches to environmental law

Rationale

“Environmental law can be seen as a continuum of legal relations, from the level of the village and local authority, through the state to the international level” (Professor Nicholas Robinson). The interplay between international environmental law and the rapid development of national legal systems is a familiar phenomenon, particularly since the Earth Summit (*UN Conference on Environment and Development*, 1992) and the United Nations *Millenium Development Goals*. This dynamic has challenged traditional approaches to international co-operation, sovereignty, trade, international financial mechanisms and international law as we have sought new and more effective ways to sustain the global commons.

We cannot protect the global commons without effective municipal environmental laws implementing international approaches but we need to adapt them to specific environments and social, economic and political circumstances. These measures reach deep into the lives of citizens in areas such as health, lifestyle, land - use and consumer choice. Therefore, intra –

generational equity, participatory rights and new development approaches need to be considered within and between nations as well as intergenerational sustainability.

Environmental law needs to be developed within the institutional and political capacity of nations and in a culturally appropriate way. Specific measures are required to address the growing gap between North and South nations. This is the international dimension of comparative environmental law – it explores the strategies of international bodies and nations seeking to implement new international standards and approaches to sustainable development.

Case studies are drawn from the Asian and the Pacific regions. The case studies are chosen to demonstrate another aspect of comparative study. Approaches to environmental law are not just “bottom up” within nations or “top down” from international regimes. It is equally important to consider the influence of comparable national “models” of environmental law (usually from nations with relatively similar legal and economic contexts). The classic example of this is the rapid adoption of environmental impact assessment laws and processes based on the *United States National Environmental Protection Act 1969* (NEPA).

Regional Environmental law can also be considered. European Community Environmental Law provides a contrasting comparative study. The European *Aarhus Convention (UN/ECE Convention on Access to Information, Public Participation in Decision – making and Access to Justice in Environmental Matters)* must be implemented by every nation within the European Community (EC) over the next few years. This treaty links environmental rights to human rights and related “process” rights and attempts to establish a new relationship between people and governments as key stakeholders in sustainable development. The treaty is likely to be replicated in other regions. This development will have important influences at a number of levels in environmental law and the EC experience of incorporating it into domestic law will provide valuable lessons to the rest of the world. Similarly, the environmental aspects of the North American Free Trade Agreement (NAFTA) are worthy of study in a comparative law course. The substance of this will mainly be considered in another postgraduate unit on trade and the environment.

As nations move to a more sustainable development path (hopefully), they cannot ignore urgent problems associated with existing environmental degradation such as resource depletion and pollution. Therefore, a comparative environmental law course also explores existing domestic law approaches to environmental management. This can encompass a study of substantive and sectoral laws such as:

- natural resources;
- pollution abatement and control;
- process safety and controls;
- energy;
- heritage, public services and infrastructure;
- transboundary environmental issues and impacts; and
- responsibility for the shared global commons..

Comparative study can also include the procedural aspects of environmental law such as:

- basic obligations (international principles, laws, constitutional issues);
- scientific surveys, research and databases (baseline data, monitoring and research);

- reporting, publication and dissemination of environmental information;
- establishing environmental standards, operational and performance norms;
- administration of standards and techniques;
- EIA;
- Compliance and enforcement systems; and
- restoration of damaged ecosystems and resources and compensatory remedies for damage.

A consideration of the potential scope of the study of comparative environmental law reveals that it is enormous! This course will allow students to consider these various approaches but you will be able to be selective in the country studies that you will undertake in detail.

2. TEACHING STAFF

CONVENOR: Professor Donna Craig

Ph: 9850 7077 (wk): 9654 8325 (hm) 0439 873 223 (mobile)

When I am overseas, or undertaking research in remote areas, it is sometimes difficult to access my email – I will usually leave a message on my email with the dates that I will be away.

Email: donna.craig@mq.edu.au

Office: W3A 440 (inside the Environmental Law Centre)
Please make appointments for consultations.

3. CLASSES AND STUDY TIMES

THIS UNIT WILL BE TAUGHT AS BOTH AN EXTERNAL UNIT AND AN INTERNAL UNIT IN SEMESTER 1, 2008.

PLEASE NOTE: ALL INTERNATIONAL STUDENTS MUST ENROL AS INTERNAL STUDENTS TO COMPLY WITH VISA REQUIREMENTS

INTERNAL STUDENTS:

You must attend the block teaching session at the beginning of the Semester will be held in my office (W3A 440) on the following dates:

Tuesday 26th February from 1.00pm-5.00pm

Tuesday 10th March from 1.00pm-5.00pm

Wednesday 11th March from 9am-1pm

AND THE ON-CAMPUS SESSION: Saturday April 19th, 20th and 21st April 2008

EXTERNAL STUDENTS:

You must attend the ON-CAMPUS SESSION: Saturday April 19th, 20th and 21st April 2008. You may attend the Internal block teaching sessions but this is not compulsory.

The On-Campus Session is **COMPULSORY** and **ALL EXTERNAL AND INTERNAL STUDENTS MUST attend.**

ALL External STUDENTS should sign in with the Centre for Open Education (COE) in Building X5B on the morning of the first day. You should also check your WEBct site for this Unit (see section 5 of this Study Guide) under ANNOUNCEMENTS for room location.

4.REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

PRESCRIBED

Capacity Building for Environmental Law in the Asian and Pacific Region Approaches and Resources, edited by Donna Craig, Nicholas Robinson and Koh Kheng Lian, Asian Development Bank, Manilla, 2002. ISBN 971-561-395-0 (Volume One).

This work is in two volumes and it is available in CD ROM form and hard cover. You only need **Volume One** for this course. Volume two has some useful material, relevant to other postgraduate Units, but is not required for this Unit (it is recommended).

The Asia Development Bank charges US \$100 per Volume and US \$25 for the CD (with both volumes on it). If you order it directly from the Asian Development Bank in Manilla (Phillipines) you can request a 40% Education Discount on the Books and/or CD. Make sure you indicate that you are requesting it for my university postgraduate course.

The **second edition** has been printed by the ADB. There are no significant changes from the first edition that will affect this Unit. Therefore you can purchase either the first edition or the second edition of Volume One.

REQUIRED READING FOR ALL STUDENTS IN THIS UNIT IS DETAILED IN THE ON-CAMPUS SESSION PROGRAM (see section 13 of this Study Guide)

SOME REQUIRED AND RECOMMENDED READING WILL BE PLACED ON THE Webct site for this Unit and students will be expected to have read it (SEE Section 5 of this Study Guide)

Readings on International and Comparative Environmental Law

- Cruz, P. de, *Comparative Law in a Changing World*, 2nd ed, London, Cavendish Publishing Ltd.
- IUCN Academy of Environmental Law Colloquium Series - Jeffery, M, Firestone, J, Bubna-Litic, K, Eds, *Biodiversity Conservation, Law + Livelihoods: Bridging the North-South Divide*, New York, Cambridge University Press, 2007.

- IUCN Academy of Environmental Law Colloquium Series - Chalifour, N, Kamen-Labote, P, Lye, L.H, Nolan, J, Eds., *Land Use for Sustainable Development*, New York, Cambridge University Press, 2007.
- Roger, P, Jalal, K, Boyd, J, *An Introduction to Sustainable Development*, London, Earthscan, 2008.
- Jans, J and Vedder, H.B, *European Environmental Law*, 3rd ed, Amsterdam, Europa law Publishing, 2008.
- Jans, J.H, *The European Convention and the Future of European Environmental Law*, Amsterdam, Europa Law Publishing, 2003.
- Sadeleer, N. de, *Environmental Principles: from Political Slogans to Legal Rules*, Oxford, Oxford University Press, 2002.
- Harris, R, *Handbook of Environmental Law*, Wellington, Royal Forest and Bird protection Society of New Zealand, 2004.
- Aldy, J *Architectures for Agreements: Addressing Global Climate Change in the Post Kyoto World*, Cambridge, Cambridge University Press, 2007
- Benidickson, J, *Environmental Law (Canada)*, 2nd ed, Toronto, Irwin Law, 2003
- Oposa, Antonio, A, *A Legal Arsenal for Phillipine Environment*, Phillipine Islands: Batas Kalikasan Foundation, 2002 – can be downloaded from the internet the lawofnature@axti.com, aoposalaw@oposa.com, www.oposa.com/book
- Salzman, J and Thompson, B, *Concepts and Insights in Environmental Law and Policy*, (USA), Foundation Press 2007.
- Cavaliere, A et al *Critical Issues in Environmental Taxation Volume 111: International and Comparative Perspectives*, Oxford, Oxford University Press, 2006
- Hunter et al, *International Environmental Law and Policy*, Foundation Press 1998, 3rd ed. 2007.
- Sands, P., *Principles of International Environmental Law*, Cambridge University Press, 2nd Edition, 2003.
- Salzman, J, Ruhl, J.B, Nagle, J, *The Practice and Policy of Environmental Law*, Foundation Press, 2007.
- Craig, D, Robinson, N and Koh, K.L (eds), *Capacity Building for Environmental Law in the Asian and Pacific Region Approaches and Resources*, Asian Development Bank, Manilla, (Second Edition) (Volume two) 2003. ISBN 971-561-504-Y
- Blay, Sam, Piotrowicz, Ryszard, and Tsamenyi Martin (eds), *Public International Law: An Australian Perspective*, 2nd ed. South Melbourne: Oxford University Press, 2005.
- Dixon, Martin, MA, *Textbook on International Law*, 5th ed Oxford, UK; New York : Oxford University Press, 2005

- Kaniaru, D and Kurokulasuriya, L, “Capacity Building in Environmental Law”, *UNEP’s New Way Forward: Environmental Law and Sustainable Development*, UNEP Publications, 1995, Nairobi.
- Durwood Zaelke (ed), *Making Law Work : Environmental Compliance & Sustainable Development*, London : Cameron May, 2005.
- Victor, D et al, *The Implementation and Effectiveness of International Environmental Commitments: Theory and Practice*, MIT Press, Cambridge, Massachusetts, 1998.
- Cameron, J, Werksman, J and Roderick, P (eds) *Improving Compliance with International Environmental Law*, London: Earthscan, 1996
- Brack, D, *Trade and Environment: Conflict or Compatibility*, Earthscan, London, 1998.
- Sand, P (ed) *Greening International Law*, London: Earthscan Publications Ltd, 1993.
- Boer, Ben, *International Environmental Law in the Asia Pacific* London; Boston : Kluwer Law International, 1998.
- Nanda, Ved P., *International Environmental Law and Policy For The 21st Century* Ardsley, N.Y.: Transnational Publishers, 2003.
- Shine,C and de Klemm, *Wetlands, Water and the Law*, IUCN, Gland, Switzerland,1999.
- Anand, Ruchi, *International Environmental Justice : A North-South Dimension* Aldershot, Hampshire, England ; Burlington, VT : Ashgate, c2004.
- Mats Rolén, Helen Sjöberg, and Uno Svedin (eds), *International Governance on Environmental Issues*, Dordrecht ; Boston : Kluwer Academic Publishers, c1997.
- G Brundtland (et al), *Our Common Future*, WCED, Oxford University Press, London, 1987. Call number: HD75.6 .O97/1990.
- Birnie, P and Boyle, A, *International Law and the Environment*, second edition, Oxford University press, Oxford, 2002
- Tay, Simon, Esty Daniel C., *Asian Dragons and Green Trade: Environment, Economics and International Law*, Singapore: Times Academic Press, 1996.
- Hofrichter, Richard, *Toxic Struggles : The Theory and Practice of Environmental Justice*, Salt Lake City : University of Utah Press, 2002.
- Miles Edward L et al, *Environmental Regime Effectiveness: Confronting Theory with Evidence*, Cambridge, Mass.: MIT Press, 2002.

- Dovers, Stephen, *Environment and Sustainability Policy : Creation, Implementation, Evaluation*, Annandale, N.S.W. : Federation Press, 2005.
- Vig, Norman J, and Axelrod, Regina S. (eds), *The Global Environment Institutions, Law, and Policy*, Washington: Congressional Quarterly Inc, 1999.
- Swanson, Timothy M, and Johnston, Sam, *Global Environmental Problems and International Environmental Agreements : The Economics of International Institution Building*, Northampton, Mass.: E. Elgar Pub., 1999.
- Brown Weiss, Edith, and Jacobson, Harold K, *Engaging Countries : Strengthening Compliance With International Environmental Accords*, Cambridge, Mass. : MIT Press, 2000.
- Werksman, Jacob (eds), *Greening International Institutions*, London: Earthscan Publications Ltd 1996.
- Yamin, Farhana, and Depledge, Joanna, *The International Climate Change Regime-A Guide to the Rules, Institutions and Procedures*, Cambridge, United Kingdom: Cambridge University Press, 2004.
- Elliott, Lorraine M, *The Global Politics of The Environment*, Second Edition, Houndmills, Basingstoke, Hampshire: Macmillan, 1998.
- Numerous publications under the *International Environmental Law and Policy Series*, Kluwer Law International. Available in the Macquarie University Library Catalogue.

Internet

- Macquarie University Centre for Environmental Law
- Asia-Pacific Centre for Environmental Law (APCEL)
- *International Environmental Law and Policy: A Comprehensive Reference Source*. The website is designed to be used in conjunction with Hunter, David. *International Environmental Law and Policy*. Available at: <http://www.wcl.american.edu/environment/iel/index.cfm>.
- International Institute for Sustainable Development. Available at: <http://www.iisd.org/>
- United Nations Conference on Trade and Development. Available at: <http://www.unctad.org>.
- International Centre for Trade and Sustainable Development. Available at: <http://www.ictsd.com/>
- The Centre for International Environmental Law. Available at: <http://www.ciel.org/>
- United Nations Environment Programme. Available at: <http://www.unep.org/>
- United Nations Development Programme

- South Pacific Regional Environmental Programme (SPREP)
- The World Conservation Union (IUCN) Environmental Law Programme. Available at: <http://www.iucn.org/themes/law/> (very useful comparative law publications that can be downloaded from the internet).
- New Zealand Centre for Environmental Law

Journals

- *Macquarie Journal of International and Comparative Environmental Law* available at: http://www.law.mq.edu.au/html/MqJICEL/pastedit_vol1no2.htm
- *Review of European Community and International Environmental Law*
- *Environmental Policy and Law* (good for recent developments – see unbound journal section in library)
- *Yale Journal of International Law*
- *Asia Pacific Journal of Environmental Law*
- *Georgetown International Environmental Law Journal*
- *American Journal of International Law*
- *Pace Environmental Law Review*
- *Pace International Law Review*
- *New Zealand Journal of Environmental Law*
- *Journal of South Pacific Law*

Environmental Law journals can be accessed online through databases on the library website. The library databases can be accessed externally with a student username and password. The databases include:

- (i) Hein Online
- (ii) LexisNexis
- (iii) EBSCOhost
- (iv) ExpandedAcademic ASAP
- (v) Wiley Interscience
- (vi) FirstSearch
- (vii) Web of science

5.UNIT WEB PAGE

Study Guides and information on this unit can be found at :
<http://www.law.mq.edu.au/html.postgraduate/studyguides.htm>

There is also a Blackboard CE6 (formerly WebCT) site for this Unit. This contains the Study Guide but will also provide access to the prescribed course readings and additional materials such as PowerPoint slides, tutorial questions, web links and further readings. This is accessible at <http://learn.mq.edu.au>. When students enrol in this Unit they are automatically granted access to the web site. If you have technical problems please follow the instructions on the web site. But if you still cannot log into the site, then please contact University IT support.

Notices to students concerning classes will be posted on this site – please check it each week to keep up to date!!

6. LEARNING OBJECTIVES

At the end of the course, students should have developed an understanding of:

- a)The study of comparative legal systems
- b)The scope of comparative environmental law and the benefits of studying comparative approaches to environmental law;
- c)The diversity of approaches to comparative environmental law study;
- d)The techniques and methods applicable
- e)A familiarity with selected environmental legal regimes in the Asia and Pacific Region.

7. GENERIC SKILLS

In addition to the discipline-based learning objectives, all academic programs at Macquarie seek to develop students' generic skills in a range of areas. One of the aims of this unit is that students develop their skills in the following:

Communication skills;
Critical analysis skills;
Problem-solving skills;
Creative-thinking skills.
Interdisciplinary skills

A guide to the University's generic skills is on the Law network drive.

8. TEACHING AND LEARNING STRATEGY

The Internal seminars and on-campus session is designed provide the opportunity for extensive discussion of the issues covered and will provide the student with an understanding and appreciation of comparative study in the area of environmental law. The tutorials for both internal and external classes will be conducted as interactive seminars. Each of the internal and external (on-campus session) seminars will build upon the themes/issues raised in the interdisciplinary readings for the Unit. Students will be expected to have read for each class and be prepared for discussion. The focus is on the policies and strategies applicable to sustainable development in a variety of cultural, political and geographical contexts and a critical appraisal of national legal approaches to implementation. Research skills and writing are promoted by a supervised research paper.

9. ASSESSMENT

LAW 853 (4 Credit points)

Class Participation 10%

Assignment No. 1 (3000 words): 40% 11/4/2008

Assignment No. 2 (3000 words): 50% 9/6/2008

LAW 817 (6 Credit Points)

Class Participation 10%

Assignment No 1 (3000 words): 30% 11/4/2008

Assignment No 2 (6500 words): 60% 9/6/2008

Please note: I have only a few weeks to mark the second assignment before the University deadline for results for the end of semester.

Extensions must be requested, in writing, before the due date of assignments and late penalties apply (See below in this Study Guide). Academics teaching in the Postgraduate Program will keep records of extension requests and consistently apply this policy.

COPIES OF BOTH ASSIGNMENTS ARE INCLUDED IN THIS COURSE GUIDE

Class participation

As assessment for this unit also includes 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 class. Students will not be awarded class participation just for attending class. The following non-exhaustive criteria list will be used to assess your class participation:

- 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 Convenor. In other words, it is not the job of the Convenor to engage you in discussion so that you may avail yourself of the class participation assessment.

Submission of Assignments

Students should ensure that their tutorial group is set out on the first (cover) page of the research assignment. **Assignments should be typed in 14 point typeface and double spaced.** All pages must be firmly stapled or pinned together. The Cover Sheet attached to the rear of this Study Guide should be completed and attached to the front of your assignment.

For **internal students**, assignments must be placed in the Postgraduate Environmental Law box located at W3A Room 341 by 5pm on the due date.

External students are to send assignments by Australia Post or by courier and such assignments must be dispatched by the relevant due date **in the COE folder provided** to the Macquarie University Centre for Open Education (COE). The cover of the assignment should be date stamped by the post office/courier before dispatch by mail. Other modes of submission organised by COE will also be accepted.

Internal students should place their assignments in the box provided. Do not push assignments under your tutor's door or post them in your tutor's pigeon hole in the Law Division's mail room. These methods of delivery are *not* secure.

Students are advised to always make and retain a backup copy of all pieces of work submitted. It is University policy to place upon the students the onus of producing a copy of work which goes astray. Students are required to email an additional copy of assignments to the Course Convenor. This overcomes any issues in relation to submission date and time and also operates as a back-up copy of students' work.

Attendance and Class Participation

Assessment for class participation will count for ten percent (10%) of the final mark in the unit. The assessment is based on the quality of your response, not the quantity, which is why at times discussions will be directed by your tutor. Please note that the onus to participate in class is on **you not on your tutor**. In other words, it is not the job of your tutor to engage you in discussion so that you may avail yourself of the class participation assessment.

Internal students are required to attend eighty percent (80%) of all scheduled classes. For external students, this means attending all compulsory days of the compulsory on-campus session. Clashes with other units are your responsibility.

Word Length

Word length of assignments should be indicated. Word limits should be adhered to. The word length indicated for the assignments is exclusive of footnotes and Bibliography. The word limit should not be exceeded by more than 10%. Excessively long assignments will be penalised.

Citations/Footnotes/Bibliography

All assignments must be footnoted and have a comprehensive Bibliography. Students should refer to the *Australian Guide to Legal Citation* (Melbourne University Law Review Association, 1998). This can be accessed via the Melbourne University website: <http://mulr.law.unimelb.edu.au/aglc.asp> or can be purchased from the Co-op Bookshop.

Footnotes: Why, when and what

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.

When to use quotation marks

When drawing on somebody else’s work you always need to acknowledge that you have done so. You do not always need to use quotation marks.

If you are quoting directly from that work, the phrase must be placed in quotation marks and a footnote provided.

If you are paraphrasing that work, or expressing in your own words a point or idea from another author, then quotation marks are not required but a footnote must still be provided.

In considering whether you need to use quotation marks, and whether an acknowledgment of an author is appropriate, put yourself in the position of the original author: if *you* had written an article and a fellow student was drawing on it to write her or his essay, would you think it appropriate that they acknowledged the use of your words and ideas? Of course the answer is “yes”.

Citation Style

You should note that different disciplines have different approaches to citation. Many humanities journals use what is known as the ‘Harvard system’ of referencing, where citation of author, year and page number is provided in brackets in the text of an article. Law journals do not generally use this system. Legal writing generally uses footnotes for citation of sources. You should use footnotes for citation in your essays.

When referencing, always keep the following mind:

- Be consistent throughout your essay
- Be accurate
- The use of italics and brackets is important as a matter of style – get it right.
- The following is a short style-guide that must be adhered to in your assignment for this unit. It is based primarily on the style set out in the *Australian Guide to Uniform Legal Citation*.

Books

Provide:

- the author’s surname and initial(s), or all authors if there is more than one;
- the book title in italics;
- in brackets, the place of publication, the publisher, the edition and the year of publication; and
- the pinpoint page references, prefaced by the word ‘at’.

Articles from journals

Provide:

- the author's surname and initial, or all authors if there is more than one;
- the title of the article, in single quotation marks;
- the year of the journal, in brackets;
- the volume number of the journal;
- the full name of the journal, in italics;
- the page number of the journal at which the article commences; and
- the pinpoint page references (if required), prefaced by the word 'at'

Cases

Provide:

- the parties' names, in italics;
- the year of the decision, in brackets;
- the volume number of the law report series;
- the standard abbreviation of the name of the law report series;
- the page number at which the case commences; and
- the pinpoint page references (if required), prefaced by the word 'at'.

The year should be placed in 'round brackets' when the report series are consecutively numbered and it would not be essential to know the year in order to locate the volume in which the case has been reported.

The year should be placed in 'square brackets' when the report series are numbered within each year and thus it would be essential to know the year in order to locate volume in which the case has been reported.

Legislation

Provide:

- the name and year of the statute, in italics;
- the jurisdiction, in brackets; and
- the pinpoint reference (if required) to the relevant section(s).

Repeated citations

When citing a reference you have already referred to earlier in your essay, you need not repeat the citation in full. There are a range of styles that can be used for repeated citations, but you must be consistent. Do not chop and change from one to the other. Refer to the Australian Guide to Legal Citation.

Provide:

- an appropriately brief form of the name of the author, case or legislation;
- the number of the footnote where you first cited the work; and
- the pinpoint reference (if required), prefaced by the word 'at' (or by 's' if it is legislation).

Late Submission

Illness or serious misadventure may be sufficient excuse, preventing submission on time, but complete details must be notified to tutors, *in writing, before the due date*, and be supported by a medical certificate or other appropriate documentation.

Pressure of work is generally *not* an acceptable ground for delay.

If an extension of time is granted by a tutor, then the assignment must be submitted within this time.

In cases where illness or misadventure is likely to affect more than one assignment, students are advised to apply for a withdrawal (W) grade. After the end of the eighth week, a case must be made out for withdrawal without penalty. Your tutor must be separately notified in writing.

It is possible to fail the course on penalties.

Note: *The current Divisional policy on penalties for lateness is 10% up to 7 days; 20% up to 14 days; work later than 14 days after the due date need not be accepted.*

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 without sufficient excuse will result in an F grade.

10. RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OBJECTIVES

Many fundamental questions and issues will be raised and the consideration of various issues, debates, perspectives and readings are what is important. There is rarely a “right” answer to these fundamental questions. Assignment 1 will relate to the material on the nature, concepts and methods of comparative environmental law. It also draws on examples of legal systems in Asia and the European Community. The student needs to ground this experience, in Assignment 1, by giving advice to a multilateral organisation. Students will have the opportunity to undertake a significant piece of supervised research on a topic of their choice (Assignment 2). This should be discussed and approved by the Unit Convenor. This topic is also intended to expand the range of research skills and sources and to consider environmental law outside the cultural and political context of a domestic jurisdiction such as Australia.

11. PLAGIARISM

The University defines plagiarism in its rules: **"Plagiarism involves using the work of another person and presenting it as one's own."** Plagiarism is a serious breach of the University's rules and carries significant penalties. You must read the University's policies and procedures on plagiarism. These can be found in the *Handbook of Undergraduate Studies* or on the web at: <http://www.student.mq.edu.au/plagiarism/>

Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

YOU WILL BE GUILTY OF PLAGIARISM

If you take and use the work of another person without clearly stating or acknowledging your source, you are falsely claiming that material as your own work and committing an act of **PLAGIARISM**. This is a very serious violation of good practice and an offence for which you will be penalised. If you do any of the following in an assignment, or in any piece of work which is to be assessed, ***without clearly acknowledging your source(s)*** for each quotation or piece of borrowed material, you are guilty of **PLAGIARISM**:

- Copy out part(s) of any document, including computer and web-based material;
- Use or extract someone else's concepts or experimental results or conclusions, even if you put them into your own words;
- Copy out or take ideas or summarise from the work of another student, even if you put the borrowed material into your own words;
- Submit substantially the same final version of any material as a fellow student, even if you put the borrowed material into your own words.

There is nothing wrong with using the work of others as a basis for your own work, nor is it evidence of inadequacy on your part, provided you ***do not attempt to pass off someone else's work as your own.***

The University defines plagiarism in its rules: "Plagiarism involves using the work of another person and presenting it as one's own." Plagiarism is a serious breach of the University's rules and carries significant penalties. You must read the University's policies and procedures on plagiarism. These can be found in the *Handbook of Undergraduate Studies* or on the web at: <http://www.student.mq.edu.au/plagiarism/>

The policies and procedures explain what plagiarism is, how to avoid it, the procedures that will be taken in cases of suspected plagiarism, and the penalties if you are found guilty. Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

Macquarie University holds a licence to the plagiarism detection software, turnitin®. This software may be used at the discretion of the Convenor, and electronically compares your work to that of your classmates, previous students from Macquarie and other universities, material available on the Internet, and both freely available and subscription-based electronic journals. You can read more about turnitin® at www.copyright.mq.edu.au/plag.html

12. UNIVERSITY POLICY ON GRADING

The University requires all Divisions to adhere to a policy relating to the distribution of grades across high distinction, distinction, credit and pass grades. This means that on occasion a student's raw mark for a unit (i.e., the total of their marks for each assessment item) may not be the same as that which they receive on their transcript. This is because the total raw mark may be scaled up or down so that the grades of all students in each unit sit within the distribution bands set down by the University. The polices not require that any number of students is to be failed in any unit.

13. SCHEDULE OF TOPICS

EXTERNAL STUDENTS ON-CAMPUS SCHOOL PROGRAMME

DATES: 19th, 20th and 21st April 2008

LAW 817/853 COMPARATIVE ENVIRONMENTAL LAW

ALL students should check the Webct site for this Unit for room location (under ANNOUNCEMENTS)

Saturday 19th APRIL

Note - Text refers to Prescribed text of the course. The readings below are required for the on-campus session and constitute the Required Reading for this Unit.

9.30-10.30 am

1. *Introduction to Comparative Environmental Law*

Required Reading:

Cruz, P. de, *Comparative Law in a Changing World*, 2nd ed, London, Cavendish Publishing Ltd:
Civil Law System, pp 43-67,
English Common Law, pp 99-107,
European Community Law, pp 118-125, 145-157

2. *Introduction to Comparative Environmental Law*

Required Reading:

Text pp xxix-xxxi, 3-15, 56-81, 119-132

Recommended Reading:

Text pp 16-46

10:30-11:00 MORNING TEA

11:00 -1.00 pm

Integrated Management Systems and Legislation: New Zealand & Singapore

Required Reading:

Text pp 431-451

Harris,R, *Handbook of Environmental Law*, Wellington, Royal Forest and Bird Protection Society of New Zealand, 2004, pp 56-77 (available on WEBct for this Unit)

Recommended Reading:

Richardson, B & Wood S, *Environmental Law for Sustainability: A Reader*, Hart Publishing, 2006, pp 19-127, pp 229- 341 (Book is available on Library Reserve)
Text pp 485-508, 523-529, 548-554, 562-606

1.00-2.00pm LUNCH

2.00-3.30pm

1. *Capacity Building for Environmental Law in the "South"*

Required Reading:

Text pp 173-186

2. ASEAN Regional Approaches

Required Reading

Koh, KL, “Asian Environmental Protection in Natural Resources and Sustainable Development: Convergence Versus Divergence?” *MqJICEL (2007) Vol 4: 43-69* (access through MU-CEL website – under publications and resources)

3.30 - 4.00 pm AFTERNOON TEA

4:00 - 5.00pm

European Community Environmental Law

Required Reading:

Jans, J.H, *The European Convention and the Future of European Environmental Law*, Amsterdam, Europa Law Publishing, 2003. pp 1-10.

Cruz, P. de, *Comparative Law in a Changing World*, 2nd ed, London, Cavendish Publishing Ltd, pp 145-157

Sunday 20th APRIL

9.00 - 11.00am

Comparative Studies: South-east Asia

Required Reading:

Text pp 236-275

Recommended Reading:

APCEL ASEAN Project (students should access through the website for the Asia-pacific Centre for Environmental Law

11.00 - 13.00 MORNING TEA

11.00 - 1.00

Comparative Studies: North-West Asia (Focus on Pakistan)

Required Reading:

Text pp 284-297

IUCN Pakistan Regional Office, *Environmental Law (Pakistan) Federal* - access yourself at: www.iucn.org/places/pakistan/olr05.htm

1.00 - 2.00 LUNCH

2.00 - 3.00

Comparative Studies: Pacific Islands (Focus on Vanuatu and Samoa)

Required Reading:

Text pp 41-45, 308-332

Techera, E “Protected Area Management in Vanuatu” *MqJICEL (2005) Vol.2: 107-119 69* (access yourself through MU-CEL website – under publications and resources).

E Techera, “Samoa: Law, Custom and Conservation” (2006) 10 *NZJEL* pp.361-380 (available on webct)

3.30 - 4.00 AFTERNOON TEA

4.00-5.00

Pacific Islands (continued)

Monday 21st April

9.00 – 5.00pm

Interviews (appointments will be arranged) with students to discuss individual research Projects and research skills.

ASSIGNMENT 1: (All students)

LAW 817/853 Comparative Environmental Law

Due Date: 11th April 2008

Maximum Word Length:	3,000 words
Weight:	LAW 853 40%
	LAW 817 30%

ALL STUDENTS ARE TO ANSWER THE FOLLOWING QUESTION.

Please state important assumptions that you may make about cultural, social, political or legal context.

You should be guided by the reading for at the On-Campus Session. You are expected to have covered this material in preparing this assignment. You may undertake further research if you wish.

TOPIC:

The United Nations Environment Programme has retained you as a consultant to assist them in improving environmental law in the Asian region (specifically in the ASEAN nations). They wish to develop a “staged approach” and have requested that you commence by providing a paper for their staff on the value and approaches to comparative environmental law study. There is a huge diversity in ASEAN legal and political systems and many are very poor. Critically discuss comparative legal systems and institutions that may be relevant to improving environmental law capacity building in ASEAN nations.

ASSIGNMENT 2: (All Students)

LAW 817/853 Comparative Environmental Law

Due Date: 9th June, 2008

Maximum Word Length: 3000 words (LAW 525/853)
6500 words (LAW817)

Weight: 50% (LAW865)
60% (LAW817)

Students are not only required to be familiar with the **Required Reading from the text** (identified in the On-Campus Session Programme) but should also **research outside the text**. Please note that environmental law changes rapidly. Some of the case studies in your text may be based on legal regimes that have changed or been modified. You cannot be exhaustive but students should make their best efforts to use their research to **update** this material using what is available in the public domain.

RESEARCH QUESTION

Choose a national jurisdiction (other than Australia) and prepare a study of the environmental law regime for the purposes of comparative study (you will be participating as a speaker at the *Macquarie University Comparative Environmental Law Conference* in 2008). In your "country study" you should:

1. Indicate what key environmental principles, laws and institutional arrangements you intend to review (and why you have chosen this approach).
2. Present an overview of these key principles, laws and institutional arrangements.
3. Critically evaluate the current and potential effectiveness of the environmental law regime having regard to the urgent needs of the nation concerned and the sustainable development objectives in Agenda 21, (Chapter 8, see: Text pp 46-56).

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