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Paper Title: **The Evolution of Environmental Law in Australia**

Abstract: Given Australia's unique ecological features—it is home to 17 world heritage sites, has one of the world's largest ocean territories, and 91% of its land mass remains covered by its native vegetation¹—the country presents a fascinating context in which to study environmental law. With the new environmental challenges that the state and federal governments of Australia are attempting to address with landmark legislation, the country's body of environmental law is evolving rapidly.

Although Australia and the U.S. share similar legal traditions, both having roots in English common law, there are specific differences in their social, political, legislative, and legal structures and processes that make their approaches to environmental law and policy rather distinct from one another. Our research explores the evolution of environmental law in Australia, identifying the key differences between Australian and U.S. policy when it comes to (1) the sources of environmental law, particularly in the federal and state regulatory powers derived from their constitutions and international treaties; (2) their approaches to federalism and the separation of powers; and (3) their enforcement of environmental regulations, by federal and state governments, private litigants, and administrative bodies. These differences have arisen out of political movements, governmental activism, the structure of the government, and the Australian Constitution itself.

Australia's unique environmental law provides both advantages and disadvantages to government actors, citizens, and private business. The differences between U.S. and Australian environmental law often have significant consequences for these different parties and their activity. At the same time, the rapid development of Australia's environmental law has given rise to creative solutions that are not often seen in the United States. Our research will explore these consequences, and then discuss creative solutions that these different actors have utilized, or are developing, in order to overcome some of the system's disadvantages.

¹ See *Australia's Environment at a Glance*, AUSTRALIAN GOVERNMENT DEPARTMENT OF FOREIGN AFFAIRS AND TRADE (MAY 2008), http://www.dfat.gov.au/facts/env_glance.html.