

Syllabus (Mapclass)

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I. Introduction to International Law

This section aims to provide a brief overview of the general principles and operating framework of international law. The students should acquire from this portion of the seminar, an understanding of the procedures and dynamics of international law-making, sources and consensus building mechanisms, and the necessary analytical tools to apply international law.

The issues included in this section should be covered in a single class of the course (suggested Class 1).

Subjects:

1. Basic Principles of Public International Law
2. International Law Making
3. The Changing Nature of International Law
4. Traditional Sources of Law
(Customs, General Principles, Treaties, Judicial Decisions)
5. Innovation in International Law Making (Soft Law)
6. Building Consensus
7. How to read international law

Readings:

- Hunter, Salzman, Zaelke, "International Environmental Law and Policy" Textbook - Foundation Press New York, New York, 1998 - Chapter 5 p. 198-276
- Handout Distributed by Prof. David Caron, "Analyzing and Understanding Treaties in the Area of International Environmental Law - - Teaching International Environmental Law: ideas and experiences from the seminar room and the lecture hall", ASIL bulletin Number 6, December 1994, p 11-16
- Vandevelde, K.J., Treaty Interpretation from a Negotiator's Perspective

Further readings

- Restatement of the Law Third, The Foreign Relations Law of the United States,
- International Law: Character and Sources, 16-36 (1987)
- The case of the S.S. "Lotus", PCIJ, Ser. A. No. 10, 4-33 (1927)
- North Sea Continental Shelf Cases, 1969 ICJ 4, 21-23, 37-52
- Texaco Overseas Petroleum et al. v Libyan Arab Republic, 17 I.L.M. 1 (1978)

II. Introduction to International Environmental Law

This section aims to provide a brief overview of the general principles and operating framework of environmental international law. The students should acquire from this portion of the seminar, an understanding of the procedures and dynamics of international environmental law-making, sources and consensus building mechanisms, and the necessary analytical tools to apply international environmental law.

The issues included in this section should be covered in a single class of the course (suggested Class 2).

Subjects:

1. A brief history from Stockholm to Rio

Readings:

- Hunter, Salzman, Zaelke, "International Environmental Law and Policy" Textbook - Foundation Press New York, New York 1998 - Chapter 6, p. 276-313
- Louis B. Sholn, "The Stockholm Declaration on the Human Environment", Harvard International Law Journal, Vol. 14 (1973), p. 423-515

2. Principles and Concepts in International Environmental Law

Readings:

- Hunter, Salzman, Zaelke, "International Environmental Law and Policy" Textbook - Foundation Press New York, New York 1998 - Chapter 7, p. 318-382

3. International Institutions and Non State Actors

Readings:

- Hunter, Salzman, Zaelke, "International Environmental Law and Policy" Textbook - Foundation Press New York, New York 1998 - Chapter 8, p. 388-434
- United Nations Conference on Environment and Development [Rio de Janeiro, June 3-14, 1992], Introductory Note by Edith Brown Weiss (excerpt), 31 Int'l. Leg. Mat. 814 (1992)

Further Readings:

- The Trail Smelter Arbitration Decision of April 16, 1938, 33 Am. Jour. Int'l. L. p. 182-212 (1939)
- The Trail Smelter Arbitration Decision of March 11, 1941, 35 Am. Jour. Int'l. L. p. 712-734 (1941)
- The Corfu Channel Case (Albania/United Kingdom), 1949 I.C.J. 4, 12-23, 36
- The Lake Lannoux Arbitration Case (France v. Spain) 24 Int. L. R. 101 (1957)
- Nuclear Tests Case (Australia v. France), 1973 I.C.J. Rep. 99
- Development and Environment, U.N.G.A. Res. 2849 XXVI (1971), 13 U.N. Res. 426-28 (1970-71)
- United Nations Conference on the Human Environment: Final Documents (1972), U.N. DOC A/Conf.48/14 and Corr. 1, 11 I.L.M. 1416 (1972)
- International Responsibility of States in Regard to the Environment, U.N.G.A. Res 2996 XXVII (1972), 14 U.N. Res. 278-279 (1972-74)
- Louis B. Sohn, The Stockholm Declaration on the Human Environment, 14 HARV. Int. L.J. 423 (1973)
- Charter of the Economic Rights and Duties of States, U.N.G.A. Res. 3281 (XXIX 1974), 14 Int'l Leg. Mat. 251 (1975) Arts. 3, 29-32
- 1982 U.N. Convention on the Law of the Sea (excerpts), 21 Int'l Leg. Mat. 1261 (1982)
- *Protection and Preservation of the Marine Environment*, Report of the UN Secretary General to the UN Conference on Environment and Development, UN Doc. A/CONF.151/10, 30 April 1992
- A World Charter for Nature, U.N.G.A. Res. 37/7 (1982), 21 Int'l Leg. Mat. 455 (1983)
- Gunther Handl, *The Environment: International Rights and Responsibilities*, Proc. A.S.I.L. 74th Annual Meeting 223 (1980)

III. Introduction to International Human Rights Law

This section aims to provide a brief overview of the general principles and operating framework of international human rights law. The students should acquire from this portion of the seminar, an understanding of the procedures and dynamics of international human rights law-making, sources, human rights institutions, and consensus building mechanisms, and the necessary analytical tools to apply international human rights law.

The issues included in this section should be covered in a single class of the course (suggested Class 3).

1. An Overview of the International Human Rights System

Readings:

- Hunter, Salzman, Zaelke, "International Environmental Law and Policy" Textbook - Foundation Press New York, New York 1998 - Chapter 17, Section II
- Richard B. Bilder, " An overview of international human rights law", Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 3-18

2. International Human Rights Systems of Protection

a. The UN System

Readings:

- Sian Lewis-Anthony, "Treaty-Based Procedures for Making Human Rights Complaints Within the UN System" Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 41-59
- Nigel S. Rodley, "United Nations Non-Treaty Procedures for Dealing with Human Rights Violations", Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 60-85
- Lee Swepton, "Human Rights Complaint Procedures of the International Labour Organization" Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 99-118

Further Reading

- Stephen P. Marks, " The Complaint Procedure of the United Nations Educational, Scientific and Cultural Organization", Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 86-99

b. The Inter-American System

Readings:

- D. Shelton, "The Inter-American Human Rights System", Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p119-132
- **Guest speaker: Prof. Goldman - AU- President of the IACHR**

c. The European System

Readings:

- K. Boyle, "Europe: The Council of Europe, the CSCE, and the European Community, , Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p133-158.

d. The African System

Readings:

- C. Flinterman and E. Ankumah, "The African Charter on Human and Peoples' Rights", Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), 159-172

IV. Human Rights and Environment

This section aims to analyze how human rights and environment are linked in theory and in practice. The seminar reviews how international human rights mechanisms can be used in cases involving environmental abuse. The section reviews the UN Human Rights System, European Human Rights System, the

African Human Rights System and the Inter-American Human Rights System, with a view to explore how these systems treat cases of environmental rights abuses.

The issues included in this section should be covered in four classes of the seminar (suggested Classes 4-7).

1. Human Rights Approaches to Environmental Protection

a. An Overview - The concept of the "value added"

Readings:

- G. La Marche & J. Scherr "Abuses of Human Rights and the Environment", Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. iii-xv
- M. Anderson, Human Rights Approaches to Environmental Protection: An Overview, Human Rights Approaches to Environmental Protection, Clarendon Press Oxford (1992), p.1-24
- Boyle, "The role of international human rights law in the protection of the environment", Human Rights Approaches to Environmental Protection, Clarendon Press Oxford (1992), p.43-69
- A.A. Cancado Trindade, "The Parallel Evolutions of International Human Rights Protection and of Environmental Protection and the Absence of Restrictions upon the Exercise of Recognized Human Rights", Revista del Instituto Interamericano de Derechos Humanos, Nro. 13 (1991), p. 35 – 76
- Aaron Sachs, "Introduction: Human Rights and the Environment", Eco-Justice: Linking human rights and environment, Worldwatch Paper 127, (1995)
- Aaron Sachs, "What Greenpeace and Amnesty International are learning from each other", Eco-Justice: Linking human rights and environment, Worldwatch Paper 127, (1995)
- Aaron Sachs, "Toward Environmental Justice", Eco-Justice: Linking human rights and environment, Worldwatch Paper 127, (1995) - 3 pages
- Alexandre Kiss, "Sustainable Development and Human Rights", Human Rights, Sustainable Development and Environment, IIDH-BID, 2nd. Ed. (1995), p. 34
- Cancado Trindade, "The Contributions of International Human Rights Law to Environmental Protection, with Special Reference to Global Environmental Change", International Law and Global Environmental Change: New Dimensions (ed. E. Brown Weiss), United Nations University (UNU) Project, 1991-1992

Guest speaker: Aaron Sachs, Worldwatch Institute, tel 202 452 1999

b. Environmental Rights in Existing Human Rights Treaties

Readings:

- Robin Churchill, "Environmental Rights in Human Rights Treaties", Human Rights Approaches to Environmental Protection, (ed. A. Boyle & M. Anderson), Clarendon Press Oxford, p. 89-108
- "The Philippines – A dangerous environment for activists" Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p.77-80

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c. Environmental Protection and the U.N. Human Rights System

Readings:

- Caroline Dommen, "How Human Rights Norms can contribute to Environmental Protection", CEDHA Publication (Forthcoming 1999)
- Dinah Shelton, " The Jurisprudence of International Human Rights Tribunals Concerning Environmental Matters", CEDHA publication (forthcoming, 2000)
- U.N. Ksentini Report on Human Rights and Environment
- INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD)
- INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)
- INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)
- CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

Guest speaker: S. Douglas - Intl' HR Law Group tel 202 822 4600, for Douglas's class the students should read the reading materials on environmental discrimination - see map class V 1.

d. Environmental Protection and the Inter-American Human Rights System (Introducing the environmental argument in the I-A Human Rights System)

Readings:

- Dinah Shelton, " The Jurisprudence of International Human Rights Tribunals Concerning Environmental Matters", CEDHA publication (forthcoming, 2000)
 - Inter-American Commission on Human Rights, Report on the Situation of Human Rights in Ecuador, at 91, O.A.S. Doc. OEA/Ser.L/V/II.96 (1997).
 - Beth Ganz, "Indigenous Peoples and Land Tenure: An Issue of Human Rights and Environmental Protection", 9 Geo. Intl'Envtl. L. Rev. 173
 - The Awas Tingni Case (The petition before the IAHR Commission, The IAHR Commission brief to the Court, IHRLG and CIEL Amicus Brief, The Indigenous Communities' Amicus Brief)
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- American declaration on the rights and duties of man
 - American convention on human rights
 - Protocol of San salvador

Further Readings

Adriana Fabra, "Indigenous Peoples, Environmental Degradation, and Human Rights: A case Study", Human Rights Approaches to Environmental Protection, Clarendon Press Oxford (1992), p244-263

e. Environmental Protection and the European Human Rights System

Readings:

- Dinah Shelton, " The Jurisprudence of International Human Rights Tribunals Concerning Environmental Matters", CEDHA publication (forthcoming, 2000)

European Court of Human Rights:

- Powell and Rayner v. United Kingdom
- Lopez Ostra v Spain
- Balmer-Schafroth v Switzerland
- CASE OF GUERRA AND OTHERS v. ITALY - REPORTS 1998-I
- CASE OF McGINLEY AND EGAN v. THE UNITED KINGDOM - REPORTS 1998-III

European Commission of Human Rights:

- App. 7889/ 77 (friendly settlement)
- Greenpeace Schweiz v Switzerland - 27644/95
- Noel Navii Tauria v France - Appl. 28204/ 96

Committee on ESC Rights:

- General Comment No. 4

Committee for the Elimination of Racial Discrimination:

- General Comment No. 23

Human Rights Committee: General Comments and Individual cases:

- No. 23 (on minorities)
- No. 18 (non discrimination)
- No. 12 (right to self determination)
- No. 14 (right to life and nuclear weapons)
- Ominayak v. The Lubikon Lake Band - Communication No. 167/1984
- Sara v Finland - Communication No. 431/1990
- Ilmari Lansman v Finland - Communication No. 511/1992
- Jouni Lansman v Finland - Communication No. 671/1995
- Kitok v Sweden- Communication No. 197/1985
- Hopu & Bessert v France - Communication No. 549/1993
- Port Hope Environmental v Canada - Communication No. 67/1980
- E.W. v Netherlands - Communication No. 429/1990
- Bordes and Temeharo v France - Communication No. 645/1995
- **Sandra Lovelace v. Canada, Communication No. R.6/24 (29 December 1977), U.N. Doc. Supp. No. 40 (A/36/40) at 166 (1981).**

f. Environmental Protection and the African Human Rights System

Readings:

- Dinah Shelton, " The Jurisprudence of International Human Rights Tribunals Concerning Environmental Matters", CEDHA publication (forthcoming, 2000)
- "Eritea – A war on the environment" Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 11-19

- "Kenya – Environmental Heroine or Traitor?" Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 39-44

V. Cross cutting issues on Human Rights and Environment

This section adapts to the particular development and focus of the class discussions. Some cross-cutting issues are listed in the topics outlined below. One suggested approach to this section is to define the cross cutting issues with the students and plan the particular class topics and dates accordingly.

The issues included in this section should vary from 4 to 6 topics. (suggested Classes 8-13).

1. Environmental Discrimination and the Human Right to Equal Treatment

Readings:

- Aaron Sachs, "Communities: Local Peoples Fighting For Their Environments", Eco-Justice: Linking human rights and environment", Worldwatch Paper 127, (1995) p. 23-33
- Aaron Sachs, "Countries: Injustices Across Borders", Eco-Justice: Linking human rights and environment", Worldwatch Paper 127, (1995)
- UNDP, Human Development Report 1992, N.Y., UNDP 1992 p. 20-47g

2. Environmental Justice

Readings:

Dinah Shelton, "The Jurisprudence of International Human Rights Tribunals Concerning Environmental Matters", CEDHA publication (forthcoming, 2000)

3. Environmental Protection and The Human Rights to Participate and Access to Information

Readings:

- "India- Before the Deluge" Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 21-38

- "Mexico – Cutting through the haze" Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 65-76
- Dinah Shelton, " The Jurisprudence of International Human Rights Tribunals Concerning Environmental Matters", CEDHA publication (forthcoming, 2000)
- Claudia Saladin, "Public Participation in the Era of Globalization", CEDHA publication (forthcoming, 2000)
- Romina Picolotti, "Agenda 21 and Human Rights: The Right to Participate", CEDHA publication (1999)
- Alexandre Kiss, "The Right to the Conservation of the Environment", 1999, CEDHA publication (forthcoming, 2000)

Guest speaker: Claudia Saladin, CIEL

4. Human Rights Abuses of Environmental Activists

Readings:

- "Brasil - Rural Violence and the Rainforest", Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 1-9
- "United States - Punishing Nuclear Whistleblowers" Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 97-106
- "The Former Soviet Union – A Poisonous Legacy" Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 89-96
- Aaron Sachs, "Individuals: The Traditional Human Rights Focus", Eco-Justice: Linking human rights and environment, Worldwatch Paper 127, (1995) p.18-22

5. The Human Right to Life and the development of a right to a clean or healthy environment

Readings:

- A.A. Cancado Trindade, "The Parallel Evolutions of International Human Rights Protection and of Environmental Protection and the Absence of Restrictions upon the Exercise of Recognized Human Rights", Revista del Instituto Interamericano de Derechos Humanos, Nro. 13, p. 50 - 76
- Gunther Handl, "Human Rights and Protection of the Environment: A Mildly Revisionist View", Human Rights, Sustainable Development and Environment, IIDH-BID, 2nd. Ed. (1995), p.117-142

- Johannes Van Aggelen, "the Right to Life and Environmental Protection: Preliminary Reflections" , Human Rights, Sustainable Development and Environment, IIDH-BID, 2nd. Ed. (1995), p.275-283

6. Sustainable Development as a Human Right

Readings:

- Alexandre Kiss, "Sustainable Development and Human Rights", Human Rights, Sustainable Development and Environment, IIDH-BID, 2nd. Ed. (1995), p. 29-37
- A.A. Cancado Trindade, "Environment and development: Formulation and implementation of the right to development as a human right", Human Rights, Sustainable Development and Environment, IIDH-BID, 2nd. Ed. (1995), p. 39-70;
- Aaron Sachs, "The Human Rights Framework for Sustainable Development", Eco-Justice: Linking human rights and environment, Worldwatch Paper 127, (1995)
- UNDP, Human Development Report 1990, N.Y., UNDP 1990 p. 1-113
- UNDP, Human Development Report 1991, N.Y., UNDP 1991, p. 59-80
- UNDP, Human Development Report 1992, N.Y., UNDP 1992 p. 29,40,34

Further Readings:

- UNDP, Human Development Report 1990, N.Y., UNDP 1990
- UNDP, Human Development Report 1991, N.Y., UNDP 1991
- UNDP, Human Development Report 1992, N.Y., UNDP 1992
- UNDP, Human Development Report 1993, N.Y., UNDP 1993

7. Environment, Human Rights and Indigenous Peoples

Readings:

- "Malaysia – An Unholy Alliance of Politics and Logging", Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p. 45-63
- "The Killing of Henry Domoldol", Abuses of Human Rights and the Environment Defending the Earth, Human Rights Watch & Natural Resources Defense Council (1992), p.81
- Robert D. Bullard, "Anatomy of Environmental Racism and the Environmental Justice Movement", Confronting Environmental Racism Voices from the Grassroots, South End Press Boston, Mass., chapter 1, p.29, paragraph.4

VI. Class Exercise

In this section, the class will put on a moot court simulation. The model to be used is the Inter-American Human Rights System. The class is divided into teams representing the Inter-American Court, the Commission, the accused State, the NGO representing the victim(s), and an NGO presenting an *amicus* brief on the case. We will use an exemplary case that involves human rights and environmental abuses and will go through the steps of the utilization of an international human rights mechanisms in applying international human rights and environmental law.

The moot court exercise should be covered in two or three classes (suggested final classes).

Readings:

- Hurts Hannum, "Implementing Human Rights: An overview of strategies and procedures" Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 19-40
- Checklist to Help Select the Most Appropriate Forum, Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 267-270
- Sandra Coliver, "International Reporting Procedures", Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 173-191

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For Distribution to Class ONLY after the moot court is complete.

- The Awas Tingni Case (The petition before the IAHR Commission, The IAHR Commission brief to the Court, IHRLG and CIEL Amicus Brief, The Indigenous Communities' Amicus Brief)

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Further Reading

Diana Vincent -Davis " Bibliographic Essay" Guide to International Human Rights Practice, 2nd. Ed. by Hurts Hannum, (1994), p. 249-265

BACK TO LINKS

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Reading Materials