

**Selected Problems in International Law:
Climate Change, Human Rights and the Environment
Course Outline and Reading Materials
Fall 2011**

Instructor: Sumudu Atapattu, PhD (Cambridge)

The class will meet on **Thursdays** from 9:55-11:55am in **Room 3261** of the Law School.

The objectives of the course:

- To provide an understanding of the role of international law and its applicability to climate change within a framework of sustainable development;
- To provide knowledge of existing international mechanisms and law applicable to global climate change;
- To provide an understanding of the relationship between climate change and human rights;
- To discuss the impact on other areas such as economic development, poverty, socio-economic rights and the role of sustainable development.

Style of instruction and reading:

The course will comprise a mix of lectures, discussions and student presentations. It is expected that the students will read the assigned material prior to class.

Evaluation:

The students will be assessed on a written paper to be submitted at the end of the course, class participation and class presentation:

Paper – 80%
Class participation – 10%
Class presentation – 10%

The students will be asked to select a topic for the paper which should not exceed 30 pages in length (double spaced). Each student will make a short presentation in class on their paper topic. Students will receive a letter grade. Pass/fail option is also available. Please inform me if you want to be assessed this way.

Documents and text:

The reading materials as a photocopied binder will be available from the Bookmart.

The main documents that we will be using are:

The 1972 Stockholm Declaration on the Human Environment
The 1992 Rio Declaration on Environment and Development
The Political Declaration of the 2002 World Summit for Sustainable Development
UN Framework Convention on Climate Change, 1992
Kyoto Protocol, 1997
IPCC 4th Assessment Report (summary for policy makers), 2007
Bali Action Plan, 2007
Copenhagen Accord, 2009

(These can be downloaded from the internet)

Laptop policy:

I don't have a problem with students using laptops in class as long as it does not bother other students or interfere with classroom discussion.

Office hours:

I will be available for consultation during the following hours in my office (6218 Law)

Tuesday - 10:00-11:00am

Wednesday– 10:00-11:00am

If you would like to meet me outside these hours, please make an appointment via phone (890 1395) or email (saatapattu@wisc.edu).

**Selected Problems in International Law:
Climate Change, Human Rights and the Environment**

**Course Outline and Reading Materials, Fall 2011
Room 3260 Law**

Instructor: Sumudu Atapattu, PhD (Cambridge)

Class 1 – 9/8/11

1. Discussion of topics and course outline and students' expectations
2. *Res communes v. res nullius*
From sovereignty to common concern and the tragedy of the commons

Reading: Our Common Future, chapter 10

3. Movie – An Inconvenient Truth

Class 2 – 9/15/11

1. Climate change: causes, impacts and uncertainty

Reading: IPCC 4th Assessment report, summary for policy makers (2007)

Change: UNDP, Human Development Report 2007/08, Fighting Climate

Human Solidarity in a Divided World (2007), Overview

2. Politics of climate change and North-South divide

Reading: INTERNATIONAL ENVIRONMENTAL LAW AND POLICY (3rd edition)
David Hunter, James Salzman and Durwood Zaelke (2007) p 662-670

Class 3 – 9/22/11

International Legal Framework – UNFCCC and Kyoto Protocol

Reading: International Environmental Law and Policy (3rd edition)
David Hunter, James Salzman and Durwood Zaelke (2007) p 670-692

Christina Voigt, SUSTAINABLE DEVELOPMENT AS A PRINCIPLE OF INTERNATIONAL LAW:
RESOLVING CONFLICTS BETWEEN CLIMATE MEASURES AND WTO LAW (2009), chapter 3 –
The International Climate Regime

Class 4 – 9/29/11

International Legal Framework contd.

1. Bali Roadmap

Reading: Chris Wold, David Hunter & Melissa Powers, *CLIMATE CHANGE AND THE LAW* (2009), chapter 9 (Beyond 2012: The Post-Kyoto Climate Regime), p 335-358

2. Copenhagen Accord

Reading: Daniel Bodansky, The Copenhagen Climate Change Conference: A Post-Mortem, *AJIL*, Vol 104 (2010)

David Hunter, Climate Law Reporter: Implications of the Copenhagen Accord for Global Climate Governance, 10 *Sustainable Development Law and Policy* 4 (2010)

Class 5- 10/6/11

Climate change and IEL principles - Sustainable Development, precautionary principle, inter-generational equity principle and the common but differentiated responsibility principle

Reading: Patricia Birnie and Alan Boyle, *INTERNATIONAL LAW & THE ENVIRONMENT* (2nd ed., 2002), pp 84-104, 115-121

Dinah Shelton, Equitable Utilization of the Atmosphere: A Rights-based Approach to Climate Change? in *HUMAN RIGHTS AND CLIMATE CHANGE* (Stephen Humphreys ed., 2010), chapter 3

Class 6 – 10/13/11

Environmental protection and human rights, including regional Instruments: African Charter, San Salvador Protocol and the European Convention

Reading: Alan Boyle, “Human Rights or Environmental Rights? A Reassessment,” 18 *Fordham Envtl. Law Review* 471 (2007)

Dinah Shelton, Human Rights and the Environment: What Specific Environmental Rights have been Recognized? 35 *Denver Journal of International Law and Policy* 129 (2006)

Class 7 – 10/20/10

Climate change and human rights

Skim Report of the Office of the High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights (Jan 15, 2009) available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/103/44/PDF/G0910344.pdf?OpenElement>

Reading: John H. Knoz, Climate Change and Human Rights, 50 *Virginia Journal of International Law* 163 (2009), available on LexisNexis

Stephen Humphreys, Introduction: Human Rights and Climate Change *in* HUMAN RIGHTS AND CLIMATE CHANGE (Stephen Humphreys ed., 2010), pp 1-25

Further reading: Bodansky, Climate Change and Human Rights: Unpacking the Issues, *University of Georgia School of Law Research Paper Series*, March 2010

Class 8 – 10/27/11

Challenges to the international legal order/cross-cutting issues

1. Climate refugees

Reading: Robert McLeman, Climate Change Migration, Refugee Protection, and Adaptive Capacity-Building, 4 *MCGILL INTERNATIONAL JOURNAL OF SUSTAINABLE DEVELOPMENT LAW AND POLICY* (2008), p 1-18.

Angela Williams, Promoting Justice within the International legal System: Prospects for Climate Refugees *in* CLIMATE LAW AND DEVELOPING COUNTRIES: LEGAL AND POLICY CHALLENGES FOR THE WORLD ECONOMY (Benjamin Richardson *et al* eds., 2009) pp 84-101.

2. Disappearances of states

Reading: Jane McAdam, 'Disappearing States', Statelessness and the Boundaries of International Law, available at: <http://ssrn.cpm/abstract=1539766>

Class 9 – 11/3/11

Challenges to international legal order (contd)

3. REDD and indigenous rights

Reading: Frances Seymour, Forests, Climate Change and Human Rights: Managing Risks and Trade-Offs *in* HUMAN RIGHTS AND CLIMATE CHANGE (Stephen Humphreys ed., 2010), chapter 7

Friends of the Earth International, REDD Myths (2008), executive summary and introduction. Full report available at:

<http://www.foei.org/en/resources/publications/pdfs/2008/redd-myths/view>

4. Project Finance, renewable energy and human rights

Guest speaker – Shalanda Baker, Hastie Fellow, UW Law School

Reading: Shalanda Baker, Unmasking Project Finance: Risk Mitigation, Risk Inducement and an Invitation to Development Disaster?

Class 10 - 11/10/11

Class presentations

Class 11 – 11/17/11

Adjudicating Climate change

Reading: David Hunter, The Implications of Climate Change Litigation: Litigation for International Environmental Law-Making *in* ADJUDICATING CLIMATE CHANGE: STATE, NATIONAL, AND INTERNATIONAL APPROACHES (William C.G. Burns and Hari Osofsky eds., 2009)

Inuit case and the petition to the World Heritage Committee

Reading: Petition to the Inter American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States: Summary of the Petition, available at:

<http://www.inuitcircumpolar.com/files/uploads/icc-files/FINALPetitionSummary.pdf>

Erica J. Thorson, The World Heritage Convention and Climate Change: The Case for a Climate-Change Mitigation Strategy beyond the Kyoto Protocol *in* ADJUDICATING CLIMATE CHANGE: STATE, NATIONAL, AND INTERNATIONAL APPROACHES (William C.G. Burns and Hari Osofsky eds., 2009)

No class on 11/24/11 due to Thanksgiving recess

Class 12 – 12/1/11

1. Novel approaches to state responsibility?

Reading: Sumudu Atapattu, Climate Change, Differentiated Responsibilities and State Responsibility: Devising Novel Legal Strategies for Damage Caused by Climate Change in *CLIMATE LAW AND DEVELOPING COUNTRIES: LEGAL AND POLICY CHALLENGES FOR THE WORLD ECONOMY* (Benjamin Richardson *et al* eds., 2009) pp 37-62

2. Future of International Climate Change Law

Reading: Chris Wold, David Hunter & Melissa Powers, *CLIMATE CHANGE AND THE LAW* (2009), chapter 19, Towards a Carbon Free Future, p 909-926.