

COURSE SYLLABUS

Course Title: Comparative Environmental Law

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Course Description: The world is now more concerned than ever about the environmental effects of human activities. Legal systems have responded to these concerns with a dramatic increase in the number and intensity of rules that aim at regulating the physical and built environment. Many of these environmental legal norms, however, are criticized for their cost and so impeding competitiveness, especially in global markets. In view of this tension, this course has three objectives. First, it will describe the basics of both international trade law (focusing on World Trade Organization rules) and international environmental law (focusing on climate change regulatory institutions), describing their origins, current functions and conflicts in their aspirations and operations. Second, the course will examine different approaches to regulation of some of the principal objects of environmental regulation, namely air, water, wastewater and storm water, and wastes. Third, the course consistently will ask students to evaluate the success of different environmental regulatory approaches in light of different theoretical frameworks, such as law and economics, ecological economics, and social-environmental justice analysis. The comparative feature will use examples from the European Union, Japan, South America and the United States. In addition, the comparative work will constantly reference the international framework for regulating these environmental aspects, where one exists and seek to highlight the tension between global and national and/or regional regulatory goals.

Learning Objectives:

1. Understand the basic structure of environmental law and regulation in most countries;
2. Study the international legal instruments that shape much of the debate about the correct path of environmental law and regulation;
3. Examine the relation of national laws and regulations to regional and international environmental protection regimes;
4. Consider the relation of environmental law and regulation to economic growth and social development; and
5. Appreciate the complexity of environmental law and regulation at the local, regional and international levels.

Course Outline

Topic 1

1.1: theoretical bases for environmental protection, introduction: law and economics, ecological economics, social-environmental justice, theory of the commons and environmental resources

1.2: the basics of international law; the World Trade Organization; the United Nations Framework Convention on Climate Change and its Secretariat

Topic 2

2.1: Air Pollution Regulation: the legal and regulatory challenge: stationary and mobile sources; cross-boundary problems; hot-spots

2.2: Air Pollution Regulation: comparative legal and regulatory approaches: examples, criticisms and challenges

Topic 3

3.1: Water Pollution Regulation: the legal and regulatory challenge: point and non-point sources; water and wastes; water and toxics; health standards for potable and other uses; cross-boundary problems

3.2: Water Pollution Regulation: comparative legal and regulatory approaches: examples, criticisms and challenges

Topic 4

4.1: Solid Waste Regulation: the legal and regulatory challenge: types of wastes and legal standards; disposal options and challenges; reduction, reuse and recycling options

4.2: Solid Waste Regulation: comparative legal and regulatory approaches: examples, criticisms and challenges

Topic 5

5.1: Hazardous and Toxic Waste Regulation: the legal and regulatory challenge: types of hazardous versus toxic wastes and legal standards governing them; disposal options and challenges; precaution versus scientific uncertainty

5.2: Hazardous and Toxic Waste Regulation: comparative legal and regulatory approaches: examples, criticisms and challenges

Topic 6

6.1: Cross-Cutting Environmental Regulatory Issues: the legal and regulatory challenge: focus on climate change and biodiversity protection as both relate to prior topics covered in class

6.2: Cross-Cutting Environmental Regulatory Issues and Environmental Regulation in the 21st Century: comparative legal and regulatory approaches: examples, criticisms and challenges

Reading List:

- Carol M. Rose, *Joseph Sax and the Idea of the Public Trust*, 25 Ecology L.Q. 351-362 (1998)
- United States National Environmental Policy Act of 1969 (“NEPA”), as amended through 2000, pages 3-9.
- United Nations, *Understanding International Law* (2011) (2 pages)
- World Trade Organization, *What is the World Trade Organization?* (3 pages) and *Principles of the Trading System* (6 pages) (2017)
- United Nations, Paris Agreement [on Climate Change] pages 1-8 (2015)
- United States, Table of Contents for Clean Air Act of 1970, as amended (2004) (4 pages)
- United Nations, Kyoto Protocol to the United Nations Framework Convention on Climate Change pages 1-6 & pages 11-12 (1998)
- Michael C. Blumm & William Warnock, *Roads Not Taken: EPA vs. Clean Water*, 33 Env’tl. L. 79, pages 1-14 (2003)
- Dieter Reinhardt & Anja Senz, *Cross-Boundary Water Resource Management in a Non-Cooperative Context: The Case of Eastern Himalaya*, pages 1-7 (ECHR Conference Paper, 2013)

- United Nations, Factsheet on transboundary waters (1 page) (2004)
- United Nations, UN Human Development Report 2006, *Beyond scarcity: power, poverty and the global water crisis*, pages 1-7 (2006) (recommended but not required reading: pages 8-20)
- Shafiul Azam Ahmed & Mansoor Ali, *Partnerships for solid waste management in developing countries: linking theories to realities*, 28 *Habitat International* 467–479 (2004)
- United Nations Development Programme, information sheet on integrated solid waste management (4 pages) (2017)
- United Nations General Assembly, Mandate of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, (October 3, 2014) (4 pages)
- United Nations General Assembly, The Special Rapporteur on the implications for human rights of environmentally sound management and disposal of hazardous substances and wastes (February 23, 2017) (3 pages)
- Sarah Boseley, *Child labourers exposed to toxic chemicals dying before 50, WHO says*, *The Guardian* (London), March 21, 2017 (2 pages)
- European Union, Citizen's summary biodiversity strategy to 2020 (2 pages)
- United Nations Convention on Biodiversity pages 1-14 (1992)
- United States Endangered Species Act of 1973, all sections (pp. 221-230)
- Review Paris Agreement (Day 1, hour 2) & Kyoto Protocol sections (Day 2)
- Fred Pearce, *Let's hold Apple and Walmart to their big environmental promises*, *The Guardian* (London), May 15, 2017 (2 pages)

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Evaluation:

- **Final Examination/Assignment:** there will be a take-home final exam, consisting of two, equally-weighted questions, each worth 40% of your grade. One question will be a more technical question requiring students to demonstrate an understanding of the particulars of the legal instruments studied in the course. The other question will be a more policy-oriented question related to the objectives of environmental law and policy. Both questions will require students to engage in comparative legal analysis. The take-home examination will be distributed on Day 5 of the course. The due date will be announced in class on Day 1.
- **Participation:** Students will receive a grade for participation worth 20% of the grade.