Course Description

Scientists believe that we have entered a new era known as the Anthropocene in which human economic activity threatens the future of life on the planet. Caused primarily by the consumption patterns of the world’s wealthiest inhabitants, global environmental degradation has a disproportionate impact on the people who contributed least to the problem. For example, extreme weather events related to climate change are currently wreaking havoc on the states and people whose greenhouse gas emissions are relatively minimal, including the small island states, the least developed countries, indigenous peoples, and the poor.

International Environmental Law introduces some of the legal and policy responses to global environmental degradation. The course begins with an introduction to the international legal framework within which international environmental law has developed and provides an overview of the major environmental problems confronting the international community. The course then examines a variety of global environmental problems and the legal regimes that have developed to address these problems. The emphasis throughout the course is on the relationship among environmental protection, economic development, and social development (the three pillars of sustainable development) and on the conflicting priorities and perspectives of affluent, middle-income, and poor countries. The North-South divide will serve as the key analytical framework through which the course will examine global environmental governance.

Credit, course schedule, and evaluation

This is a three-credit course that ends on Monday, November 4, 2019. It meets for four hours per week in order to give students an entire month to complete the final paper. There is no final exam in this course. Students will be evaluated on the basis of class participation (50% of final grade) and a 6000-7500 word research paper (50% of final grade, including compliance with the milestones described below). The research paper should examine the North-South divide in an area of international environmental law that
intrigues you. Students with prior background or interest in international economic law or international human rights law are encouraged to pursue topics that examine the intersection of these legal regimes with international environmental law.

Milestones toward final paper:

1. Paper topic with preliminary bibliography: Wednesday, September 25
2. Detailed annotated outline: Monday, October 28
3. Final paper: Friday, December 6

The requirements for each milestone are described in the latter part of this syllabus. Please submit the paper topics, outlines, and final papers via email to me at cgonzalez19@luc.edu. Please note that tardy submission of any of the three assignments will result in a lowering of your final grade.

Required Texts


3. Additional materials required for the course will be posted on the course TWEN page. Please register for the course as soon as you receive your Westlaw sign on information.

Educational Goals and Learning Objectives

This course provides a general introduction to international law in addition to focusing specifically on the legal instruments that aim to protect the environment. Students will study the basic sources of international law and learn how these sources apply to environmental problems. My aim is to provide you with the skills and knowledge to identify a variety of international environmental problems, explain their underlying causes, understand their impacts on vulnerable communities, analyze the legal instruments that address the problem, and articulate the North-South tensions that pervade each area of law. The final paper should enable you to discuss with depth and
expertise the North-South divide in an area of international environmental law of your choosing.

**Expectations**

The course will be taught as seminar. Class participation is essential to the success of the course. Students are expected to prepare carefully for class, to attend every class session, to participate in class discussions, and to comply with course milestones. I will provide the class with questions to facilitate class preparation, and will call on students to ensure that every student has the opportunity to participate. As the semester proceeds, I may assign specific students to guide class discussion on selected topics.

I encourage you to commit to the following:

**Regular Attendance:** The American Bar Association requires regular and punctual class attendance. In addition, class participation is half of your final grade. Tardiness and absences, even if they are considered “excused,” will lower your final grade and could constitute grounds for the law school to refuse to allow a student to remain enrolled in a course, resulting in a grade of “WF” (withdrawal failing).

**Careful Reading:** The readings are dense and challenging. Even though I will provide you with questions to guide your reading, you will be surprised at the amount of time required to master the material. Please give yourself ample time to understand the assigned readings, and jot down answers to the questions I provide in advance.

**Active Participation:** Because this is a small seminar class, you are expected to participate in class every day. The material that we cover in class will serve as the foundation for your final paper in this course. Please come prepared to answer the questions I have posed and to raise additional questions of your own for class discussion. The class is enriched by the unique perspective and background of each student.

**Compliance with course milestones:** The paper milestones are designed to ensure that you make steady progress toward your final paper and receive formative feedback throughout the semester. In addition to the paper milestones, I will also assign a “learning by doing” exercise involving treaty interpretation for one of our class sessions. All of these assignments count toward your final grade.

**Academic Integrity:** Students should familiarize themselves with the law school’s Code of Conduct, particularly the provisions related to academic honesty. Violations will not be tolerated and will result in a failing grade.
Coverage

I plan to cover the readings identified below as well as supplemental readings that I will post on TWEN. However, I may adjust the course coverage depending upon the students’ prior knowledge, if any, of international law. The pages below are not assignments. Assignments for the coming week will be given each Wednesday.

A. Introduction to the North-South Divide in International Law.


4. Alam et al: 23-49 (M. Rafiqul Islam, History of the North-South Divide in International Law: Colonial Discourses, Sovereignty, and Self-Determination);

5. Article 38 of the Statute of the International Court of Justice (ICJ) (available on TWEN);

6. Greenwood, Sources of International Law (available on TWEN)

B. Global Environmental Problems.

1. Excerpt from The Shock of the Anthropocene (available on TWEN);

2. Steffen et al, The Trajectory of the Anthropocene: The Great Acceleration (available on TWEN);

3. Excerpt from Laudato Si, Pope Francis’ environmental encyclical (available on TWEN).

C. The Emergence of International Environmental Law.

1. Dupuy & Viñuales: 1-24;

3. Watch documentary (53 minutes): Endangered Planet. [https://www.youtube.com/watch?v=wBd2GM3TZll&list=WL&index=7](https://www.youtube.com/watch?v=wBd2GM3TZll&list=WL&index=7)


**D. Principles and Concepts of International Environmental Law.**

1. Dupuy & Viñuales: 58-99;


3. Stockholm Declaration, Principles 1 and 21 (1972)(available on TWEN)


**Recommended Supplementary Reading**

4. Alam et al, 572-587 (Lalanath de Silva, *Public Participation in International Negotiation and Compliance*).

**E. Environmental Treaties; Treaty analysis exercise.**

1. International Environmental Law: Treaty Analysis (available on TWEN)

2. Vienna Convention on the Law of Treaties (available on TWEN);

3. Montreal Protocol on Substances that Deplete the Ozone Layer (available on TWEN)

4. **Background**: Protection of the Atmosphere
   a. Dupuy & Viñuales: 38-51; 158-171;


### F. Human Rights and the Environment

1. Dupuy & Viñuales: 357-403;


### G. Human Rights Case Studies


### H. Climate Change and the North-South Divide

1. Dupuy & Viñuales: 171-197;


3. Copenhagen Accord (2009)(available on TWEN)
4. Paris Agreement (available on TWEN);

5. Chukwumerije Okereke & Philip Coventry, *Climate justice and the international regime: before, during, and after Paris*, WIREs Climate Change (2016) (available on TWEN);


I. **Climate Change, Climate Justice, and Vulnerable Communities**


J. **Dangerous Substances and Activities**

1. Dupuy & Viñuales: 251-286;


K. **Food, Land, and Energy**


L. **Environmental Protection and International Economic Law**
1. Dupuy & Viñuales: 452-490;

2. Alam et al: 297-316 (Shawkat Alam, Trade and the Environment: Perspectives from the Global South)


M. Implementation of Environmental Law:  Dupuy & Viñuales: 293-324; 328-351.

RESEARCH PAPER REQUIREMENTS

Your final paper (due Friday, December 6, 2019) should explore an international environmental problem that involves North-South tensions or conflicts (or South-South tensions between middle-income and poor developing countries). Your paper should discuss the environmental problem, explain the North-South (or South-South) tensions, identify the applicable law, analyze the effectiveness of the law in addressing the problem, propose alternative approaches, and discuss why these proposed alternatives are not currently being pursued. Your goal should be to produce a paper of publishable quality. Please consult the Dupuy and Viñuales book for possible topics and the Alam et al book for examples of various ways to analyze the North-South dimensions of international environmental law.

Possible topic areas include: oil drilling in the Arctic; extractive industries and the rights of indigenous peoples; war and the environment; climate change and small island nations; depletion of fisheries; protection of endangered species; the Antarctic; genetically modified organisms; the export of toxic chemicals; marine pollution; nuclear materials and nuclear accidents; protection of wetlands; ozone depletion; forest conservation; groundwater; surface waters; climate change refugees; climate change and ocean
acidification; international financial institutions (World Bank, International Monetary Fund) and the environment; trade and the environment; international investment law and the environment; the hazardous waste trade (including electronic waste and the problem of ship-breaking); desertification; food and agriculture; energy poverty and energy justice; human rights and the environment; the green energy transition; the problem of plastics pollution; corporate social responsibility; and the regulation of transnational corporations. You can approach these and other topics from any number of perspectives, including post-colonial theory, critical race theory, and feminist legal theory. In order to narrow down your topic, I encourage you to identify a specific case study that will serve as the basis of your paper.

One way to identify a paper topic is to conduct an internet search for concrete examples of conflicts involving an issue that interests you. The concrete example you select can serve as a case study.

Your final paper must include a title page (with your name and E-mail address), table of contents, text, and footnotes (in Blue Book Style). It should contain a minimum of 6000-75000 words of text, inclusive of footnotes, title page, and table of contents. The text should be double spaced and the pages numbered.

You must include an introduction, which introduces the topic and informs the reader of what you intend to cover and the order in which you intend to cover it. Please utilize sections and headings to indicate coverage of different aspects of the topic and to make the paper easier for the reader to follow. I encourage you to prepare to write the research paper by reading the following article (available on TWEN): Eugene Volokh, “Writing a Student Article,” 48 J. Legal Educ. 247 (1998).

Please use 12 point type and Times New Roman font. Margins should be one inch on all sides and the text should not be justified. If your topic does not yield a paper of sufficient length, it may be necessary to expand the scope of your topic. Please keep in mind that this is an academic research paper. Exclamation points, slang, and other informal language should be avoided.

Unless a thought is original, you must indicate its source. This is the purpose of footnotes, which should be in Blue Book form. Footnotes are also a good place to include relevant information that does not quite fit within the text. Consult a good law review article to get a feel for the effective use of footnotes. Since this as a research paper it is likely that you will have many footnotes citing material from a wide variety of sources. If you find yourself repeatedly and continuously citing a single source, you have a serious problem – namely lack of adequate research or an unsatisfactory topic.

I will use the following criteria to evaluate the final papers:

- New and original insights and arguments (rather than merely reiterating the work of others)
• Thorough research using a wide range of sources (treaties, soft law, judicial decisions, law review articles, articles in the popular press and in other disciplines, articles by business or NGO advocacy groups)
• Analytical rigor and persuasiveness (including how well you address counterarguments)
• Quality of the writing (clear, concise, grammar and spelling)
• Careful citation of every idea that is not your own

Electronic resources for international environmental law research

The official website for the treaty that forms the basis of paper should be your initial starting point for research on your topic. In addition, the following websites contain useful information:

d. http://www.eisil.org/

Milestone 1: Paper Topic and Preliminary Bibliography
Due: Wednesday, September 25, 2019

Please discuss 1) the environmental problem you have selected as the basis for your paper and 2) the precise question that your paper will seek to address. Next, please explain in one paragraph why this topic is important. Please discuss the treaty that you will analyze in order to understand the basic legal framework applicable to your problem. Finally, list six sources that will assist you in your research. These should include one book or treatise, one treaty, one soft law instrument, a law review article, a position paper or policy brief by a non-governmental organization, and the website of an intergovernmental organization that contains information relevant to your problem, such as UN Environment (UNEP), the World Health Organization, the UN Food and Agriculture Organization, the UN Development Programme, the World Trade Organization (WTO), and the International Labor Organization (ILO). Next to each source, please provide a short description of the source and explain how it will be useful to you in your research.

Milestone 2: Ten-Page Detailed Annotated Outline
Due: Monday, October 28, 2019

Your detailed annotated outline should include an introduction, section headings and other structural requirements that will help you organize your thoughts and write the paper. The outline should be at least ten double-spaced pages, but may be longer if you have made further progress in your research and writing. You should provide a summary of every section of your paper, including the major arguments and sub-arguments. Each
argument and sub-argument should be supported with citations. The outline will guide the reader in understanding your thesis and how you plan to address it. It will also alert you to areas of your paper that require further research.

Please keep in mind that the better your annotated outline, the easier it will be to complete the paper on time and to obtain meaningful feedback. The more technical requirements, however, such as putting footnotes in Bluebook form and providing a cover page and table of contents, will not be required.

**Milestone 3: Final Research Paper**

Due: Friday, December 6, 2019

Because the course will meet for the last time on Monday, November 4, you will have the remainder of the semester to complete the research paper. The paper topics, outlines, and final papers should be submitted electronically to me at cgonzalez19@luc.edu.