



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

PROGRAMME: B.A.,LL.B (HONS) FYIC

DETAILS OF COURSE OFFERED

ODD SEMESTER (VII) – ACADEMIC YEAR :

SL. NO	COURSE CODE	COURSE TITLE	L	T/P	CR	CH
1	703 IL OP I	INTERNATIONAL ENVIRONMENTAL LAW	4 PER WEEK	1 PER WEEK	4	

- A. CODE AND TITLE OF THE COURSE: 703 IL OP I, INTERNATIONAL ENVIRONMENTAL LAW**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: MR CHIRADEEP BASAK**
- E. COURSE INSTRUCTOR: MR CHIRADEEP BASAK**

1. COURSE OBJECTIVES:

This course analyzes the law and policy for the management of global common resources. As competing demands on the global commons are mounting, the protection of the environment and the pursuit of growth give rise to all sorts of conflicts. The course analyzes issues in the protection of the global commons from fairness, effectiveness, and world order perspectives. The course examines whether current policy making and future trends point to a fair allocation of global common resources that will be effective in protecting the environment and in the pursuit of sustainable development. The course also looks at the cost effectiveness of international environmental law and applies theories of national environmental law to inter-national environmental problems. Modules include analysis of areas such as marine pollution, air pollution, fisheries management, transboundary water resources, biodiversity, climate change, transboundary waste management, state responsibility, and liability. Much of the writing in contemporary international environmental law is passionately and uncritically advocative. Hence, this course will attempt to explore some of the contemporary legal/scholastic writings to understand the issues better.

On successful completion of this course, students will be able to:

- Interpret Major International Environmental law instruments and relevant/landmark case laws;
- Identify the gaps in implementing international environmental norms;
- Articulate strategies to solve the problems that implicate international environmental law and policy;
- Understand the evolution of international environmental law jurisprudence.

2. TEACHING METHODOLOGY

- Collegial presentation;
- Interactive pedagogical techniques;
- Case study method;
- Articles based discussions;
- Debate oriented and negotiation rounds on critical environmental issues;
- Legislative and case analysis of landmark and latest legal instruments and case laws respectively;
- Documentary screening and open house discussions

3. COURSE OUTCOMES

- Climate Law is an area of International Environmental Law, which has gained immense momentum in last two decades
- With the evolution of UNFCCC and adoption of Paris Agreement, the same discourse is relevant in legal contexts as well

- By the end of this optional paper, the learners will be in a position to understand and even further contribute to the theoretical pool of Climate Law

4. COURSE EVALUATION METHOD

The course shall be evaluated for 200 marks. The evaluation scheme would be:

Internal Assessment: 70% (140 marks)

External Assessment: 30% (60 marks)

Sl.No.	Internal Assessment	
1.	Assignments (written or in presentation mode) (2 Assignments of 20 marks each)	20 x 2 =40 marks
2.	Seminar/Group Discussion (topics will be announced in the class)	20 marks
3.	Class Tests (Twice in a semester)	35 x 2 = 70 marks
4.	Attendance in class	10 marks
5.	Semester End Examination	60 marks

5.DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

MODULE I

Pollution in the Atmosphere and Climate Change

1. Pollution in the Atmosphere

- 1.1. *Trail Smelter Arbitration* (1938, 1841)
- 1.2. The 1979 ECE Convention on Long Range Transboundary Air Pollution and its Protocols
- 1.3. *Nuclear Test Cases* (ICJ, 1974)
- 1.4. Chernobyl Incident, 1986
- 1.5. Responsibilities of 'Nuclear Weapon States' towards the Environment: With special reference to *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. India)*, *(Marshall Islands v. Pakistan)*, *(Marshall Islands v. United Kingdom)*, I.C.J., 2016.
- 1.6. Depletion of the Ozone Layer
 - 1.6.1. Vienna Convention on the Protection of the Ozone Layer, 1985
 - 1.6.2. Montreal Protocol, 1987

2. Climate Change

- 2.1 UN Framework Convention on Climate Change
- 2.2 Kyoto Protocol, 2005 and Doha Amendment, 2012
- 2.3 Copenhagen Accord, 2009
- 2.4 Cancun Agreements, 2010
- 2.5 Durban Outcomes, 2011
- 2.6 Warsaw Outcomes, 2013
- 2.7 Poznan Strategic Programme, 2013

2.8 Paris Agreement, 2015

MODULE II

Entering the regime of Global Commons

1. Marine Environment and IEL & Integrated Coastal Zone Management
 - 1.1. Evolution and development of International legal framework on Marine Environment
 - 1.1.1. Law of Sea Convention
 - 1.1.2. Pollution from Dumping
 - 1.1.3. Pollution from Ships
 - 1.1.4. Safety measures and Law
 - 1.1.5. Regional framework on marine environment- the lessons
2. Water Resources and IEL
 - 2.1. Problems relating Water Management
 - 2.2. Procedural Equity and Institutional Development
 - 2.3. Substantive Equity
 - 2.4. Principled Equitable Utilization/*Ad-Hoc* Regionalism
 - 2.5. International Integrated Water Resources Management
3. Fisheries and IEL
 - 3.1. International Management of Fisheries Resources
 - 3.2. Law of Sea Convention
 - 3.3. Agreement on Fisheries Management
 - 3.4. FAO Code of Conduct for responsible fisheries
 - 3.5. Case Studies on Fisheries Management and Law
4. Antarctic Treaty Regime

MODULE III

Trade and Biodiversity Conservation

1. Trade and Environment
 - 1.1. World Trade Institutions
 - 1.2. The Treaties governing trade and environment
 - 1.3. Dispute Settlement mechanism under WTO
 - 1.4. Intellectual Property Rights and Trade under TRIPs
2. Biodiversity Management under IEL
 - 2.1. Transnational Protected Areas
 - 2.2. Gene Banks and state of biodiversity resources
 - 2.3. Convention on Biodiversity
 - 2.3.1. Resource allocation
 - 2.3.1.1. Transnational Redistribution
 - 2.3.1.2. Bilateral Redistribution
 - 2.3.1.3. Institutionalized Redistribution
 - 2.3.2. Trade and Biodiversity
 - 2.4. Habitats Protection under IEL regime
 - 2.4.1. World Heritage sites and international legal instruments governing the same
 - 2.4.2. Wetlands and Forests
 - 2.5. Protection of species under IEL framework
 - 2.5.1. Protection of seals and whales
 - 2.5.2. Protection of Migratory Species

MODULE IV

International Dimension of Agriculture Laws

1. Agriculture laws under International legal framework
 - 1.1. Food Security Learning Framework
 - 1.2. Nutrition at World Food Program (Updated July, 2013)
 - 1.3. International Treaty on Plant Genetic Resources for Food and Agriculture
 - 1.4. Commission on Genetic Resources for Food and Agriculture
 - 1.5. International Plant Protection Convention (Reformatted)
 - 1.6. International Rice Commission
 - 1.7. International Undertaking on Plant Genetic Resources (Resolution 8/83)
 - 1.8. Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources
 - 1.9. Gene-bank Standards
 - 1.10. International Code of Conduct for Plant Germplasm collecting and Transfer
 - 1.11. The State of World's Animal Genetic Resources for Food and Agriculture
 - 1.12. ILO Convention on Safety and Health of Agriculture
 - 1.13. FAO Commission on Desert Locust Control
 - 1.14. WTO Agreement on Agriculture
 - 1.15. FAO-CODEX standard on Food Derived from Biotechnology
 - 1.16. CODEX Code of Practice on Prevention and Reduction of Food and Feed Contamination
 - 1.17. WHO General Principles Governing the Use of Food Additives
 - 1.18. WHO Procedure for the testing of intentional food additives to establish their safety for use
 - 1.19. Evaluation of the carcinogenic hazards of food additives
 - 1.20. Evaluation of Toxicity of a number of antimicrobials and antioxidants
 - 1.21. Food Hygiene (WHO Basic Text)
 - 1.22. International Institutions and International Environmental Law- Proposals for World Environmental Organization
 - 1.23. Non governmental Participation in International Environmental law and cooperation

6. PRESCRIBED READINGS

- John H. Knox, The Myth and Reality of Transboundary Environmental Impact Assessment The American Journal of International Law, Vol. 96, No. 2 (Apr., 2002), pp. 291-319
- Gia Schneider, William L. Thomas, Benjamin Vitale, Banking on the Environment: Profiting from Investment in REDD Natural Resources & Environment, Vol. 24, No. 1 (Summer 2009), pp. 14-17, 24 L. Oppenheim, International Law 177-78 (vol. 2, 7th ed., 1952)
- Michael Walzer, Just and Unjust Wars: A Moral Argument with Historical Illustrations 3-13 (1977)
- D.W. Bowett, The Law of International Institutions 15-16 (1963)
- Philip C. Jessup, A Modern Law of Nations 166-67
- Malcolm N. Shaw, International Law 66
- John Yoo, International Law and the War in Iraq, 97 American Journal of International Law 563 (2003)
- Daniel Bodansky, The United Nations Convention on Climate Change: A Commentary, 18 Yale Journal of International Law 451
- Anthony D'Amato, The Concept of Custom in International Law (1971)

- David Freestone, The Road from Rio: International Environmental Law after the Earth Summit, 6 Journal of Environmental Law 19 (1994)
- Samuel Bleicher, An Overview of International Environmental Regulation, 2 Ecology Law Quarterly 1, 22 (1972). C. B. Bourne, International Law and Pollution of International Rivers and Lakes The University of Toronto Law Journal, Vol. 21, No. 2 (Spring, 1971), pp. 193-202
- George E. Taylor, Dale W. Johnson, Christian P. Andersen, Air Pollution and Forest Ecosystems: A Regional to Global Perspective Ecological Applications, Vol. 4, No. 4 (Nov., 1994), pp. 662-689
- Gregory Shaffer, The Law and Politics of the Treatment of Trade and Environment Measures in the WTO Proceedings of the Annual Meeting (American Society of International Law), Vol. 93 (MARCH 24-27, 1999), pp. 218-219
- Naomi Roht-Arriaza, Trade and Environment: An Environmentalist View Proceedings of the Annual Meeting (American Society of International Law), Vol. 86 (APRIL 1-4, 1992), pp. 241-246
- Duncan Brack, Balancing Trade and the Environment International Affairs (Royal Institute of International Affairs 1944-), Vol. 71, No. 3, Ethics, the Environment and the Changing International Order (Jul., 1995), pp. 497-514
- Gautam Dutt, Fabian Gaioli, Coping with Climate Change, Economic and Political Weekly, Vol. 42, No. 42 (Oct. 20 - 26, 2007), pp. 4239-4250
- Architesh Panda, Assessing Vulnerability to Climate Change in India Economic and Political Weekly, Vol. 44, No. 16 (Apr. 18 - 24, 2009), pp. 105-107
- Daniel Bodansky, The United Nations Convention on Climate Change: A Commentary, 18 Yale Journal of International Law 451 (1993)
- Garrett Hardin, The Tragedy of Commons, Science 1243, Dec. 12, 1968
- Laurence R. Helfer, Human Rights and Intellectual Property: Conflict or Co-existence?, 5 Minnesota Intellectual Property Review 47, 59 (2003)
- John Merson Osiris, Bio-Prospecting or Bio-Piracy: Intellectual Property Rights and Biodiversity in a Colonial and Postcolonial Context Vol. 15, Nature and Empire: Science and the Colonial Enterprise (2000), pp. 282-296
- Frank G. Müller, Does the Convention on Biodiversity Safeguard Biological Diversity? Environmental Values, Vol. 9, No. 1 (February 2000), pp. 55-80 A brief description of the London Convention of 1972 and the 1996 Protocol, available online at http://www.londonconvention.org/London_Convention.htm (last visited on June 20, 2015)
- Barbara Kwiatkowska, Marine Pollution from Land-Based Sources: Current Problems and Prospects, 14 Ocean Development and International Law 315, at 325 (1984)
- ILO, The Impact on Seafarers' Living and Working Conditions of Changes in the Structure of the Shipping Industry 24 (Report for discussion at the 29th Session of the Joint Maritime Commission, JMC/29/2001/3, 2001)
- McHose, John C., American Bar Association. Section of Insurance, Negligence and Compensation Law. Proceedings, Vol. 1971, pp. 251-252
- Leong, Teh Kong , Marine Pollution by Ships Singapore Journal of International & Comparative Law, Vol. 2, Issue 2 (1998), pp. 504-506
- Offshore Development and Marine Pollution [article]
- Hardy, Michael, Ocean Development and International Law Journal, Vol. 1, Issue 3 (1973), pp. 239-274

Books

- Sands, Philippe, *Principles of international Environmental law Delhi* (Cambridge University Press, 1995 . xvi, 926p)

- Boyle, Alan, *Human Rights Approaches to Environmental Protection* (New York: Oxford University Press, 1996 313p)
- Mitchell, Ronald B., *International Politics and The Environment* (Los Angeles: Sage, 2010 . xiii, 234p.)
- Condon, Bradley J, *The Role of Climate Change in Global Economic Governance* (UK: Oxford, 2013 . xxvi, 258p.)
- Gillespie, Alexander., *Conservation, Biodiversity and International Law* (UK: Edgar Elgar, 2011 xxi, 600p)
- Kotze. Louis J. (Ed.), *Global Environmental Governance and Regulation for the 21st Century* (UK: Edward Elgar, 2012 xiii, 344p)
- Percival, Robert (Ed.), *Global Environmental Law at a Crossroads* (UK: Edward Elgar, 2014 . ix, 326p.)
- Fitzmaurice, Malgosia (Ed.), *Research Handbook on International Environmental Law* (UK: Edward Elgar, 2010 . xxv, 703p.)
- Koivurova Timo, *Introduction to International Environmental Law* (New York: Routledge, 2012 xxi, 213p)
- Gillespie, Alexander, *International Environmental Law Policy and Ethics* (UK: Oxford, 2014 . xxii, 196p.)

Statutory Reference

- Convention for the Protection of the Ozone Layer, Mar. 22, 1985
- Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol), Sept. 16, 1987
- Intergovernmental Panel on Climate Change (IPCC), Assessment Reports
- United Nations Convention on Climate Change, May 9, 1992
- Protocol to the United Nations Framework Convention on Climate Change, Dec. 11, 1997
- Rules and Procedures Governing the Settlement of Disputes, Marrakesh Agreement Establishing the World Trade Organization
- Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, April 28, 1977
- Strasbourg Agreement Concerning the International Patent Classification, March 24, 1971
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, June 15, 1957
- Locarno Agreement Establishing an International Classification for Industrial Designs, Oct. 8, 1968
- Convention on Biodiversity
- International Tropical Timber Agreement (ITTA), Jan. 26, 1994
- Convention on Wetlands of International Importance (known as Ramsar Convention), Feb. 2, 1971
- Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention), June 23, 1979
- Agreement on the International Dolphin Conservation Program, May 15, 1998
- Interim Convention on the Conservation of North Pacific Fur Seals, Feb. 9, 1957 amended in 1963

- International Convention for the Regulation of Whaling, Dec. 2, 1946
- Annual Report of the International Whaling Commission
- UNESCO Convention for the Protection of the World Cultural and Natural Heritage, Nov. 16, 1972
- International Treaty on Plant Genetic Resources for Food and Agriculture, Nov. 3, 2001
- London Dumping Convention
- Recommendation of the OECD Council on Integrated Coastal Zone Management, July 23, 1992, C(92)114/Final
- UNEP/MAP/PAP, Conceptual Framework and Planning Guidelines for Integrated Coastal Area and River Basin Management (Priority Actions Programme, 1999)
- United Nations Convention on the Law of the Sea, Dec. 10, 1982
- International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, Nov. 29, 1969
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, Dec. 29, 1972
- Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, Nov. 7, 1996
- International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, Nov. 29, 1969
- Guidelines for the Assessment of Wastes or Other Matter that May be Considered for Dumping
- Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, Feb. 15, 1972
- International Convention for the Prevention of Pollution from Ships, Nov. 2, 1973
- Protocol Relating to the 1973 International Convention for the Prevention of Pollution from Ships
- Protocol on Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil, Nov. 2, 1973,
- Paris Convention for the Prevention of Marine Pollution from Land-Based Sources, June 4, 1974
- Helsinki Convention on the Protection of Marine Environment of the Baltic Sea Area, Mar. 22 1974
- Convention for the Protection of the Marine Environment and Coastal Area of the South East Pacific (Lima Convention), Nov. 12, 1981
- Protocol to the 1981 Convention for the Protection of the Marine Environment and Coastal Areas of the South East Pacific against Radioactive Pollution, Sept. 21, 1989
- Convention for the Protection of the Marine Environment of the North East Atlantic, Sept. 22, 1992 (OSPAR)
- Convention on the Protection of the Marine Environment of the Baltic Sea, April 9, 1992 (HELCOM)
- Convention on the Protection of the Black Sea against Pollution, April 21, 1992
- Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (1983 Cartagena Convention)
- Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean Region
- FAO, Reforming Water Resources Policy – A guide to Methods, Processes and Practices 2 (FAO Irrigation and Drainage Paper 52, 1995)
- R. Maria Saleth & Ariel Dina, Water Challenge and Institutional Response: A Cross Country Perspective 36 (World Bank, 1999)
- Convention on the Law of Non-Navigational Uses of International Watercourses, May 21, 1997
- Treaty between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on Sharing of the Ganga/Ganges Waters at Farakka

- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, Dec. 4, 1995
- Convention on the Conservation of Antarctic Marine Living Resources

Judicial Reference

- U.S. Standards for Gasoline case, Report of the Panel, United States–Standards for Reformulated and Conventional Gasoline, WT/DS2/R, Jan. 29, 1996
- Shrimp-Turtle case (1998, 2001) (complaints brought by India, Malaysia, Pakistan, Thailand and the Philippines) WT/DS58/AB/R, Oct. 12, 1998
- Tuna/Dolphin cases 30 ILM 1594 (1991)
- Hormones case WT/DS48/AB/R, Jan. 16, 1998
- Australian Salmon case WT/DS18/AB/R, Oct. 20, 1998
- Moses v MV Sea Chase [2001] FMSC 56; 10 FSM Intrm. 45 (Chk. 2001)
- People of Rull ex rel Ruepong v MV Kyowa Violet [2006] FMSC 53; 14 FSM Intrm. 403 (Yap. 2006) (21 September 2006)
- People of Welroy ex rel Pong v MV CEC Ace [2007] FMSC 28; 15 FSM Intrm. 151 (Yap. 2007) (29 June 2007)
- Gabčíkovo-Nagymaros case- Case Concerning the Gabčíkovo-Nagymaros Project, Sept. 25, 1997
- Fisheries Jurisdiction Case, (UK v. Iceland), (Merits), July 25, 1974, (1974) ICJ 3. Fisheries Jurisdiction Case, (Federal Republic of Germany v. Iceland), (Merits), July 25, 1974, (1974) ICJ 175
- Behring Sea Seals arbitration case
- North Sea Continental Shelf cases, (Federal Republic of Germany/Denmark; Federal Republic of Germany/the Netherlands), (Judgment), Feb. 20, 1969
- Southern Bluefin Tuna cases, (New Zealand v. Japan; Australia v. Japan), ITLOS Provisional Measures, reprinted in 38 ILM 1624 (1999)
- Camouco case, (Panama v. France), (Application for Prompt Release), Feb. 7, 2000
- Grand Prince Case, (Belize v. France), (Application for Prompt Release), April 20, 2001

All the case laws/notes/comments (as referred in Judicial References) are available on WestLaw, Manupatra and SCCOnline. The soft versions will be shared via email.