

Global Environmental Governance: A legal approach

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COURSE DESCRIPTION

The course is for any student who is interested in the current challenges of global environmental governance either to serve in international organizations, NGOs, or any other public or private institution, or merely to be able to critically take part in this crucial debate of the 21st century.

This course is primarily designed to develop your understanding of the system of global environmental governance that has emerged following the Stockholm Conference in 1972. It will explore institutional structures and norms through which environmental issues are dealt with at the global level. Further, this course will increase opportunities for contributing to environmental awareness as specialists or as citizens and strengthen your skills in designing and proposing solutions in this field.

Since the boundaries of States do not coincide with those of ecosystems, most environmental issues need to be addressed globally. The course will investigate a variety of topics including the concept of global environmental governance, the development of institutions and norms governing the protection of the environment, with special focus on key principles of international environmental law, multilateral environmental agreements (MEAs), cooperation among States and the growing significance of non-State actors (subnational governments, nongovernmental organizations, business and corporations), or the diversity of regulatory approaches and related policy tools.

In doing so, we will go through the gradual development of global environmental governance, from the Rio Earth Summit to the Sustainable Development Goals (SDGs) and the Paris Agreement and finish with a focus on the specific matters of climate and biodiversity.

COURSE VALIDATION

The final grade will be the result of two different works. (1) **A ten-slide social network post for NGO communication** presenting a specific topic of GEG (group-work, 30% of the final grade). (2) **A policy paper**, by the end of the semester, based on a few background papers discussing some aspects of the issue that you will have to consider (length between 2 000 and 3 000 words, 70% of the final grade).

Course overview

INTRODUCTION

- A/ Course overview
- B/ Bibliography
- C/ Course validation
- D/ The state of our planet: where do we stand?

PART I – FOUNDATIONS

- A/ Definition: what is Global Environmental Governance?
 - 1/ *Global*
 - 2/ *Environmental*
 - 3/ *Governance*
- B/ Some challenges
 - 1/ *Philosophical background: anthropocentrism vs ecocentrism*
 - 2/ *Political background: ecology vs economy & social*
 - 3/ *Space Factor: local vs global*
 - 4/ *Time Factor: short-termism vs long-termism*
- C/ A brief history: how did we get here?
 - 1/ *The Stockholm Conference, the Conference on the Human Environment (UNCHE, 1972)*
 - 2/ *The World Charter for Nature (1982)*
 - 3/ *The concept of sustainable development: the Brundtland Report (1987)*
 - 4/ *The Rio Conference, the United Nations Conference on the Environment and Development (UNCED, 1992)*
 - 5/ *The Johannesburg Conference, “World Summit on Sustainable Development” (WSSD, 2002)*
 - 6/ *The “Rio + 20” Summit: The United Nations Conference on Sustainable Development (UNCSD, 2012)*
 - 7/ *The UN Sustainable Development Summit (2015)*
 - 8/ *The Paris Agreement (2015)*
- D/ Fundamental environmental principles
 - 1/ *The concept of sustainable development*
 - 2/ *The right to live in a healthy environment*
 - 3/ *The “no harm principle”*
 - 4/ *Prevention principle*
 - 5/ *Precautionary principle*
 - 6/ *Polluter-pays principle*
 - 7/ *Public participation*
 - 8/ *Access to information*
 - 9/ *The principle of common but differentiated responsibility (CBDR)*
 - 10/ *Some other principles*

PART II – ACTORS & INSTITUTIONS

Chapter 1. States

- A/ The emergence of ministries of environment
- B/ The difficulties faced by ministries of environment
 - 1/ *The little political influence of environmental ministries*
 - 2/ *The fragmentation of national environmental institutions*

Chapter 2. International institutions

- A/ The UN Environment Programme (UNEP)
 - 1/ *The legal nature of UNEP*
 - 2/ *The mandate*
 - 3/ *Organization of UNEP*
 - 4/ *Funding*
- B/ The Secretariats of Multilateral Environmental Agreements (MEAs)
 - 1/ *Secretariats*
 - 2/ *The COPs*
 - 3/ *Scientific bodies*
 - 4/ *Compliance Committees*
- C/ Non-environmental institutions
 - 1/ *United Nations Development Program (UNDP)*
 - 2/ *The World Bank*
 - 3/ *The World Trade Organization (WTO)*
 - 4/ *Some other non-environmental institutions*
- D/ Regional organizations
 - 1/ *The Organization of American States (OAS)*
 - 2/ *The European Union*
- E/ Coordination among institutions
 - 1/ *Coordinating bodies*
 - 2/ *Commission on Sustainable Development and High-Level Political Forum*
 - 3/ *Clustering MEAs secretariats*
 - 4/ *A World Environment Organization?*

Chapter 3. Non-State actors

- A/ A question of terminology
- B/ The role of non-State actors
- C/ An overview of non-State actors
 - 1/ *NGOs*
 - 2/ *The scientific community*
 - 3/ *Economic actors*
 - 4/ *Regional and local authorities*

PART III – POLICY INSTRUMENTS

Chapter 1. Legal instruments: international law

- A/ The debates on the effectiveness of international environmental law
 - 1/ *Failure in the elaboration of international norms*
 - 2/ *Lack of implementation*
 - 3/ *Fragmentation of norms*
- B/ The foundation: state sovereignty
 - 1/ *Some definitions*
 - 2/ *State sovereignty and the environment*

- C/ Sources of international law
 - 1/ *Soft law: a specific place in international law*
 - 2/ *Customary law and general principles of law*
 - 3/ *Treaties*
 - 4/ *Secondary law*
- D/ Implementation at the domestic level
 - 1/ *Incorporation of international law into national law: dualism and monism*
 - 2/ *International law before domestic courts*
 - 3/ *The rank of international law within the hierarchy of norms*
- E/ Implementation of treaties at the international level
 - 1/ *Compliance mechanisms*
 - 2/ *Judicial enforcement*
 - 3/ *Towards an International Court for the Environment?*

Chapter 2. Economic instruments: funding approaches

- A/ General background
 - 1/ *One key debate: regulation versus economic tools*
 - 2/ *International conferences*
 - 3/ *The links and interconnection between public and private finance*
- B/ Public finance
 - 1/ *The Global Environmental Facility (GEF)*
 - 2/ *Treaty-based environmental funds*
 - 3/ *National development agencies*
- C/ Private finance
- D/ Others economic instruments
 - 1/ *Market mechanisms*
 - 2/ *Tax instruments*

PART IV - KEY SECTORS

Chapter 1. Climate governance

- A/ UN Framework Convention on Climate Change (UNFCCC)
 - 1/ *History*
 - 2/ *An overview of the content of the convention*
 - 3/ *Institutional arrangements*
- B/ The Kyoto Protocol
 - 1/ *Background*
 - 2/ *Market mechanisms*
 - 3/ *Kyoto Protocol bodies and implementation committee*
- C/ The Paris Agreement
 - 1/ *The negotiation process*
 - 2/ *Main features of the Paris Agreement*

Chapter 2. Biodiversity

- A/ An overview of legal regime of biodiversity
 - 1/ *The interconnection between climate change and biodiversity*
 - 2/ *The fragmentation of the legal regime of biodiversity*
- B/ The Convention on Biological Diversity (CBD)
 - 1/ *Basic principles*
 - 2/ *Institutional and non-State actors*

Chapter 3. Other sectors

- A/ The marine environment
- B/ Freshwater resources
- C/ Hazardous activities
 - 1/ Waste
 - 2/ Chemicals

INDICATIVE READING

International environmental law

- U. Beyerlin, T. Marauhn, *International Environmental Law*, Beck CH., 2011
- D. Bodansky, *The Art and Craft of International Environmental Law*, Cambridge (MA), Harvard University Press, 2010
- P-M. Dupuy, J. E. Vinuales, *International Environmental Law*, 2nd ed., Cambridge, Cambridge University Press, 2018
- Ph. Sands, J. Peel, *Principles of International Environmental Law*, 4th ed., Cambridge, Cambridge University Press, 2018
- L. Rajamani, J. Peel, *The Oxford Handbook of International Environmental Law*, 2nd ed., Oxford University Press, 2021
- A. Boyle, C. Redgwell, *Birnie, Boyle, and Redgwell's International Law and the Environment*, 4th ed., Oxford University Press, 2021

International Environmental Governance

- B.H. Desai, *International Environmental Governance: towards UNEPO*, Leiden, Brill Nijhoff, 2014
- World Resources Institute, "International Environmental Governance", *World Resources 2002-2004: Decisions for the Earth: Balance, voice, and power*, Washington, DC. 137-172
- F. Biermann and Ph. Pattberg, *Global Environmental Governance Reconsidered*, Cambridge (MA), MIT Press, 2012
- F. Biermann, *Earth System Governance - World Politics in the Anthropocene*, Cambridge (MA), MIT Press, 2014
- J-F. Morin, A. Orsini, *Essential concepts of Global Environmental Governance*, 2nd ed. Routledge, 2020

Further reading

- K. Bosselmann, *The Principle of Sustainability: Transforming Law and Governance*, 2nd ed., Routledge, 2017
- D. R. Boyd, *The environmental rights revolution: A Global Study of Constitutions, Human Rights, and the Environment*, University of British Columbia Press, 2011
- D. R. Boyd, *The rights of Nature: A legal Revolution that can save the world*, ECW, Canada, 2017
- C. Henry, L. Tubiana, *Earth at risk*, Columbia University Press, 2017
- L. J. Kotzé, *Global environmental constitutionalism in the anthropocene*, 2nd ed., Hart publishing, 2018
- J. G. Speth and P. M. Haas, *Global Environmental Governance*, Washington, DC. Island Press, 2013
- J. E. Vinuales, *The Rio Declaration on Environment and development: A commentary*, Oxford University Press, 2015

Useful Reports

World Commission on Environment and Development, *Our Common Future*, Oxford, Oxford University Press, 1987 (available at <http://www.un-documents.net/our-common-future.pdf>)

Le Club de juristes, *Increasing the Effectiveness of International Environmental Law, Duties of States, rights of individuals*, November 2015 (available at <http://www.leclubdesjuristes.com/rapport-renforcer-lefficacite-du-droit-international-de-lenvironnement-devoirs-des-etats-droits-des-individus/>)

White Paper “Toward a Global Pact for the Environment”, International Group of Experts for the Pact, 2017 (available at <https://globalpactenvironment.org/en/documents-en/white-paper/>)

Useful websites

UN Documentation on the Environment
<http://research.un.org/en/docs/environment>

The Gateway to Environmental Law
<https://www.ecolex.org/>

International Environmental Agreements Database Project
<https://iea.uoregon.edu/>

Sustainable Development Knowledge Platform
<https://sustainabledevelopment.un.org/>

International Union for Conservation of Nature
<https://www.iucn.org/>

International Institute for Sustainable Development
<http://www.iisd.org/>

Institut du Développement Durable et des Relations Internationales
<http://www.iddri.org/>

World Resources Institute
<http://www.wri.org/>

Green Diplomacy Blog
<https://www.greendiplomacy.org>

Global Environmental Governance Project
<http://environmentalgovernance.org/>

Earth System Governance Project
<http://www.earthsystemgovernance.org/>

Global Pact for the Environment
<https://globalpactenvironment.org/>