



**918 Selected Problems in International Law:
Climate Change, Human Rights, and the Environment § 002
3 Credits**

**Description, Learning Outcomes, and Expectations
Spring 2023**

Instructor: Sumudu Atapattu, PhD (Cambridge)
Teaching Professor & Director, Global Legal Studies Center, UW Law School

The class will meet in person on **Mondays** from 9:50-11:50am in **Room 3226** of the Law School.

Description of the seminar:

The link between climate change and human rights has received considerable attention in recent years. Increased calls for the inclusion of human rights in climate agreements culminated in the inclusion of a reference to human rights in the Paris Agreement on Climate Change adopted by the international community in December 2015. This seminar will discuss the link between climate change and human rights, the pros and cons of using a human rights approach and the specific challenges that climate change poses to the international legal system such as the disappearance of states, displacement and mass movement of people, and adjudication. It will also discuss the plight of vulnerable populations especially, indigenous peoples, women, and climate “refugees” within a human rights framework.

Learning outcomes:

Upon completion of this course, the students would have acquired:

- An understanding of the relationship between environmental degradation, climate change and human rights;
- An understanding of the pros and cons of using a human rights approach to environmental issues and especially, climate change;
- Knowledge of the relevant international law principles and mechanisms applicable to global climate change;
- Knowledge of how a claim under international human rights law can be brought for damage caused by environmental issues in general and climate change in particular; and
- An understanding of the linkages with other areas such as economic development, poverty, socio-economic rights, and sustainable development.

Style of instruction and reading:

The course will comprise a mix of lectures, discussions and student presentations. Students are expected to 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, reflection papers and class presentation:

Final paper	75%
Class participation	10%
Abstract, reflection paper and class presentation	15%

Final Paper and class presentation: The students are free to select a topic for the paper within the parameters of the syllabus which should be 25-30 pages in length (double spaced) **plus** a bibliography. Please contact me if you have questions about the paper topic. An **abstract** of the paper (not exceeding 500 words) is due on **February 27, 2023** with at least five references. Each student will make a short presentation (around 10-12 minutes) in class on their paper topic on **April 17 and 24, 2023**. The final paper is due **on or before Thursday, May 11, 2023** (please upload to Canvas under assignments).

Important dates:

Abstract of paper due:	February 27, 2023
Class presentations:	April 17 and 24, 2023
If using paper for upper level writing requirement, 1 st draft due	April 28, 2023
Final paper due:	May 11, 2023

Reflection papers:

Students are expected to select a topic from the syllabus and prepare a two-page reflection based on the reading. The student is responsible for leading discussion in class on that topic.

Grade:

Students will receive a letter grade. Pass/fail option is also available. Please inform me if you would like to be assessed this way.

Grading rubric (guideline)

Grade	Expectations
A+	Critically analyzes the topic, well researched with a variety of sources, well structured and very well written and suggests recommendations
A	Analyzes the topic, well researched with a variety of sources, well structured and well written and suggests some recommendations
A-	Analyzes the topic, well researched with a variety of sources, well structured and well written and limited recommendations
B+	Descriptive with some analysis, well researched with a variety of sources and well written
B	Descriptive with limited analysis, well researched and well written

B-	Descriptive with limited analysis, fairly well researched and fairly well written
C+	Descriptive, no analysis, fairly well written and researched
C	Descriptive, no analysis, fairly well written, limited research
C-	Descriptive, no analysis, fairly well written and structured
D+	No analysis, not well researched, fairly well structured and written
D	No analysis, not well researched, badly written
D-	No analysis, not well researched, badly written and badly structured
F	Extremely poorly written, no analysis, not well researched (or no paper submitted)

JD students only

Please note that all regularly graded courses are subject to the Law School's grading curve (Law School Rule 2.07).

You may use this paper to satisfy your upper-level writing requirement. Please let me know **in advance** if you plan to do so. The **draft** of your paper is due to me on **April 28, 2023**.

Formative Assessment:

1. Feedback on the abstract
2. Feedback on the reflection papers that students will do on the reading on the topic they choose from the syllabus
3. Feedback on the presentations that the students will do on their paper topic
4. For students who use this paper to satisfy the upper level writing requirement, feedback on their writing on the 1st draft of the paper

How Credit hours are met:

This is a 3 credit seminar and the class meets for 2 hours once a week. The credit standard for this course is met by an expectation of a total of 135 hours of student engagement with the learning activities of the course which include regularly scheduled instructor-student class times, meeting times (office hours as scheduled below), reading (students have around 50-75 pages of reading per week), reflection papers based on their readings, oral presentations on their paper topics and research for the final paper.

Canvas url: <https://canvas.wisc.edu/courses/333120>

Academic integrity:

By enrolling in this course, each student assumes the responsibilities of an active participant in the Law School's community of scholars in which all academic work and behavior are held to the highest standards. Cheating, fabrication, plagiarism, unauthorized collaboration, and helping others commit these acts are examples of academic misconduct, which can result in disciplinary action. This includes but is not limited to failure on the assignment/course, disciplinary probation, or suspension. Suspected cases of academic misconduct will be reported to the Law School Dean's Office. Substantial or repeated cases of misconduct will be forwarded to the Office of Student Conduct & Community Standards for additional review. Note that academic misconduct can also have a serious and negative impact on one's eventual application for law licensure.

Attendance policy:

ABA Standard 308 and Law School Rule 5.01 require regular class attendance. In the event of illness or other cause, please send me an email **before class** indicating that you will not be in attendance. If you miss **six classes or more** without a valid reason (please speak to both Assistant Dean Lauren Devine and me about it), **you will automatically fail the class.**

Reading materials:

All reading materials will be posted on Canvas. Please consult the Canvas page regularly as I may post new materials or change existing reading if something more relevant/up to date becomes available. We will use the following books as **supplementary reading (there is no need to buy them)**. I have asked the library to place them on course reserve (Required readings from these books will be posted on Canvas):

1. Sumudu Atapattu, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES (Routledge, 2016) (referred to as “Atapattu” in the syllabus)
2. Sumudu Atapattu and Andrea Schapper, HUMAN RIGHTS AND THE ENVIRONMENT: KEY ISSUES (2019) (referred to as “Atapattu and Schapper” in the syllabus)

Documents:

The main documents that we will be using are:

The Stockholm Declaration on the Human Environment, 1972
The Rio Declaration on Environment and Development, 1992
UN Framework Convention on Climate Change, 1992
Kyoto Protocol, 1997
IPCC 5th Assessment Report (summary for policy makers), 2013 and 1.5 degrees Report (2018)
Bali Action Plan, 2007
Copenhagen Accord, 2009
Doha Climate Gateway, 2012
Paris Agreement on Climate Change, 2015
Agenda 2030 and Sustainable Development Goals, 2015
UNFCCC decisions of Conference of Parties (COP Decisions) – The UNFCCC website is a good resource (<https://unfccc.int/>)

(These can be downloaded from the internet)

In addition, it is a good idea to familiarize yourself with the UN Charter and the Statute of the International Court of Justice, both of which are available online.

Background reading on international law:

Principles of International Law by Sean D. Murphy (3rd ed, 2018) provides a good introduction to international law. A copy is available in the Law Library.

Laptop policy:

I do not 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 (8113A Law)

Wednesday: 10:00am-12:00pm

If you would like to meet me outside these hours or would prefer to meet virtually, please make an appointment via email (sumudu.atapattu@wisc.edu).

Recording of classes:

According to Law School policy, all regular class sessions, regardless of instructional mode, will be recorded. These will be posted on the Canvas page. [Also: see note below on "Usage of Recorded Lectures".]

PRIVACY OF STUDENT RECORDS and the USAGE of RECORDED LECTURES

See information about [privacy of student records](#) and the usage of audio-recorded lectures.

Usage of Recorded Lectures Statement

Lecture materials and recordings for the *Selected Principles of International Law: Climate Change, Human Rights and the Environment* seminar are protected intellectual property at UW-Madison. Students in this course may use the materials and recordings for their personal use related to participation in this class. Students may also take notes solely for their personal use. If a lecture is not already recorded, you are not authorized to record my lectures without my permission unless you are considered by the university to be a qualified student with a disability requiring accommodation. [Regent Policy Document 4-1] Students may not copy or have lecture materials and recordings outside of class, including posting on internet sites or selling to commercial entities. Students are also prohibited from providing or selling their personal notes to anyone else or being paid for taking notes by any person or commercial firm without the instructor's express written permission. Unauthorized use of these copyrighted lecture materials and recordings constitutes copyright infringement and may be addressed under the university's policies, UWS Chapters 14 and 17, governing student academic and non-academic misconduct.

Accommodation for Students with Disabilities:

McBurney Disability Resource Center syllabus statement: "The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin State Statute (36.12), and UW-Madison policy (Faculty Document 1071) require that students with disabilities be reasonably accommodated in instruction and campus life. Reasonable accommodations for students with disabilities is a shared faculty and student responsibility. Students are expected to inform Assistant Dean Lauren Devine of their need for instructional accommodations by the end of the third week of the semester, or as soon as possible after a disability has been incurred or recognized. Dean Devine will work either directly with the faculty [me] and the student [you] or in coordination with the McBurney Center to identify and provide reasonable instructional accommodations. Disability information, including instructional accommodations as part of a student's educational record, is confidential and protected under FERPA." <http://mcburney.wisc.edu/facstaffother/faculty/syllabus.php>

Diversity and Inclusion:

UW-Madison Institutional statement on diversity: "Diversity is a source of strength,

creativity, and innovation for UW-Madison. We value the contributions of each person and respect the profound ways their identity, culture, background, experience, status, abilities, and opinion enrich the university community. We commit ourselves to the pursuit of excellence in teaching, research, outreach, and diversity as inextricably linked goals.

The University of Wisconsin-Madison fulfills its public mission by creating a welcoming and inclusive community for people from every background – people who as students, faculty, and staff serve Wisconsin and the world.” <https://diversity.wisc.edu/>

Mental health Resources:

Law school is a context where mental health struggles can be exacerbated. If you ever find yourself struggling, please do not hesitate to ask for help. If you wish to seek out campus resources, here is some basic information: <https://law.wisc.edu/current/studentwellness/>. UW Law School is committed to promoting psychological wellness for all students. The Law School will have walk-in hours with counselors from University Health Services and the Wisconsin Lawyers’ Assistance Program throughout the spring semester. The University and larger Madison community offer mental health resources to support a range of psychological issues in a confidential and safe environment:

Confidential Counseling Services:

- University Health Service (UHS) - For 24/7 confidential consultation: 608-265-5600 (option 9)
- Wisconsin Lawyers’ Assistance Program (WisLAP) - 24/7 Help Line: 800-543-2625

Other Resources:

Assistant Dean for Student Affairs Lauren Devine; 608-262 8564 (office), lauren.devine@wisc.edu

John Schneider, Counselor for Law Students, 608 890 3542 (office), john.schneider@wisc.edu

COVID-19 related information:

Please check UW-Madison’s [COVID response page](#) for up-to-date information on COVID-19 and university guidelines during the pandemic. Students are required to follow all health and safety guidelines of the university and Dane County.

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

Course Outline and Reading Materials
3 credits, Spring 2023
Room 3226 Law

Instructor: Sumudu Atapattu, PhD (Cambridge)
Teaching Professor & Director, Global Legal Studies Center, UW Law School

All readings are posted on Canvas or links provided

Module 1 - Overview, Legal Framework and Principles

Class 1: 1/23/2023

1. Discussion of topics and course outline, and expectations
2. A brief introduction to public international law (PPT)
3. **Climate change: An overview**

Reading: Naomi Klein, THIS CHANGES EVERYTHING: CAPITALISM VS. THE CLIMATE (2014), Introduction (pp 1-28)

4. **United in Science 2020** – key facts (p 1-10)
https://reliefweb.int/sites/reliefweb.int/files/resources/United_In_Science_2020_8_Sep_FINAL%281%29-compressed.pdf

Assignment – Find a documentary on climate change (about 10-15 minutes long) and post a summary on discussions

Optional reading:

New York Times Magazine, Losing Earth, Nathaniel Rich (2018),
<https://www.nytimes.com/interactive/2018/08/01/magazine/climate-change-losing-earth.html>

Class 2: 1/30/2023 - Causes, impacts and uncertainty

Reading: IPCC, Global Warming of 1.5 Degrees report, Summary for Policymakers (2018)

https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf

UNEP Emissions Gap Report 2020, Executive Summary (2020)

<https://wedocs.unep.org/bitstream/handle/20.500.11822/34438/EGR20ESE.pdf?sequence=25>

Skim: IPCC 5th Assessment report, summary for policy makers (2014)

http://www.ipcc.ch/pdf/assessment-report/ar5/syr/AR5_SYR_FINAL_SPM.pdf

President Biden's [Executive Order on Climate Change 1/27/2021](#)

Class 3: 2/6/2023

1. Placing climate change within the context of international environmental law

Reading: PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW, Philippe Sands and Jacqueline Peel, (4th ed., 2018), pp 21-51

Overview, Our Common Future (1987)

2. Politics of climate change and North-South divide

Reading: INTERNATIONAL ENVIRONMENTAL LAW AND POLICY (2015, 5th edition) David Hunter, James Salzman and Durwood Zaelke, pp 665-671

Chris Wold et al, pp 184-189

Optional reading:

Rowena Maguire & Xiaoyi Jiang, "Emerging Powerful Southern Voices: Role of BASIC Nations in Shaping Climate Change Mitigation Commitments" in INTERNATIONAL ENVIRONMENTAL LAW AND THE GLOBAL SOUTH (S. Alam, S. Atapattu, C. Gonzalez & J. Razzaque eds., 2015) p 214

Dignity Framework, Daly and May on Dignity rights

Class 4: 2/13/2023

International Legal Framework

Reading: INTERNATIONAL ENVIRONMENTAL LAW AND POLICY (2022, 6th edition) David Hunter, James Salzman and Durwood Zaelke, Skim pages 605-615 (impacts of climate change), read pp 615-661

Atapattu, chapter 1

Interactive chart on major polluters:

<https://www.wri.org/blog/2017/04/interactive-chart-explains-worlds-top-10-emitters-and-how-theyve-changed>

Class 5: 2/20/2023

1. Paris Agreement and loss and damage

Reading: Hunter et al, International Environmental Law and Policy (6th edition, 2022), [pp 662-694](#)

Skim - Margaretha Wewerinke-Singh and Curtis Doebbler, [The Paris Agreement: Some Critical Reflections on Process and Substance](#), University of New South Wales Law Journal, vol 39, No 2 (2016) p 1486

Atapattu, Paris Agreement

2. Climate change and IEL principles

Sustainable development, precautionary principle, inter-generational equity principle, and the common but differentiated responsibility principle

Reading: Chris Wold, David Hunter & Melissa Powers, CLIMATE CHANGE AND THE LAW (2013, 2nd ed.), p 168-183

Optional reading: Atapattu, chapter 4

Lecture by Professor Wil Burns, Lubar Commons, at noon, title tbc

Module 2 – Climate change, human rights and justice

Class 6: 2/27/2023 - Environmental protection and human rights

Abstracts due

Human Rights Institutions chart

Reading: UN General Assembly Resolution on human right to a safe, clean, healthy and sustainable environment (July 2022)

Reading: 2nd Report of the UN Independent Expert on Human Rights and the Environment (2014), available at: <http://ieenvironment.org/mapping-report-2014-2/> -

Atapattu and Schapper, Human Rights and the Environment: Key Issues (2019), chapter 2 (Emergence of a Human Right to a healthy Environment)

Skim: Framework Principles on human rights and the environment (2018)
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/017/42/PDF/G1801742.pdf?OpenElement>

Environmental rights map
<http://enviroightsmap.org/>

[TheTimeisnow report](#) (the case for the recognition of a right to a healthy environment)

Class 7: 3/6/2023

1. Climate change and human rights

Reading: Human Rights Council resolution on Climate Change and Human Rights, 2014, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/083/51/PDF/G1408351.pdf?OpenElement>

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: <https://www.refworld.org/docid/498811532.html>

Special Rapporteur on Human Rights and the Environment, Report to the Human Rights Council on climate change and human rights (2019)
<https://undocs.org/en/A/74/161>

2. Paris Agreement and human rights

Reading: Sam Adelman, Human Rights in the Paris Agreement: Too Little, Too Late? *Transnational Environmental Law* (2018)

Optional reading: Atapattu, Chapter 3

Spring break – March 11-19, 2023
No class March 13, 2023

Class 8: 3/20/2023

1. Adaptation and Mitigation options – human rights implications?

Reading: Margaux J. Hall & David C. Weiss, Avoiding Adaptation Apartheid: Climate Change Adaptation and Human Rights Law, *37 Yale Journal of International Law* (2012), p 309-366, particularly from p 335 onwards (skim pages 309-334)

[Human Rights and Climate Change Working Group submission](#)

Optional reading: Atapattu, chapter 5

2. Climate justice as a framework

Reading: Carmen Gonzalez, [Global Justice in the Anthropocene](#) in Environmental law and Governance for the Anthropocene (Louis Kotze ed., 2017)

Optional reading: David Schlosberg, Climate Justice and Capabilities: A Framework for Adaptation Policy, Ethics & International Affairs, Vol 26:4 (2012), p 445

Atapattu, chapter 3

Module 3 - Vulnerable Groups, challenges to the international legal order and litigation

Class 9: 3/27/2023 - Climate refugees

Displacement typology (posted on Canvas)

Climate refugees table (posted on Canvas)

Documentary on Climate Refugees <http://www.hulu.com/watch/392828>

Reading: Avidan Kent and Simon Behrman, Facilitating the Resettlement and Rights of Climate Refugees, Chapter 1 on Defining the 'legal hole' (2018)

Atapattu, "A New Category of Refugees: Climate Refugees and a gaping hole in international law" in Simon Behrman and Avidan Kent eds., 'Climate Refugees: Beyond the Legal Impasse?' (2018), p 34

Skim, Human Rights Committee decision on climate refugees (2020) https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/127/D/2728/2016&Lang=en

Optional reading: Jane McAdam, Climate Change, Forced Migration, and International Law (2012), chapters 1 (Conceptualizing Climate Change-Related Movement) and 7 (The 'Climate Refugee' Treaty Debate)

Class 10: 4/3/2023

1. Reducing Emissions from Deforestation and Forest Degradation (REDD)+ program and indigenous rights

Reading: Elizabeth Ann Kronk Warner, "South of South: Examining the International Climate Regime from an Indigenous Perspective" in INTERNATIONAL ENVIRONMENTAL LAW AND THE GLOBAL SOUTH (S. Alam, S. Atapattu, C. Gonzalez & J. Razzaque eds., 2015) p 451

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>

Annalisa Savaresi, [The Human Rights Dimension of REDD](#), RECIEL 21(2) 2012

Optional reading: Atapattu, chapter 7

2. Women, disasters and climate change

Reading: CEDAW committee General Recommendation No 37 on Gender-related Dimensions of Disaster Risk Reduction in the Context of Climate Change (2018)

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_37_8642_E.pdf

Optional reading: Atapattu, Chapter 8

Class 11: 4/10/2023

1. Disappearances of states

Reading: "When Do States Disappear? Thresholds of Effective Statehood and the Continued Recognition of "Deterritorialized" Island States," Jenny Grote Soutenburg in Threatened Island Nations: Legal Implications of Rising Seas and a Changing Climate" Michael B. Gerrard & Gregory E. Wannier (2013), p 57-88

Optional reading: Maxine Burkett, *The Nation Ex Situ*, *Climate Law* 2 (2011) 345-374, <https://www.law.hawaii.edu/files/content/coliver/345-374%20Burkett.pdf>

2. 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)

3. Inuit petition

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>

Optional reading: Novel approaches to state responsibility

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 (B. Richardson *et al* eds., 2009), p 37-62

4. Loss and damage

Reading:

1. Maxine Burkett, "Loss and Damage," *Climate Law* 4 (2014) 119-130 at 120

2. Katherine Loft and others, "A Rights Based Approach to Loss and Damage" in RESEARCH HANDBOOK ON LOSS AND DAMAGE edited by Meinhard Doelle and Sara Seck (Edward Elgar Publishing Ltd, 2021), pp 201-223

Optional reading:

Wil Burns, "Loss and Damage and the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change"

Class 12: 4/17/2023

Student presentations (Day 1)

Class 13: 4/24/2023

Student presentations (Day 2)

April 28, 2023 or before – 1st draft of paper due for those who are submitting it to fulfil the upper-level writing requirement

May 11, 2023 – Final paper due