



**918 Selected Problems in International Law:
International Environmental Law & Policy § 011
3 credits
Description, learning outcomes, and expectations
Spring 2024**

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The class will meet on **Mondays from 9:50-11:50am in Room 3247** of the Law School.

Description of the seminar:

We have now entered a new geological epoch called the Anthropocene in which human beings have become the dominant player in affecting the global environment. The unabated quest for economic development and the over-exploitation of natural resources have caused unparalleled environmental degradation and created new environmental problems such as ozone depletion, climate change, and disposal of hazardous waste which have repercussions for the health of people and the planet. The COVID-19 pandemic has added a new layer of complexity to these challenges, highlighting the inter-related nature of human, animal and eco-system health.

This seminar will discuss the root causes of global environmental problems, the international legal framework and principles, and the role of sustainable development in addressing these environmental issues. It will discuss specific international environmental legal regimes such as biodiversity, movement of hazardous waste, climate change and international trade as well as governance mechanisms, the role of non-state actors and dispute resolution.

Learning outcomes:

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

- An understanding of the role of international law in protecting the global environment;
- Knowledge of existing international mechanisms and law in protecting different segments of the environment;
- An understanding of the interdisciplinary nature of environmental protection and linkages with issues such as economic development, poverty, trade and investment, and socio-economic rights including global pandemics;
- An understanding of the disproportionate impact of environmental degradation on vulnerable and marginalized communities and how these vulnerabilities intersect and compound.
- Knowledge of the role of sustainable development in addressing intersecting issues.

Style of instruction and reading:

The course will comprise a mix of in-person lectures, discussions and student presentations. It is expected that the students will read the assigned material prior to class and come prepared to discuss and critically examine the material.

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 (see below for details):

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

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

Final Paper and class presentation: The students are free to select a topic for their final paper within the parameters of the syllabus which should be between 7500-8500 words (make sure the paper is double spaced with a 12 point font) **plus** a bibliography (the word limit does not count towards the bibliography). Please contact me if you have questions about the paper topic. An **abstract** of the paper (not exceeding 500 words) with at least 5 sources is due on **February 26, 2024**. Students will make a short presentation (around 10 minutes) in class on their paper topic on **April 15 and 22, 2024**. The final paper is due **on or before Thursday, May 9, 2024** (please post all assignments on Canvas under Assignments)

Timeline:

Abstract of paper due:	February 26, 2024
Class presentations:	April 15 and 22, 2024
If using paper for upper-level writing requirement, 1 st draft due	April 30, 2024
Final paper due:	May 9, 2024

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. **Please note that law students will be graded on a curve.**

Grading rubric

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)

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 the final 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 the readings, oral presentations on their paper topics, and research for the final paper.

Regular and Substantive Student-Instructor Interaction:

Regular and substantive interaction with students is provided through: direct instruction, providing feedback on student work, reflection papers and final paper; providing information about course content; facilitating discussion of course content; encouraging debate and critical thinking on various aspects of international law relating to environmental challenges.

Canvas url:

<https://canvas.wisc.edu/courses/385106>

Mode of Instruction:

This class will be held in person at the times listed above, subject to the university health and safety guidelines.

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:

Regular class attendance is required by ABA Standard 308 and Law School Rule 5.01 (Please note: Law School Rule 5.02 authorizes lowering of final grade in the course for poor attendance). While regular attendance is required, if you feel ill with symptoms of COVID-19 or any other illness, you should stay home and email me that you are unable to attend class due to ill-health. If an emergency/ health situation arises that might lead to a long-term absence, you should contact Assistant Dean Emily Kite for assistance.

Documents and text:

The main text for this class is:

International Environmental Law and Policy (6th edition)
David Hunter, James Salzman and Durwood Zaelke (2022)
(referred to as "Hunter" in the course outline)

I may assign additional readings which will be uploaded to the Canvas page. Please check the Canvas page regularly.

The main documents that we will be using are:

**The 1972 Stockholm Declaration on the Human Environment and
The 1992 Rio Declaration on Environment and Development
The Political Declaration of the 2002 World Summit for Sustainable
Development
2000 UN Millennium Declaration and Millennium Development Goals
Rio+20 The Future We Want
2015 Sustainable Development Goals and the 2030 Agenda for Sustainable
Development**
(These are available online)
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 Murphy (2012, 2nd edition, West Publishers) provides a good introduction to international law for those who haven't taken this class before. There should be copies in the law library.

Laptop policy:

I don't 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. Please let me know if you prefer to meet remotely.

Wednesday – 10:00am -12:00pm

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

Teaching & Learning Data Transparency Statement

The privacy and security of faculty, staff and students' personal information is a top priority for UW-Madison and the Law School. The university carefully evaluates and vets all campus-supported digital tools used to support teaching and learning, to help support success through [learning analytics](#), and to enable proctoring capabilities. View the university's full [teaching and learning data transparency statement](#).

Privacy of Student Records & the Use of Audio Recorded Lectures Statement

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

Lecture materials and recordings for this course 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.

How to Succeed in This Course

In order to succeed in this course, students are encouraged to read the assigned reading prior to class and come prepared to discuss (and critically evaluate) the material. Successful students will keep abreast of current news and may want to share topical information with class. Students are highly encouraged to start working on their final paper early (at least identifying a topic and carrying out preliminary research).

Services available to students:

- [University Health Services](#)
- [The Law School's Academic Enhancement Program](#)
- [Law School Student Wellness webpage](#)
- [Law School Academic Advisor Lauren Devine](#)
- [Law School Counselor John Schneider](#)
- [Assistant Dean for Student Affairs Emily Kite](#)

Course Evaluations

Students will be provided with an opportunity towards the end of the semester to anonymously evaluate this course and your learning experience. Student participation is an integral component of this course, and your confidential feedback is important to me. I strongly encourage you to participate in the course evaluation and provide your candid assessment of the course.

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 Emily Kite 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 Kite 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 [UHS page](#) for information on COVID-19 and university guidelines on COVID-19. Students are required to follow all health and safety guidelines of the university and Dane County. Other useful information is available [here](#).

Information Regarding Student Use of Artificial Intelligence (AI):

According to the Law School's No Collaboration Policy (Law School Rule [6.11](#)), "no collaboration with, or assistance from, other persons is permitted on exams, papers, or written exercises, except to the extent that the instructor has granted permission therefore in writing." This policy does not address artificial intelligence.

The use of generative AI tools, including ChatGPT, is permitted in this course to **carry out limited tasks such as to conduct research, to generate ideas, and to revise existing work you have written**. Students must cite or otherwise acknowledge the use of any AI-generated material that informed their work (see [examples from the Chicago Manual of Style](#)). Students must use generative AI thoughtfully and carefully. Be aware that the material generated may be inaccurate, incomplete, biased, or otherwise problematic and that the use of AI may stifle your independent thinking and impede your learning.

**918 Selected Problems in International Law:
International Environmental Law & Policy, § 001
Course Outline and Reading Materials**

3 credits, Spring 2024

The class will meet on **Thursdays from 9:50-11:50am in Room 3247** of the Law School

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Please note: In the syllabus, “reading” denotes required readings. “Additional or further reading” denotes optional reading if you would like to explore the topic further.

OVERVIEW, FOUNDATIONS AND PRINCIPLES

Class 1 – January 22, 2024

1. Discussion of topics and course outline and a brief introduction to public international law (PPT posted on Canvas)
2. An overview of global environmental issues and the interdisciplinary nature of environmental issues

Reading: Hunter, p 3-35 (Chapter 1)

Class 2 – January 29, 2024

1. Root Causes

Reading: Hunter, 41-67 (chapter 2)

2. What is the Anthropocene?

Reading: Louis Kotze, “[Rethinking Global Environmental law and Governance in the Anthropocene](#)” *Journal of Energy & Natural Resources Law*, vol 32:2 (2014), p 121-156

Further reading

1. James Gustave Speth, *Bridge at the Edge of the World* (2008), p 17-45
2. North-South issues
Sumudu Atapattu and Carmen Gonzalez, “North-South Divide in International Environmental Law: Framing the Issues”
3. Link between environmental health, animal health and human health

“[Land use-induced spillover: A Call to Action to Safeguard Environmental, Animal, and Human Health.](#)” Raina K. Plowright *et al*, *Lancet*, vol 5 (April 2021)

237-245

[Water use chart](#)

Class 3 – February 5, 2024

Evolution of international environmental law - From Stockholm to Johannesburg via Rio. Developments prior to Stockholm Declaration, Significance of Principle 21 (Stockholm Declaration) and further developments. Challenge to sovereignty and "internationalization" of environmental protection

Reading: Hunter, p 131-180

Further reading: Karin Mickelson, "The Stockholm Conference and the Creation of the South-North Divide in International Environmental Law and Policy" in *International Environmental Law and the Global South* (Alam, Atapattu, Gonzalez and Razzaque eds., 2015, CUP), p 109 (posted on Canvas)

Class 4 – February 12, 2024

Sources of international environmental law and significance of "soft law" in the environmental field

Reading: Hunter, p 285-318, 339-353

Further reading: Atapattu, "International Environmental Law and Soft Law: A new Direction or Contradiction?" in *Non-State Actors, Soft law and Prospective Regimes: From the Margins*, Cecilia Baillient ed (CUP, 2012) p 200 (posted on Canvas)

Class 5 – February 19, 2024

Principles of international environmental law

1. General principles of international environmental law
2. Emerging principles of international environmental law

Reading: Hunter, p 413-465

Further reading: Sumudu Atapattu, "The Significance of International Environmental Law Principles in Reinforcing or Dismantling the North-South Divide in International Environmental Law and the Global South" (Alam, Atapattu, Gonzalez and Razzaque eds., Cambridge University Press, 2015) p 74 (posted on Canvass)

Class 6 – February 26, 2024

Abstracts due

1. Sustainable development law and Sustainable Development Goals (SDGs)

- (a) Definition, evolution, significance and its relevance to environmental problems; and substantive aspects of sustainable development

- (b) Procedural aspects of sustainable development
- (c) Emergence of a new area of law called “International Sustainable Development Law”?

Reading:

1. Hunter, p 329-339
2. Overview, OUR COMMON FUTURE, Report of the World Commission on Environment and Development (1987) (posted on Canvass)
Students are expected to debate the pros and cons of the Overview and to evaluate its applicability after two decades of its adoption.
3. Atapattu, From “Our common Future” to Sustainable Development Goals: Evolution of Sustainable Development under International Law,” WILJ vol 36:2 (2019) pp 215-246

Skim [New Delhi Declaration on Sustainable Development](#)

2. Other frameworks:

We will discuss the following briefly: planetary boundaries, just sustainabilities. de growth, green economy, gender mainstreaming, environmental justice, and dignity

Reading: Atapattu, Gonzalez and Seck eds., Cambridge Handbook on Environmental Justice and Sustainable Development (2021, CUP), “Intersections of Environmental Justice and Sustainable Development” (chapter 1)

Skim: [Steffen et al, Planetary boundaries: Guiding human development on a changing planet](#)” Science (2015)

Further reading:

Birnie,Boyle and Redgwell, International law and the environment, p [115-127](#) (posted on Canvas)

Vaughn Lowe, “Sustainable Development and Unsustainable Arguments” in International Law and Sustainable Development: Past Achievements and Future Challenges, Alan Boyle and David Freestone eds. (1999, OUP)

Class 7 – March 4, 2024

Human rights and environmental protection

1. Substantive aspects
2. Procedural aspects
3. Emergence of a right to a clean environment under international law
4. Pros and cons of a human rights approach to environmental issues

Reading: Hunter, p 1311-1343

Human Rights Institutions Chart (posted on Canvass)

Further reading: Final report of the UN Special Rapporteur on Human Rights and the Environment, John Knox (2018) with framework principles on Human Rights

and Environment, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/017/42/PDF/G1801742.pdf?OpenElement>

Sumudu Atapattu and Andrea Schapper, Human Rights and the Environment: Key Issues (2019), chapters 2 and 3 (posted on Canvas)

SPECIAL REGIMES

(These topics will be finalized in consultation with the students)

Class 8 – March 11, 2024

1. Ozone depletion

Reading: Hunter, p 521-548, 586-590

2. International trade and environmental protection

Reading: Hunter, p 1211-1229, 1243-1268

Class 9 – March 18, 2024

1. Global climate change

Reading: Hunter, p 615-691

Companies responsible

<https://www.theguardian.com/environment/interactive/2013/nov/20/which-fossil-fuel-companies-responsible-climate-change-interactive>

2. Case study of Sacchi v. Argentina, Committee on the Rights of the Child (2022), decision available at: <https://climatecasechart.com/non-us-case/sacchi-et-al-v-argentina-et-al/> (decision on Argentina)

<https://www.youtube.com/watch?v=idN9IJQssKE>

<https://www.youtube.com/watch?v=IUJlWsw1sGU>

<https://www.youtube.com/watch?v=JqaOrT9fuEU>

Spring break: March 22-31, 2024. No class on March 25, 2024

Class 10 – April 1, 2024

1. Climate Refugees

Typology (posted on Canvas)

Reading: Avidan Kent and Simon Behrman, *Facilitating the Resettlement and Rights of Climate Refugees* (Routledge, 2018), Introduction and chapter 1 (posted on Canvas)

Further reading: Atapattu, “A New Category of Refugees: ‘Climate Refugees’ and a Gaping Hole in International Law” in *‘Climate Refugees’: Beyond the Legal Impasse?* (Simon Behrman & Avidan Kent eds., 2018, Routledge), p 34 (posted on Canvas)

2. Transboundary movement of hazardous waste

Documentary: <https://www.youtube.com/watch?v=yDSWGV3jGek>

Reading: Hunter, p 942-960

(If there is interest in the new draft treaty on plastics, see pages 967-973)

Class 11 – April 8, 2024

1. Biodiversity, traditional knowledge and intellectual property issues

Vandana Shiva and Biopiracy:

<https://www.youtube.com/watch?v=DuTHBjl8XZA>

Reading: Hunter, p 975-1010

Skim Global Biodiversity Outlook 5, 2020 (Summary for policymakers)

2. Effectiveness of International Environmental Law

Reading: Hunter, p 376-402

Class 12 – April 15, 2024

Student presentations

Class 13 – April 22, 2024

Student presentations contd.

April 30, 2024 – 1st draft of paper is due if you are using the paper to fulfil the upper-level writing requirement

May 9, 2024– Final paper due

Optional events but highly recommended:

February 24, 2024 – hybrid event on the Montana case on a right to a healthy environment

February 28, 2024 – Lecture by me on COP process details tbc

March 6, 2024 – Panel on climate change details tbc

April 22, 2024 – Atapattu Book launch and panel on climate change and human rights

April 19-25 – Earth week

April 23, 2024 – Mildred Fish Harnack lecture on territory as a rights holder (in Spanish with English translation)

(I will provide details as they become available)

Main reading:

1. David Hunter, James Salzman & Durwood Zaelke, INTERNATIONAL ENVIRONMENTAL LAW AND POLICY, 6th edition (2022)
2. Our Common Future, Report of the World Commission on Environment and Development (1987)

Additional reading (if you would like to explore the subject more)

1. Philippe Sands & Jacqueline Peel, PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW (4th edition, 2018), CUP
2. Patricia Birnie, Alan Boyle & Catherine Redgwell, INTERNATIONAL LAW AND THE ENVIRONMENT (3rd edition, 2015), OUP
3. Sumudu Atapattu & Andrea Schapper, Human Rights and the Environment: Key Issues (2019), Routledge
4. International Environmental Law and the Global South (Alam, Atapattu, Gonzalez and Razzaque eds., Cambridge University Press, 2015)
5. Sumudu Atapattu, EMERGING PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW (2006).

In addition, there are thousands of articles and books that the students are invited to explore.