

NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM PROGRAMME: B.A.LL.B (HONS) FYIC

DETAILS OF COURSE OFFERED

ODD SEMESTER (VII) - ACADEMIC YEAR:

SL.	Course	Course Title				
No	CODE		L	T/P	CR	СН
1	704	INTERNATIONAL	4	1	4	
	IL OP II	ENVIRONMENTAL	PER	PER		
		Law	WEEK	WEEK		

A. CODE AND TITLE OF THE COURSE: 704 IL OP II, 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

The main objectives of this course are as follows:

- To study the evolution and development of the environmental law in various jurisdictions of the world;
- To understand the social and physical complexities environmental issues and how these complexities influence the evolution of environmental laws;
- The complex physical and social nature of environmental problems and how that leads to specific features of environmental law;
- Basic theories of court based adjudication and the strengths and weaknesses of them in relation to environmental law;
- Overview of the development of the role of courts and tribunals in NZ, Australia, UK, and US with a particular emphasis on specialist environmental courts and tribunals
- An analysis of debates about access to courts in environmental law cases that cover issues to do with standing, costs, and court procedure;
- To critically evaluate the strengths and weaknesses of different environmental legal systems across the globe;
- To explore the similarities and differences between environmental laws of two or more countries in the world;
- To study the comparative environmental law methods as a tool in the administration of
 justice through courts of the countries;
- Overview of the roles that courts play in developing doctrine in public and private law;
- A study of how courts have developed legal doctrine on the basis of environmental principles;
- A study of how courts have developed doctrine in regards to environmental impact assessment and resource management issues; &
- A study of the role of courts in relation to climate change issues

2. TEACHING METHODOLOGY

The participatory teaching methodology is applied mostly in the theoretical aspects

whereas the case-study methods to the practical aspects. The students are encouraged to

clear their doubts pertaining to the different aspects of the topic. The students have already

been allotted for their project topics and encouraged to do independent research under the

supervision of the subject teacher. As a teacher of NLU Assam, I am always willing and

ready to help and assist the students to provide an opportunity to initiate a dialogue for a

research work or to contribute to the scholarship on the subject

3. COURSE OUTCOMES

On the completion of this course students should be able to:

Appreciate the social and physical complexity of environmental problems and how

that complexity shapes environmental law;

Understand basic theories of adjudication and the challenges environmental

problems create for the operation of those theories;

Understand how courts and tribunals have evolved to address environmental problems;

Understand the procedural and institutional aspects of courts adjudicating upon

environmental law matters;

Understand and identify the major challenges involved in courts developing

doctrine in regards to environmental law; &

Comment critically about environmental law case 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)	20 x 2 =40	
	(2 Assignments of 20 marks each)	marks	
2.	Seminar/Group Discussion (topics will be	20 marks	
	announced in the class)		
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

A. The Common Law as an Environmental Protection Tool and Comparative Environmental Constitutionalism

- Comparative Tort Law
- The Substantive Parameters of Environmental Torts
- Comparative Environmental Constitutionalism
- Environmental Performance Index 2016

B. Comparative Disaster Management Laws

- United States
- Japan
- India

MODULE II

Keystone environmental laws governing water

- United States- Discharges of pollutants from point sources, discharge permits and cooperative federalism
- Canada- Federal Water Pollution and Water quality laws, provincial approaches to water
 - pollution and case study of Canada's oil sands
- India- Water preservation and protection against pollution laws and case laws

MODULE III

Comparative Atmospheric Pollution Laws & EIA

- China
- India
- United States
- European Union

Environmental Impact Assessment-Findings of No Significant Impact, Supplements, and Exclusions & Environmental Assessment Requirements of Other Countries

- World Bank
- United States
- Germany
- India
- Case Study: Canada's Pulp Mills, Oil Sands, and Reform Proposals
- The Scope and Relative Effectiveness of EIA Requirements
- International Agreements and Directives- Espoo and Aarhus.

MODULE IV

Comparative Wildlife Legislations

- India- sanctuaries, and other biodiversity reserves
- United States- Wildlife Refugees, Wilderness and Parks, species specific legislations
- New Zealand- The conservation estate, biosecurity

6. PRESCRIBED READINGS

- Climate Change, Wildlife Movement and the Law: A Case Study from New Zealand Commonwealth Law Bulletin, Vol. 34, Issue 3 (September 2008), pp. 527-550
- Adjudicating Sustainability: New Zealand's Environmental Court Ecology Law Quarterly, Vol. 29, Issue 1 (2002), pp. 1-70
- Corporatisation: Implementing Forest Management Reform in New Zealand Ecology Law Quarterly, Vol. 16, Issue 3 (1989), pp. 719-754
- Wildlife Jurisprudence Journal of Environmental Law and Litigation, Vol. 25, Issue 2 (2010), pp. 459-510
- Leaving Wildlife out of National Wildlife Refuges: The Irony of Wyoming v. United States Natural Resources Journal, Vol. 44, Issue 4 (Fall 2004), pp. 1211-1238

- Who Owns the Wildlife Environmental Law, Vol. 3, Issue 1 (Spring 1973), pp. 23-32
- OECD, Usefulness of Instituting a National Pollutant Release and Transfer Register (Draft Guidance to Government Document, OECD Workshop, 1994).
- OECD, Recommendation of the Council on Implementing Pollutant Release and Transfer Registries C(96)41/FINAL (1996).
- A US Report Spurs Community Action by Revealing Polluters, WALL ST. J., Jan 2, 1991, at 1.
- Uses of Pollutant Release and Transfer Register Data and Tools for their Presentation:
 A Reference Manual, January 26, 2005 (excerpts providing examples of uses of PRTR data).
- UNECE, Protocol on Pollutant Release and Transfer Registers, done May 23, 2003, protocol to the Aarhus Convention, supra (excerpts)
- See also for reference: Emergency Planning and Community Right-to-Know Act, 42 US.C. 11023 (not included).
- UNEP, Goals and Principles of Environmental Impact Assessment, UNEP G.C> Decision 14/25, June 17, 1987.
- Environmental Law Institute, Report of the International Roundtable on Environmental Impact Assessment and Public Participation in Environmental Decisionmaking, Wroclaw, Poland, 1992.
- Center for International Environmental Law, EIA Workshop Materials (1993)
- World Bank Operational Directive 4.01: Environmental Assessment (1991)
- EC Directive 97/11/EC of 3 March 1997 on the Assessment of the Effects of Certain Public and Private Projects on the Environment
- D. Purnama, Reform of the EIA Process in Indonesia: Improving the Role of Public Involvement, 23 ELR REVIEW, Vol 4, at 415-39 (July, 2003)
- S. Appiah-Opoku, *EIA in Developing Countries: The Case of Ghana*, 21 EIA REVIEW, Vol. 1, at 59-71 (2001).
- C. Briffett, et al, Towards SEA for the developing nations of Asia, 23 EIA Review, Vol 2, at 171-95 (March 2003).
- International Programme on Chemical Safety, *Principles for the Assessment of Risks to Human Health from Exposure to Chemicals* (WHO: 1999).
- Myrick Freeman III & Paul R. Portney, Economics Clarifies Choices about Managing Risk in W. Oates, ed, The RFF Reader in Environmental Resource Management (1999).

- Commission of the European Communities, Communication from the Commission on the Precautionary Principle, COM(2000)1 (2 February 2000).
- Mark Van Hoecke and Mark Warrington, Legal Cultures and Legal Paradigms: Towards a New Model for Comparative Law, in A. BOLLA & T. MCDORMAN, COMPARATIVE ASIAN ENVIRONMENTAL LAW: ANTHOLOGY (1999), pp. 16-25.
- John Henry Merryman, The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America (1990).
- Abubakr Amed Bagader, et al, Legislative Principles, Policies and Institutions of Islamic Law which Govern the Procedures and Measures for the Protection and Conservation of the Environment, in ENVIRONMENTAL PROTECTION IN ISLAM, IUCN Commission on Envtl Law: 1994, pp 17-27.
- Reti, The Role of Custom in Environmental Management and Law in the Pacific, in B. BOER, STRENGTHENING ENVIRONMENTAL LEGISLATION IN THE PACIFIC REGION: WORKSHOP PROCEEDINGS, UNEP/IUCN/ACEL: 1992, pp 57-61

Relevant books and articles

- Michael G. Faure and Jason S. Johnston, in The Law and Economics of Environmental Federalism: Europe and the United States Compared, 27 Virginia Environmental Law Journal 205 (2009).
- Kathryn A. Perales, It Works Fine in Europe, So Why Not Here? Comparative Law and Constitutional Federalism, 23 Vermont Law Review 885 (1999).
- Mathias Reimann, Stepping Out of the European Shadow: Why Comparative Law in the United States Must Develop its Own Agenda, 6 American Journal of Comparative Law 637 (1998).
- Paul A. Barresi, Mobilizing the Public Trust Doctrine in Support of Publicly Owned Forests as Carbon Dioxide Sinks in India and the United States, 23 Colorado Journal of International Environmental Law & Policy 39 (2012).
- Albert C. Lin, Beyond Tort: Compensating Victims of Environmental Toxic Injury,
 78 Southern California Law Review 1439 (2005) reprinted with permission of the Southern California Law Review.
- Sarah Michaels and Owen J. Furuseth, Innovation in Environmental Policy: The National Environmental Policy Act of the US and the Resource Management Act of

- New Zealand, 17 The Environmentalist 181 (1997).
- Ravi Singhania and Sunayna Jaimini, Lafarge Decision—Light at the End of the Tunnel?, 2 Indian Law News 18 (American Bar Association Section of International Law Newsletter 2011). © Copyright 2011 by the American Bar Association.
- William A. Tilleman, Public Participation In The Environmental Impact Assessment Process: A Comparative Study of Impact Assessment in Canada, The United States and the European Community, 33 Columbia Journal of Transnational Law 337 (1995).
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- Christopher Wood, Environmental Impact Assessment: A Comparative Review (2nd ed. 2003). © Copyright 2003 Pearson Education, Harlow, UK.
- Peter Bernard and Andrew P. Mayer, A Tale of Two Sovereigns: Canada, The United States, and Trans-Border Pollution Issues, 13 U.S. Maritime Law Journal 125 (2000– 2001).
- Michael J. Robinson-Dorn, The Trail Smelter, Is What's Past Prologue? EPA Blazes a New
 Trail for CERCLA, 14 N.Y.U. Environmental Law Journal 233 (2006).
- William Howarth, Water Quality and Land Use Regulation Under the Water Framework Directive, 23 Pace Environmental Law Review 351 (2006).
- M.C. Mehta, The Accountability Principle: Legal Solutions to Break Corruption's Impact on India's Environment, 21 Journal of Environmental Law & Litigation 141 (2006).
- Joshua Walters and Shi-Ling Shu, Saving the Northern Spotted Owl in British Columbia (2008), at www.law.ubc.ca/files/pdf/enlaw/SpottedOwlCase04_20_09.pdf.
- Shalini Bhutani and Ashish Kothari, The Biodiversity Rights of Developing Nations: A Perspective From India, 32 Golden Gate Law Review 587 (2002).
- Owen Furuseth and Chris Cocklin, An Institutional Framework For Sustainable Resource Management: The New Zealand Model, 35 Natural Resources Journal 243 (1995).
- Oliver A. Houck, Tales from a Troubled Marriage: Science and Law in Environmental Policy, 17 Tulane Environmental Law Journal 163 (2003). Reprinted with permission of the Tulane Environmental Law Journal, which holds the copyright.
- Michael Stockdale, English and American Wildlife Law: Lessons from the Past, 47

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- Mitsuhiko A. Takahashi, Are the Kiwis Taking a Leap? Learning from the Biosecurity Policy of New Zealand, 24 Temple Journal of Science, Technology & Environmental Law 461 (2005).
- Benjamin A. Kahn, The Legal Framework Surrounding Maori Claims to Water Resources In New Zealand: In Contrast to the American Indian Experience, 35 Stanford Journal of International Law 49 (1999).
- Peter Manus, Indigenous Peoples' Environmental Rights: Evolving Common Law Perspectives in Canada, Australia, and the United States, 33 B.C. Environmental Affairs Law Review 1 (2006).
- James Salzman, Thirst: A Short History of Drinking Water, 18 Yale Journal of Law and Humanities 94 (2006).

List of relevant cases

- Alconbury v DETR (House of Lords) (2001) Journal of Environmental Law 13:3 390
- Alphacel v Woodward [1972] AC 824 at 834
- Attorney General v PYA Quarries [1957] 2 QB 169
- Bollard v Tomlinson (1885) 29 Ch D 115
- Barnet London Borough Council v Eastern Electricity Board [1973] 1 WLR 430
- Bullock v Secretary of State for the Environment (1980) 40 P&CR 246
- Cambridge Water Company v Eastern Counties Leather Pic [1994] 2 AC 264
- Gateshead MBC v Secretary of State for the Environmental and Northumbrian Water Company Pic [1994] 1 Env LR 11
- Gillingham Borough Council v Medway (Chatham) Dock Co Ltd [1993] QB 343
- Gregory v Piper (1829) 9 B & C 591 HMIP v Safety Kleen UK Ltd (\ 994) ENDS 236
- Hunter v Canary Wharf Ltd [1997] 2 WLR 684
- Kent CC v Queens Borough Rolling Mill [1990] Crim LR 813
- Kent Country Council v Batchelor (1976) 33 P&CR 185
- Leigh Land Reclamation Ltd v Walsall Metropolitan Borough Council [1991] Crim LR298
- Lister v Forth Dry Docks & Engineering Co Ltd [1989] 1 All ER 1134
- HL Lochgelly Iron and Coal Co v Me Mullen [1934] AC 1

- London Residuary Body v Lambeth London Borough Council [1990] 1 WLR 744
- Long v Brooke [1980] Crim LR 109
- Maidstone Borough Council v Mortimer [1980] 3 All ER 552
- National Rivers Authority v Welsh Development Agency [1993] Env LR 407
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- Maori Council v AG of New Zealand (PC) [1995] 1 WLR 1176
- R v Carrick District Council [1996] Env LR 273
- R v Inland Revenue Commissioners, ex parte National Federation of Self Employed and Small Business Limited [1982] AC 617
- R v Inspectorate of Pollution, ex parte Greenpeace Limited (No.2) [1994] 4 All ER 329
- R v Metropolitan Stipendiary Magistrate [1993] 3 All ER 113
- R v N. Somerset District Council, ex parte Garnett [1998] Env LR 91
- R v National Rivers Authority, ex parte Moreton [1996] Env LR 234
- R v Nature Conservancy Council, ex parte London Brick Co Ltd [199I 6] Env LR 1
- R v Poole Borough Council, ex parte Beebee [1991] 2 PLR 27
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- R v Secretary of State for Foreign and Commonwealth Affairs, ex parte World Development Movement Limited (Pergau Dam Case) [1995] 1 WLR 386
- R v Secretary of State for the Environment, ex parte Rose Theatre Co [1990] 1 QB 504 vn
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- R v Somerset County Council, ex parte Dixon [1998] Env LR 111 R v Swale EC, ex parte Royal Society for the Protection of Birds [1991] 1 PLR 6
- Randall v Tarrant [1955] 1 WLR 255
- Read v Lyons & Co Ltd [1947] AC 156
- Robinson v Kilvert (1889) 41 Ch D 88
- Rylands v Fletcher (1868) LR 3 HL 330
- Saunders-Clark v Grosvenor Mansions Co Ltd [1900] 2 Ch 373
- Schulmans Inc v National Rivers Authority [1992] Env LR 130
- Sheffield City Council v ADH Demolition Ltd (1983) 82 LGR 177
- Southern Water Authority v Pegrum [1989] Crim LR 442

- St Helen's Smelting Co v Tipping (1865) 11 ER 1483
- Case 14/83 Von Colson v Land Nordrhein Westfalen [1984] ECR 1891
- Case 291/84 Commission v Netherlands [1987] ECR 3483
- Case 302/86 Commission v Denmark [1988] ECR 4607
- Case C 106/89 Marleasing SA v La Commercial International de Alimentation' SA
- [1990] ECR I-4135
- Case C 2/90 Commission v Belgium [1992] ECR I 4431
- Case C 337/89 Commission v UK [1992] ECR 1-6103
- Case C 42/89 Commission v Belgium [1990] ECR 1-2821
- Case C 56/90 Commission v UK [1993] ECR 1-4109
- Case C -102/97 Commission v Germany [1999] ECR 5051
- Stichting Greenpeace Council and Others v European Commission [1998] ECR I-1651
- Bryan v UK [1996] JPL 386
- Buckley v UK [1996] Journal of Planning Law 1018
- Fredin v Sweden (1990) 13 EHRR 784
- Guerra v Italy (1998) 4 BHRC 63
- Hatton v UK (2002) Westlaw
- Lopez Ostria v Spain (1995) 20 EHRR 277
- Powell & Rayner v UK (1990) 12 EHRR 355
- Saunders v UK (1996) 23 EHRR
- Trail Smelter Arbitration (Canada/USA) (1941) 3 RIAA 1907
- A.P.Pollution Control Board v Prof M VNayudu 1999 AIR (SC) 812
- Ajay Singh Rawat v Union of India 1995 (3) SCC 266
- Almitra Patel v Union of India 1997 (6) SCALE 12 (SP)
- AP Pollution Control Board v Prof. M. V. Nayudu (Retd) & Others Date of Judgement 27 January 1999 Supreme Court of India
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- Bombay Environmental Action Group v Pune Cantonement Board SC SLP (c) No. 11291 of 1986
- Bombay Environmental Action Group v State of Maharastra 1997 W.P.No. 2754
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- Dwarka Cement Works Ltd v State of Gujarat 1992 (1) GUJ. Law Herald 9
- Haryana State Board v Jai Bharat Woollen Finishing Works 1993 FOR. L.T. 101
- Indian Council for Enviro-Legal Action v Union of India 1996 (5) SCC 293
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- JC Galstaun v Dunia Lal Seal 1905 9CWN 612
- Kuldip Singh v Subhas Chandra Jain 2000(2) Scale 582
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- M. C. Mehta v Union of India (Taj Trapezium case) 1997 AIR (SC) 734
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- Narula Dyeing & Printing Works v Union of India 1995 AIR (Guj) 185 191
- P.C. Cherian v State of Kerala 1981 Ker. L.T. 113
- People's Union for Democratic Rights v Union of India 1982 AIR (SC) 1473, 1483
- Pondicherry Papers Ltd v Central Board for Prevention and Control of Pollution
- 1980 Madras High Court CMPNo. 4662 and 4663 of 1978 (Unreported)
- Ram Baj Singh v Babu Lal 1982 AIR (ALL) 285
- Rural Litigation and Entitlement Kendra v State of Uttar Pradesh (Dehradun Quarrying case) 1985 AIR (SC) 652 XI
- S.P.Gupta v Union of India (Judges Transfer case) 1982 AIR (SC) 149, 234
- Sohan Lal v Union of India 1957 AIR (SC) 529, 532

- State of Himachal Pradesh v Ganesh Wood Products 1996 AIR (SC) 149, 163
- Subhas Kumar v State of Bihar 1991 AIR (SC) 420
- T.N.Godavarman Thirumulkpad v Union of India 1997 AIR (SC) 1228
- Tarun Bharat Sangh Alwar v Union of India 1992 AIR (SC) WP(C) No. 509
- Union Carbide Corporation v Union of India Civil Revision Number 26 of 1988 Dated 4 April 1988
- Uttar Pradesh v Raj Narain 1975 AIR (SC) 865, 884
- Vellore Citizens Forum v Union of India 1996 AIR (SC) 2715
- Vellore Citizens Welfare Forum v Union of India 1997 Journal of Environmental Law 9:2 397
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United States

- African Elephant Conservation Act
- Airborne Hunting Act
- Antarctic Conservation Act
- Archaeological Resources Protection Act
- Bald and Golden Eagle Protection Act
- Endangered Species Act
- Lacey Act
- Migratory Bird Hunting Stamp Act
- Migratory Bird Treaty Act
- Marine Mammal Protection Act
- National Wildlife Refuge System
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(1992) India

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- The Wildlife (Protection) Licensing (Additional Matters For Consideration) Rules, 1983

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- Wildlife (Specified Plants Conditions For Possession by Licensee) Rules, 1995
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