

**PEACE, WAR AND THE ENVIRONMENT
SUMMER 2018**

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I. Introduction

This popular course is always rated highly by VLS students. It explores the relationship between peace, war and environmental protection. It begins with an overview of international law, international environmental law and international humanitarian law, and then uses case studies to explore the role of international environmental obligations in conflict and post-conflict situations. These may include situations in the Middle East, Central America, Africa and Asia. The role of the United States, the United Nations, national and multinational defense and peace-keeping forces and NGOs are also considered. This course provides invaluable preparation for careers in environment, foreign affairs, international relations, peace-keeping, development and the rule of law and good governance. International careers will be discussed and student will be encouraged to research opportunities that may be open to them now and in the future.

II. Aims

This course aims:

1. to provide an understanding of the structure of the international legal system in the context of peace, war and environmental protection;
2. to develop an awareness of the sources, principles, institutions and processes of international environmental law as they apply to peace-keeping and post-conflict reconstruction;
3. to develop the capacity to recognize international environmental issues in peace, war and post-conflict reconstruction and to identify sources of international law relevant to the management of those issues.

III. Timetable

Monday through Thursday, July 23 to August 2.

IV. Assessment

In-Class presentation: 50 per cent

Final Examination (Take-Home Paper): 50 per cent. Due by noon on August 4.

(The topic for the final assessment will be provided on the first day of the course to enable students to have plenty of time to write the paper.)

V. Course Content

This course includes:

Overview of International Law, International Environmental Law and International Humanitarian Law;
Role of multinational organizations, particularly the United Nations and its Security Council;
Law and policy of international peace-keeping;
History and role of the International Committee of the Red Cross;

Case Studies in Central America, the Middle East, Africa, Asia.

VI. Compulsory Reading

This course integrates aspects of international law, international environmental law (IEL), and international humanitarian law (IHL) so no single textbook is entirely satisfactory. Thus the course will use a variety of materials which are available online, on Westlaw and/or Lexis, and on the course website. The course commences with an overview of IEL and IHL. These books/materials are useful:

Birnie, P., A. E. Boyle & C. Redgwell, International Law and the Environment (Oxford: OUP, 3rd ed., 2009). ISBN: 9780198764229.

(The 4th edition of this book will be published in late 2018. If you buy the 3rd edition, you are unlikely to be able to resell it, so you may prefer to use a library copy.)

Dinstein, Y. The Conduct of Hostilities under the Law of Armed Conflict (Cambridge: CUP, 3rd ed., 2016). ISBN: 9781107544185

UNEP Protecting the Environment During Armed Conflict: An Inventory and Analysis of International Law (2009) http://postconflict.unep.ch/publications/int_law.pdf

Please try to read at least the UNEP document and ideally also Chapters 1-3 of Birnie, Boyle and Redgwell and Chapter 7 of Dinstein in advance of the first class.

VII. Course Outline

Week 1

Monday: Overview of International Law

Please review these websites and read the UN Charter

UN <http://www.un.org/en/>

UN International Law <http://www.un.org/en/law/>

International Court of Justice <http://www.icj-cij.org/homepage/index.php>

International Criminal Court http://www.icc-cpi.int/en_menus/icc/Pages/default.aspx

UN Charter <http://www.un.org/en/documents/charter/index.shtml>

Discussion Questions:

What is the structure of the international legal system? How does that system differ from national legal systems?

What are the sources of international law?

How are the aims of the UN?

What is the role of the UN Charter?

What mechanisms may be used to enforce international law?

Tuesday: Overview of International Environmental Law

Birnie, Boyle and Redgwell Chapters 1-4 and any other chapter that interests you (e.g. climate change, watercourses, biodiversity, toxic substances, nuclear energy)

Weiss, E. B. 'Understanding Compliance with International Environmental Agreements: The Baker's Dozen Myths' (1999) 32 *University of Richmond Law Review* 1555

Discussion Questions:

What is international environmental law? How is it made?

What are the sources of international environmental law?

How has international environmental law changed since the 1900s, the 1960s and 1992? What caused change? What trends, if any, may be identified in the development of international environmental law?

What particular challenges do the makers of international environmental law face?

What principles, if any, exist in international environmental law? How did these principles develop? Are all principles equally firmly established?

Wednesday: Overview of the Law of Peace and War

Dinstein Chapters 1, 2, 5, 6, 7

UNEP Protecting the Environment During Armed Conflict: An Inventory and Analysis of International Law (2009) http://postconflict.unep.ch/publications/int_law.pdf

Discussion Questions:

What are the sources of the law of peace and war (i.e. IHL)?

What are the core principles? How did these develop?

What treaties and documents are relevant to environmental protection?

Thursday: Overview of Peace-Keeping and Post-Conflict Reconstruction

<http://www.un.org/en/peacekeeping/about/dpko/>

Discussion Questions:

What is the process by which UN decides to intervene?

What is the process by which a peace-keeping mission is established?

To whom and how is a peace-keeping mission accountable?

What legal issues may arise in peace-keeping, at both strategic and operational levels?

Week 2

Case studies of situations in Central America, the Middle East, Africa and Asia in the context of water scarcity, biodiversity protection, desertification, energy security and maritime security

Students will research and make a presentation to the class on a conflict or post-conflict situation of their choice. Topics will be agreed early in week 1 so that student will have a week to prepare.

VIII. Background Reading

Students may find it helpful to read some or all of the following in advance but none is compulsory. The following materials may also be useful for the assessment.

Books:

Caplan, R. International Governance of War-Torn Territories (Oxford: OUP, 2005)

Chesterman, S. Just War or Just Peace?: Humanitarian Intervention and International Law (Oxford: OUP, 2001)

Crawford, J. Brownlie's Principles of International Law (Oxford: OUP, 8th ed., 2012)
Chapter 8: Forms of Governmental Authority over Territory
Chapter 9: Acquisition and Transfer of Territorial Sovereignty
Chapter 10: Status of States: Further Problems
Chapter 14: Common Spaces and Co-operation in the Use of Natural Resources
Chapter 15: Legal Aspects of Protection of the Environment
Chapter 33: The Use or Threat of Force by States

Evans, M. D. (ed.) International Law (Oxford: OUP, 4th ed., 2014)
Chapter 7: The Practical Working of the Law of Treaties
Chapter 21: The Use of Force and the International Legal Order
Chapter 23: International Environmental Law
Chapter 27: The Law of War

Lowe, V. International Law (Oxford: OUP, 2007)
Chapter 7: Regulating the Global Environment
Chapter 8: The Use of Force

Shaw, M. S. International Law (Cambridge: CUP, 8th ed., 2017)
Chapter 1: The Nature and Development of International Law
Chapter 3: Sources
Chapter 15: International Environmental Law
Chapter 20: International Law and the Use of Force by States
Chapter 21: International Humanitarian Law

Solis, G. D. The Law of Armed Conflict (Cambridge: CUP, 2d edition, 2016)

Journal Articles:

Haavisto, P. 'The International Responses to the Environmental Impacts of War' (2005) 17 *Georgetown International Environmental Law Review* 565

Henckaerts, J. M. 'Towards Better Protection for the Environment in Armed Conflict: Recent Developments in International Humanitarian Law' (2000) 9 *Review of European Community and International Environmental Law* 13

Hulme, K. 'Armed Conflict, Wanton Ecological Devastation and Scorched Earth Policies: How the 1990-91 Gulf War Revealed the Inadequacies of the Current Laws to Ensure Effective Protection and Preservation of the Natural Environment' (1997) 2 *Journal of Armed Conflict Law* 56

Jensen, E. T. 'The International Law of Environmental Warfare: Active and Passive Damage During Armed Conflict' (2005) 38 *Vanderbilt Journal of Transnational Law* 145

Jensen, E. T and J. J .Teixeira 'Prosecuting Members of the US Military for Wartime Environmental Crimes' (2005) 17 *Georgetown International Environmental Law Review* 651

Knight, A. 'Global Environmental Threats: Can the Security Council Protect our Earth' (2005) 80 *New York University Law Review* 1549

Schwabach, A. 'Ecocide and Genocide in Iraq: International Law. The Marsh Arabs and Environmental Damage in Non-International Conflicts' (2004) 15 *Colorado Journal of International Environmental Law and Policy* 1

Weinstein, T. 'Prosecuting Attacks that Destroy the Environment: Environmental Crimes or Humanitarian Atrocities?' (2005) 17 *Georgetown International Environmental Law Review* 697

Voneky, S. 'A New Shield for the Environment: Peacetime Treaties as Legal Restraints of Wartime Damage' (2000) 9 *Review of European Community and International Environmental Law* 20

Websites:

International Commission of the Red Cross – Treaty Database
<http://www.icrc.org/eng/resources/ihl-databases/index.jsp>

EcoLex: Gateway to Environmental Law www.ecolex.org

American Society for International Law: Guide to International Law
<http://www.asil.org/resource/treaty1.htm>

United Nations Treaty Collection <http://untreaty.un.org/>

United Nations International Law www.un.org/law

United Nations Environment Program <http://www.unep.org/>

United Nations Division for Sustainable Development <http://www.un.org/esa/sustdev/index.html>