

Climate Change Law

Winter 2015

Professor Cinnamon Carlarne

Time: 11:10-12

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Course Description & Objectives

Global climate change has quickly become one of the most pressing social, environmental, and economic challenges confronting the global community. The Climate Change Law course explores the legal, political, and scientific challenges involved in addressing and responding to climate change. The first part of the class examines international strategies and laws, including the Kyoto Protocol, emissions trading schemes, and efforts to involve the developing world in climate change mitigation. The second part of the class focuses on United States law and policy and asks whether existing laws or proposed legislation could effectively limit emissions of greenhouse gases. The third part of the class analyzes climate change laws and policies from a comparative perspective, examining climate change laws and policies in the European Union, China, India, Brazil, and elsewhere. Finally, the fourth part of the class examine climate change lawmaking at the margins as it intersects with other areas of law, including security, human rights, the oceans and more. The course ends by engaging students in a set of mock global negotiations that encourage the students to develop a deeper understanding of the legal, political, scientific, economic, and ethical dimensions of the problem of global climate change.

The course has three major learning objectives. First, the course provides students with an introduction to the philosophical underpinnings and the political and legal processes that shape climate change law and policy. Second, the course provides students with a solid doctrinal footing in existing and proposed laws and policies at the international, national, and local level. Third, the course introduces students to the complex relationship between climate change law and other areas of law and to the dynamic relationship between domestic and international environmental law-making. This course will require students to analyze climate change laws and policies from international, comparative & regional perspectives.

Readings

Course materials will be made available and will be based on the forthcoming Oxford Handbook of International Climate Change Law. Supplemental readings will come from articles available through electronic databases and books available from the law library.

Format of the Course

My approach to teaching emphasizes participation and engagement. While I will utilize a traditional lecture format, I will also employ a wide range of teaching methods including: group discussions/debates, case studies, and Socratic questioning. This course is designed to be interactive; active student involvement is essential.

Evaluation & Expectations

Evaluation:

To get the most out of this class, you should plan to keep up with the reading, attend class and take part in discussions and in-class assignments. Students are evaluated by their performance in three areas.

Grades will be based:

20% Mock Negotiations

80% Exam/Paper

Class Preparation & Participation:

Full class attendance is mandatory; you are responsible for reading and complying with the School of Law's attendance policy. Student preparation and participation is critical.

Other Rules:

- You are expected to be on time for each class meeting.
- You are expected to attend the full class session.

Tentative Class Schedule

(Please note: These assignments are tentative and may be modified or supplemented in from time to time; I will give advance notice of any changes.)

Part I

Topic 1

Introduction to Climate Change: Science, Mitigation & Adaptation

1. Intergovernmental Panel on Climate Change (2007) - Fourth Assessment Report (AR4). Summary for Policymakers (2007) <http://ipcc-wg1.ucar.edu/wg1/wg1-report.html> (*The Reports from Working Groups I, II and III are available at: <http://www.ipcc.ch/>*).
2. Weart, Spencer. (2004). *The Discovery of Global Warming*. Harvard University Press. *Available on-line:* <http://www.physicists.org/history/climate>
3. Stern Review Report on the Economics of Climate Change - http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/stern_review_report.cfm
4. Video
5. National Research Council, *Warming the World: Impact by Degree* (2011), http://dels.nas.edu/resources/static-assets/materials-based-onreports/booklets/warming_world_final.pdf

Topic 2. Introduction to International Environmental Law

1. Daniel Bodansky, *The Art and Craft of International Environmental Law* (Harvard Univ Press 2010) Chapters 1-2.

Topic 3. The United Nations Framework Convention on Climate Change & the Kyoto Protocol

1. UN Framework Convention on Climate Change 927-46 or http://unfccc.int/essential_background/convention/background/items/2853.php
2. Kyoto Protocol. http://unfccc.int/kyoto_protocol/items/2830.php
3. John C. Dernbach & Seema Kakade, *Climate Change Law: An Introduction*, 29 Energy L. J. 1 (2008)

Topic 4. Post-Kyoto: Politics, Goals etc.

1. Bali Action Plan,
http://unfccc.int/files/meetings/cop_13/application/pdf/cp_bali_action.pdf
2. Copenhagen Accord:
<http://unfccc.int/resource/docs/2009/cop15/eng/l07.pdf#page=1>
3. Cancun Agreements:
4. Durban Platform:
5. Daniel Bodansky, International climate efforts beyond 2012: A survey of approaches, Pew Center on Global Climate Change,
www.pewclimate.org/global-warming-in-depth/all-reports/international-climate-efforts/index.cfm
6. Cinnamon Carlarne, *Delinking International Environmental Law and Climate Change*

Topic 5. International Mitigation Regime

1. Robert N. Stavins, "Cap-and-Trade or a Carbon Tax?" The Environmental Forum, page 16 (January/February 2008)
2. Shi Ling Overview
3. "Overview of the CDM" and "Annotated Article 12 Section" from <http://cdmrulebook.org>
4. David M. Driesen, *Sustainable Development and Market Liberalism's Shotgun Wedding: Emissions Trading under the Kyoto Protocol*, 83 Indiana L. J. 1 (2007)
5. Robert N. Stavins, *A Meaningful US Cap-and-Trade System to Address Climate Change*, 32 Harv. Envtl. L. Rev. 293 (2008)
6. Ozone Regime: United Nations Ozone Secretariat, *A Success in the Making: The Montreal Protocol on Substances that Deplete the Ozone Layer* (2007)

Topic 6. Climate Change & Adaptation Measures

1. Adaptation Overview (Gerrard Ch 1)
2. Cinnamon Carlarne, *Rethinking a Failing Framework: Adaptation and Institutional Rebirth for the Global Climate Change Regime* (Forthcoming)
3. Climate Displacement of Persons: Michelle Leighton, "Climate Change and Migration: Key Issues for Legal Protection of Migrants and Displaced Persons," German Marshall Fund of the United States (June 2010)

4. "Climate change and the poor: Adapt or die," *The Economist*, pages 67-68 (September 13, 2008)

Topic 7

US Climate Change Law & Policy

1. *Massachusetts v. EPA*, 549 U.S. 497 (2007)
2. U.S. Environmental Protection Agency, "Climate Change -- Regulatory Initiatives" (December 2011)

Clean Air Act & Sub-Federal Efforts

1. Litigation:
 - a. David Markell & J.B. Ruhl, "An Empirical Survey of Climate Change Litigation in the United States," 40 *Env. L. Rep.* 10644 (2010)
 - b. *Connecticut v. American Electric Power*, 131 S.Ct. 2527 (2011)
2. State Based & Statutory Efforts:
 - a. Cinnamon Carlarne, *Notes from a Climate Change Pressure Cooker: Sub-federal Attempts at Transformation Meet Resistance in the USA*, 40 *Conn. L. Rev.* 1351 (2008)

US Climate Change Law & Policy: Energy Dimensions

1. Energy: Michael B. Gerrard, "Introduction and Overview," in Michael B. Gerrard, ed., *The Law of Clean Energy: Efficiency and Renewables* (2011)
2. John C. Dernbach & Marianne Tyrrell, "Federal Energy Efficiency and Conservation Laws," in Michael B. Gerrard, ed., *The Law of Clean Energy: Efficiency and Renewables* (2011)

Topic 8

Comparative Climate Change Law & Policy

European Climate Change Law & Policy.

1. Cinnamon Carlarne *ENVIRONMENTAL POLICIES AN OCEAN APART: CLIMATE CHANGE LAWS & POLICIES IN THE EUROPEAN UNION AND THE UNITED STATES*, Chs 5-6 (Oxford University Press, 2010) (on file with Professor)

2. Renee Martin-Nagle, *Aviation Emissions: Equitable Measures under the EU ETS*, 43 *Envtl. L. Rep. News & Analysis* 10047 (2013)

Chinese Climate Change Law & Policy

1. Alex Wang's OUP Chapter
2. David Biello, "The Price of Coal in China: Can China Fuel Growth without Warming the World?" *Scientific American*, December 16, 2010
3. Elisabeth Rosenthal, "Nations That Debate Coal Use Export It to Feed China's Need," *The New York Times*, November 21, 2010
4. *Additional Readings*: McCubbin, Patricia Ross, *China and Climate Change: Domestic Environmental Needs, Differentiated International Responsibilities, and Rule of Law Weaknesses* (2008). *Energy & Environmental Law & Policy Journal*, Vol. 3, 2008. Available at SSRN: <http://ssrn.com/abstract=1212562>

Comparative Climate Change Law & Policy Continued

1. Dan Farber, *Carbon Leakage Versus Policy Diffusion: The Perils and Promise of Subglobal Climate Action*, 13 *Chi. J. Int'l L.* 359 (2013)
2. India – Deepa Badrinaraya (
3. AOSIS – Espen Ronneberg Chapter (forthcoming in *Oxford Handbook of International Climate Change Law*)

Topic 9

Climate Change & Security

1. Kurt M. Campbell et al, "The Age of Consequences: The Foreign Policy and National Security Implications of Global Climate Change," *Center for Strategic & International Studies*, pages 5-10, 104 (2007)
2. Cass R. Sunstein, *On Divergent American Reactions to Climate Change & Terrorism*, 107 *Colum. L. R.* 503 (2007)
3. Francesco Sindico, *Climate Change: A Security (Council) Issue?*, *Carbon and Climate Law Review*, Vol. 1, pp. 26-31 (2007)

Topic 10

Climate Change, Human Rights & Human Health

1. Lisa Heinzerlig, *Climate Change, Human Health and the Post-Cautionary Principle*, Georgetown University, O'Neil Institute for National and Global Health Law Scholarship, Research Paper No. 4 (2007).
2. Michael Depledge & Cinnamon Carlarne, *Sick of the Weather: Climate Change, Human Health and International Law*, Opinion Piece, 9 ENVIRONMENTAL LAW REVIEW 231 (2007)
3. Hari M. Osofsky, *Inuit Petition as a Bridge? Beyond Dialectics of Climate Change and Indigenous Peoples*, American Indian Law Review, Vol. 31, p. 675 (2007).
4. *Additional Reading*: International Council on Human Rights Policy, *Climate Change and Human Rights: A Rough Guide* (2008)
5. *Additional Reading*: Sheila Watt-Cloutier, 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 (December 7, 2005)

Topic 11

Climate Change, Arctic Governance, Geoengineering & Disaster

1. Cinnamon Carlarne, *Arctic Dreams and Geonengineering Wishes: The Collateral Damage of Climate Change*,
2. Daniel Farber, *Climate Change and Disaster Law* (forthcoming in Oxford Handbook of International Climate Change law)

Topic 12

Mock Negotiations!