

LINNAN, FALL 2025 FIRST READINGS ASSIGNMENTS

LAWS 666 *International Environmental Law*

Please prepare the following for our first class:

1. Read [Mahathir bin Mohamad, Greening of the World to a Better Living: Address by the Prime Minister of Malaysia at the Official Opening of the Second Ministerial Conference of Developing Countries on Environment and Development, on 27 April 1992](#) (Kuala Lumpur; Jabatan perkhidmatan Penerangan Malaysia, 1992)

versus

[Flood Woman vs. Climate Doom](#) (Part 1, courtesy of The Post and Courier)

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[In Charleston, floods are a 'constant & existential fear'](#) (Mellen & Dance, Washington Post 08/06/24)

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[The Five Coastal States That Face the Most Devastating Flood Risk](#) (Poon, CityLabEnvironment Bloomberg.com 08/05/24)

Was the assembled developing country leadership meeting immediately prior to the 1992 Rio Meeting on International Environmental Law and Development (Rio 1992 spawned among other things the UN Framework Convention on Climate Change and the Convention on Biological Diversity) even talking about the same problem as the Charlestonians? Do we have any Lowcountry students in the class, and is SC even in the most vulnerable position as compared to coastal jurisdictions in the Southeast, versus worldwide? Ultimately, how does all of this work under the common standard “think globally, act locally”?

2. To see the kind of interesting things going on in the private sector (and which transactional lawyers participate in too, watch or skim one or the other of

[Carbonomics: Updated cost curve shows diverging trends between power and transport](#) (Goldman Sachs Equity Research 11/27/23; an update, since the original GS Carbonomics report exploring the business and economics of the energy transition dates back to 2019); or

An hour-long 2021 Youtube nuts & bolts approach project finance video from the Irwin Institute & Dartmouth Energy Collaborative entitled:

[Renewable Energy Project Finance Basics with Josh Pearson '97](#)

What do you make of this private sector “deal” approach, particularly in the context of a global energy transition? How do you think the private sector understands or addresses the worldwide energy transition as infrastructure challenge, and, in purely practical terms, how to finance it? Problem,

necessity, goldmine, or all three at once (aka Goldman Sachs is not a charitable organization)? Could you make partner doing project finance work, the doing well by doing good approach?

3. Then for the uber-technologist approach, looking to Bill Gates' blog as representative, please read and consider his take ["A surprising \(and surprisingly optimistic\) book on climate change" \(11/20/23\)](#).

In going with technology and the private sector under 2 & 3 are we are serving up what you might regard as a market-based or politically more conservative approach to a problem common to all? Does it work better, why or why not?

Beyond parsing the above, we shall spend much of the first class in lecture format explaining via PPT generally the international law system and public international law's sources of law doctrine as technical background for our course, with some references in passing to handy concepts like adaptation and mitigation approaches now shaping the specific climate change discussion. The issue is that, contrary to popular belief, there are some basic principles in international environmental law but nothing like the domestic environmental law regulatory system. The problem in a practical sense is that the existing law in the international environmental law context is inadequate to address the problems at hand, meanwhile the traditional treaty pathway to create new international environmental law immediately surfaces all the competing pressures and cross-currents that have been reasonably clear since the 1980s. So at the international law level, we need to work our way through a variety of approaches (politics, human rights, private litigation, various technical agreements, etc.) tried with still limited success since the 1990s, plus the current iterative approaches like multilateral diplomacy under the UN Framework Convention on Climate Change or UNFCCC, including its annual conferences of the parties (COPs, with the next one-- COP 30-- scheduled for Belem, Brazil in November 2025 towards classes' end, and it is no accident that the most recent COPs have been hosted by major developing and energy producing states). Bottomline, thirty years plus later, current international environmental law, particularly in the climate change context, remains a work in progress.

We shall end with a short review of how and why we focus in the course on the interim outcome of the Charleston state torts law litigation (case filed in 2020, dismissed August 5, 2025, not clear yet whether the City of Charleston appeals, but presumably not under its current Republican mayor, see [Cox, "Charleston's lawsuit against 'Big Oil' gets dismissed in victory for fossil fuel industry," *The Post and Courier*, 08/07/25](#)). Beyond whether the lower court decision is convincing in a legal sense, why then are climate change cases seemingly increasing elsewhere? And if the judicial approach to climate change were to close down generally, what happens? Who pays and how to address Charleston's increasing flooding and storm problems? What does this climate stuff mean generally for the Low Country as practically a third of South Carolina? What are the options? This is a means to make you start working/arguing through some admittedly difficult issues involving significant trade-offs, including whether climate change is even a justiciable topic (on which conclusion other courts and other countries have disagreed with the Charleston judge). Why do you have a domestic, lower court judge rejecting a (domestic torts) climate case circa two weeks after the ICJ offered its Advisory Opinion addressed to the UNGA and states on state responsibilities? Is it just the formal difference that the state court hearing the domestic tort case would actually be "making" novel law on the level of individuals and companies if the case proceeded, meanwhile the ICJ was "finding" law as between states? Or is it instead the level of courts and audiences involved? Any other possibilities?

Should you have any paywall-type problems with the Washington Post or Bloomberg links, I believe law students can now get free online Washington Post subscriptions via the Law

Library, and the Bloomberg.com stories should be accessible also via bloomberglaw, for which I believe you all received password access in your first-year LRAW course. So ask the Law Library reference librarians how to access and use them, should you require help.

Please prepare for our second class unit 2 to be found at

<https://uofsclawcourses.azurewebsites.net/courses/laws666-international-environmental-law/>

Please read all three sub-units labelled as Background & Issues, Readings & Viewings and Problems & Exercises. Under Readings & Viewings, read the three precedents and essentially try to reconcile them like you would reading cases in a standard first year course, because the exercise is essentially to derive the broader customary law applicable from the three specific cases, and once you have absorbed that you have covered essentially the bulk of traditional general customary law rules applicable to international environmental law. What is their basis, what drives them? What does the customary law tell you more broadly about the nature of international environmental law? You will note that under Problems & Exercises the whole class should read and work the Rotunda Problem, while everyone also should read and think about the Daiichi Nuclear Disaster Problem, but we shall appoint in the first class a specific group to work the problem itself and do a presentation in the second class.

We use online materials in the course rather than a traditional casebook, mostly because the law is evolving so fast that the casebooks tend to be out of date in the same year they are published. There are a few passworded documents in the online materials (copyright compliance), with the password already distributed to persons enrolled in the class.