

Course Title:

Comparative Global Perspectives on Environmental Law and Policy

Course instructors:

Professor R. Sudarshan, Dean, Jindal School of Government and Public Policy

Justice Michael Wilson, former Judge Supreme Court of Hawaii, Eminent Jurist & Professor of Law, Jindal Global Law School

Course Duration: One semester (15 weeks)

Course Format: Weekly seminars

Course Objective:

This course explores the intersection of environmental law and policy with the evolving role of the judiciary in addressing environmental challenges. Through a comparative study of constitutional courts and judicial decisions from India, the USA, Brazil, South Africa, and other jurisdictions, students will critically analyze how courts have shaped environmental jurisprudence and influenced policy outcomes.

Course Outline:

Seminar 1: Introduction to Environmental Law, Policy, and Judiciary

- History and evolution of environmental law and policy globally.
- Key environmental challenges: Climate change, biodiversity loss, deforestation, pollution.
- Role of the judiciary in environmental governance: Conceptual framework.

Seminar 2: Judicial Activism in Environmental Governance

- Concept of judicial activism and its implications for environmental law.
- Case studies: India (M.C. Mehta series), USA (Massachusetts v. EPA).

Seminar 3: Environmental Rights and the Right to a Healthy Environment

- Environmental rights as human rights: Constitutional and legal frameworks.
- Comparative analysis: India, South Africa, and Latin America.
- Case studies: South Africa (Government of RSA v. Grootboom) and Colombia's Atrato River decision.

Seminar 4: Public Trust Doctrine and Environmental Protection

- **Origins and evolution of the public trust doctrine.**
- **Judicial applications in India, USA, and Kenya.**
- **Case studies: India (Kamla Kant Dubey v. Union of India) and USA (Illinois Central Railroad v. Illinois).**

Seminar 5: Judicial Remedies for Environmental Violations

- **Tools for environmental enforcement: Injunctions, fines, damages, and orders for rehabilitation.**
- **Role of National Green Tribunal (NGT) in India.**
- **Case studies: Brazil (Amazon deforestation rulings).**

Seminar 6: Climate Litigation and the Judiciary

- **Global climate litigation trends and typologies.**
- **Landmark decisions: Netherlands (Urgenda case), Pakistan (Leghari v. Pakistan), USA (Juliana v. USA).**
- **Role of constitutional courts in advancing climate justice.**

Seminar 7: Indigenous Rights, Forests, and Environmental Justice

- **Intersection of indigenous rights and environmental law.**
- **Landmark cases: Brazil (Indigenous land rights), India (Niyamgiri Hills case).**
- **Global lessons on integrating indigenous knowledge with legal frameworks.**

Seminar 8: Biodiversity and Ecosystem Protection through Judicial Lens

- **Legal and judicial measures to protect biodiversity.**
- **Case studies: India (Kaziranga eviction case), South Africa (protection of biodiversity corridors).**
- **Role of international conventions (CBD) in shaping judicial decisions.**

Seminar 9: Pollution Control and Urban Environmental Governance

- **Judicial interventions in addressing air, water, and noise pollution.**
- **Case studies: India (Delhi air pollution rulings), USA (Clean Air Act cases).**
- **Balancing urbanization and environmental protection.**

Seminar 10: Corporate Accountability and Environmental Law

- Corporate social responsibility and environmental liabilities.
- Judicial oversight of industrial pollution and disasters.
- Case studies: USA (Exxon Valdez), India (Bhopal Gas Tragedy aftermath).

Seminar 11: Sustainable Development and Judicial Balancing

- Reconciling development needs with environmental sustainability.
- Judicial approaches: India (Sustainable Development Doctrine), Brazil (environmental protection in economic activities).
- Case studies: India (Narmada Dam case).

Seminar 12: Access to Justice and Environmental Litigation

- Mechanisms for environmental access to justice.
- Role of public interest litigation (PIL) in India.
- Comparative analysis of environmental litigation frameworks: India, USA, South Africa.

Seminar 13: International Environmental Law and Judicial Applications

- Influence of international treaties (Paris Agreement, Stockholm Declaration) on domestic judicial decisions.
- Role of international courts (ICJ, ITLOS) in environmental disputes.

Seminar 14: Challenges and Future of Environmental Jurisprudence

- Barriers to effective judicial enforcement of environmental law.
- Emerging issues: AI, green technology, and environmental governance.
- Case studies: Emerging jurisdictions (Philippines, New Zealand).

Seminar 15: Synthesis and Policy Recommendations

- Recap of key themes and judicial contributions.
- Group presentations on jurisdictional comparisons and innovative judicial practices.
- Policy recommendations for enhancing judicial effectiveness in environmental governance.

Assessment Components:

1. Class Participation: 10%
2. Seminar Presentations (Group or Individual): 20%

- 3. Midterm Essay (2,000–3,000 words): 30%**
- 4. Final Exam: 40%**

Learning Outcomes:

By the end of the course, students will:

- **Understand the foundational principles of environmental law and its intersection with judiciary and policy.**
- **Analyze landmark judicial decisions and their role in shaping environmental governance globally.**
- **Critically evaluate the effectiveness of judicial activism in addressing environmental challenges.**
- **Propose innovative legal and policy solutions for emerging environmental issues.**

Reading List (Selected):

Primary Textbooks:

- 1. Rosencranz, A., Divan, S., & Noble, M. L. (2001). *Environmental Law and Policy in India: Cases, Materials, and Statutes*. Oxford University Press.**
- 2. Boyle, A., & Anderson, M. (Eds.). (1996). *Human Rights Approaches to Environmental Protection*.**
- 3. Rajamani, L. (2021). *Climate Change and Developing Countries: From Kyoto to Copenhagen to Paris*.**
- 4. Shelton, D. (2009). *Judicial Handbook on Environmental Law*. UNEP.**

Additional Readings (Books and Articles):

- **Sands, P., Peel, J., Fabra, A., & MacKenzie, R. (2018). *Principles of International Environmental Law*. Cambridge University Press.**
- **Lazarus, R. J. (2008). *The Making of Environmental Law*. University of Chicago Press.**
- **Stern, N. (2006). *The Economics of Climate Change: The Stern Review*.**
- **Kotzé, L. J. (2012). “Global Environmental Constitutionalism in the Anthropocene.” *Transnational Environmental Law*, 1(2), 199–233.**
- **Hey, E. (2000). *Reflections on an International Environmental Court*. Kluwer Law International.**

Key Articles:

- Rajamani, L. (2016). “Ambition and Differentiation in the 2015 Paris Agreement: Interpretative Possibilities and Underlying Politics.” *International and Comparative Law Quarterly*, 65(2), 493–514.
- Anderson, M. R. (1996). “Human Rights Approaches to Environmental Protection: An Overview.” In *Human Rights Approaches to Environmental Protection*, Boyle & Anderson (Eds.).
- Rosencranz, A., & Lele, S. (2008). “Supreme Court and India’s Forests.” *Economic and Political Weekly*, 43(5), 11–14.
- Picolotti, R., & Taillant, J. D. (Eds.). (2010). *Linking Human Rights and the Environment*. University of Arizona Press.
- Robinson, M. (2014). “Climate Justice: Challenges and Opportunities.” *Environmental Policy and Law*, 44(1–2), 127–130.

Case Law Compendiums:

- Compilation of key judicial decisions, including M.C. Mehta cases (India), Massachusetts v. EPA (USA), Urgenda case (Netherlands), and others.
- National Green Tribunal (NGT) decisions and orders from India.
- Selected rulings from the Brazilian Federal Supreme Court, South African Constitutional Court, and US Supreme Court.

Reports and Guidelines:

- UNEP. (2019). *Environmental Rule of Law: First Global Report*.
- IPCC Reports on Climate Change (latest AR6 Synthesis Report).
- World Bank. (2003). *Environmental Governance: Strengthening Roles for Civil Society*.

These resources provide foundational knowledge and specialized insights into environmental law and policy, with a focus on judicial contributions across jurisdictions.