THE LAW OF CLIMATE CHANGE: DOMESTIC & TRANSNATIONAL
Fall 2010 SUNYA

Syllabus

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Rockefeller College of Public Affairs & Policy
Class Number 17565
RPOS 399 Law and Climate Change
Monday and Wednesday 7:15 PM - 8:35 PM Humanities 116

COURSE OBJECTIVES:
This course is a general introduction to the body of domestic and transnational law that has
developed and is developing daily to grapple with the crisis of catastrophic anthropogenic climate
change. The course will begin with a general overview of the science, economics, policy and
legal framework of the law of climate change. This begins with introduction to international
environmental law and policy, including treaty law, contemporary diplomacy and the rise of
demands for climate justice from the Global South.

Turning to domestic law, we will examine the areas of law that govern the principal sources of
greenhouse gases: transportation and energy generation, in particular. To look at these areas, we
will consider the centrality of the car in our culture and history, and read recent cases and
regulatory decisions concerning environmental standards for automobiles. In the areas of
electricity and natural gas – the sources for lighting, heating, and power, we will review the
historical role of fossil fuels, and their consequences, and explore current models addressing
climate change, on the national, regional and local level. Finally, we will explore the growing
theories of international human rights to a clean environment, and the attempts to locate and
enforce such rights in international and U.S. law.

We will use email and the Blackboard site to exchange information, to give and post assignments,
and to submit responses and filings. We will try to keep hard copy to a minimum to use less paper
and less energy: to make this a low-carbon course.

Topics include:
- Climate science update
- International treaties (Kyoto, Copenhagen): The world context: environmental limitations vs. economic development. North/South conflicts (the relationship between developed and developing nations), and the trade-offs between environmental protection, poverty, economic growth, consumption and population
- Federal law: the Clean Air Act, court decisions: The economics of fossil-fuel based industry, electricity generation, and transportation: what are the real costs?
- Local, state and regional law: Climate solutions at the sub-national level.
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- Are there international human rights to a clean environment and a livable climate?: where and how can those rights be redressed?

Required Materials:
- Bill McKibben, EAARTH
- Michael Gerrard, Ed., GLOBAL CLIMATE CHANGE AND U.S. LAW

Supplemental Materials:
These will be provided on-line regularly by the professor
These will also be provided by the student: climate change news articles and links.

THE WORK OF THE COURSE:
This is a hybrid (part distance, part classroom) course. Usually assignments will be given and handed in on line.
The work of this course will be carried out in several forms, including:
- Class meetings
- On-line discussion postings
- Current news reading and discussion
- Negotiation of an international treaty
- Litigation of a case concerning the siting of a windmill farm to generate electricity in central New York
- An open-book take-home final examination.

Your final grade will be based upon the following factors:
  Class participation – 30%
  Portfolio of litigation filings and discussion postings – 35%
  Final examination – 35%

For the litigation, you will be assigned to your own law firm with several other students. We will be discussing this aspect of the work in greater detail in the opening weeks of the class. Be aware that at the end of the semester, you are required to hand in your complete portfolio, in hard copy, including all of your discussion postings and all of your litigation filings.

The course schedule that follows is a general outline of the materials, readings, and discussions for the semester, including some guest lecturer appearances. Depending on how much time we decide to allot to particular subjects, and the availability of the scheduled guests and other experts, the work of the course is likely to vary from the course schedule provided.
MODULE ONE:
INTRODUCTION TO THE COURSE, CLIMATE CHANGE SCIENCE, AND INTERNATIONAL LAW

Week One:
Reading: McKibben, EAARTH, Chapters 1 and 2.
Introduction to the course
Overview of climate change science
Overview of climate law issues
Where is the law on climate change made? International, federal, regional, state, and local laws.

Week Two:
Reading: Gerrard, pages 1-24
Guest lecturer on current developments in climate science
Overview of the primary sources of greenhouse gas (GHG) emissions in our society.

Weeks Three and Four:
Reading: Gerrard, pages 31-60
On-line research links to be provided
First assignment: Negotiation session preparing for Cancun, December 2010
Overview of treaty law: what led up to the Kyoto Protocol? What has followed it? What will happen when it expires in 2012?
What happened in Copenhagen?
What happened in Cochabamba?
UN Framework Convention on Climate Change
Kyoto Protocol. Links to these texts will be provided.

MODULE TWO:
FEDERAL LAW AFFECTING CLIMATE CHANGE
Weeks Five-Seven
Guest lecturer on the Clean Air Act
Reading: Massachusetts v. EPA, __ U.S. __, 127 S.Ct. 1438 (NO. 05-1120) (April 2, 2007)(an edited text will be provided on line); Gerrard, Chapter 3: U.S. Policy; subsequent EPA decisions provided on line.
The American romance with the automobile: the national highway system, energy and national security; federal preemption. Clean Air cases to be provided.
What has the EPA done since the decision in Massachusetts?

Second Assignment: Introduction to the Quixote Wind Litigation: law office meetings
Weeks Eight - Ten:
Reading: Gerrard, Chapters 6, 7 and 10
Guest lecturer on public nuisance litigation
Overview of the central role of energy in the US economy, and energy systems, the role of fossil fuels, introduction to the grid, federal policy on oil, natural gas, electricity.
Litigation strategies on climate change: State of Connecticut v. American Electric Power, Kivalina v. Shell Oil, Comer v. Murphy. (texts will be provided)

MODULE THREE:
REGIONAL, STATE AND LOCAL LAW OF CLIMATE
Weeks Eleven and Twelve
Reading: Gerrard, Chapters 9, 18; and links to be provided
Siting of energy facilities and the role of community acceptance and rejection; Carbon Emission Reductions as a tradeable commodity; Regional initiatives for transportation and land use
State adoptions of greenhouse gas emission reduction targets: the 80 x 50 movement

Completion of Quixote Wind litigation

MODULE FOUR:
CLIMATE AND HUMAN RIGHTS
Reading: Gerrard, Chapter 6, pp.221-224; the Inuit Petition, the Peoples Accord, other readings and links to be provided

The international human right to a livable climate and a clean environment; antecedents in treaty law and recent developments: the centrality of climate debt.

CONCLUSION