Teaching Environmental Law from a Global Resources Perspective

Lin Harmon, JD
Professor, Assistant Dean and Director
Environmental Law Programs
Pace Law School
Teaching the lawyers and policymakers of the future
Environmental problems now and in the coming decades

- Complex
- Changing
- Crossing disciplines and boundaries
- Global as well as local – global impacts of local actions, local impacts of global actions
  - There is no “away” – G. Tyler Miller
Structuring a course in 21^{st} century environmental law – assumptions

• The environmental lawyers of the future will need:
  – Self-awareness and understanding of other views
  – Multicultural competence
  – Scientific literacy
  – Analytical skills
  – Knowledge of laws and their limitations
  – Holistic view of problems and their solutions
  – Ability to conduct research in a constantly changing environment
Structuring a course in 21st century environmental law – assumptions

• Methodology: environmental lawyers of the future should learn how to:
  – Understand the big picture (law, science)
  – Use scientific and socioeconomic data intelligently
  – Find all relevant laws and consider them together
  – Analyze laws for coverage and effectiveness
  – Propose and discuss appropriate changes
  – Join the public dialogue and become convincing advocates
Teaching Comparative Environmental Law from a Global Resources Perspective: one experience
Main sources

http://www.unep.org/geo/geo5.asp
Related GEO readings

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http://www.unep.org/geo/pdfs/Keeping_Track.pdf
Related sources

University of Ottawa’s JuriGlobe
http://www.juriglobe.ca/

FAO, The State of the World’s Land and Water Resources

Robert Percival/U. of Maryland, Global Environmental Law country reports
http://www.globalenvironmentallaw.com/

And hundreds of others, including YouTube!
GEO-5: Structure

Part 1: State and Trends of the Environment

Drivers
Atmosphere
Land
Water
Biodiversity
Chemicals and Waste
An Earth System Perspective
Review of Data Needs
GEO-5: Structure

Part 2: Policy Options

Africa
Asia and the Pacific
Europe
Latin America and the Caribbean
North America
West Asia
Regional Summary
GEO-5: Structure

Part 3: Global Responses

Scenarios and Sustainability Transformation
Global Responses
Earth System

Figure 7.3 Observed change in annual mean surface air temperature, 1960–2009

Change in annual mean surface air temperature, °C

Source: Seneviratne and Barry 2011 based on NASA GISS temperature analysis (http://data.giss.nasa.gov/gistemp).
Earth System

Figure 7.7 The ecological footprint and biocapacity of regions, 2002

Global hectares per person

- North America
- Western Europe
- Central and Eastern Europe
- Middle East and Central Asia
- Latin America
- Asia and the Pacific
- Africa

Legend:
- Ecological footprint
- Biocapacity

Global biocapacity available per person
Global Course: Structure

Comparative Environmental Law foundation
  Worldviews
  World legal traditions
  Environmental rights in common pool resources

Use regulation, pollution laws & outcomes
  Atmosphere
  Land
  Water
  Energy
  Chemicals (Industry)
  Biodiversity (Life)
Foundation: Worldviews

- Human-centered
  - "No problem" growth economist
  - Free-market environmentalist
  - Spaceship Earth
  - Stewardship

- Earth-centered
  - Deep ecology
  - Earth-centered
  - Life-centered

Adapted from G. Tyler Miller, Living in the Environment
Foundation:
World legal systems - JuriGlobe

University of Ottawa
http://www.juriglobe.ca/eng/
Foundation: Comparing environmental laws

- Law-drafter's or legislator's standpoint - search for models, critics against your own system;
- Harmonizers standpoint – search for the “best” model;
- Field of law researchers – search for differences and similarities to posed questions;
- Study on differences and similarities, questions of interaction of law and society.

Professor Jaakko Husa:
Methodology of Comparative Law,
Finnish Environment Institute (SYKE), August 2007
Foundation: Environmental rights, common pool resources

Tragedy of the commons
Tragedy of the enclosure
Who owns essential resources?
Privatization, exclusive groups, public ownership
Environmental rights and equivalents

Map 3.2 Nations Recognizing the Constitutional Right to a Healthy Environment

Legend
Green—Nations recognizing constitutional right to a healthy environment as of 2009
Grey—Nations not recognizing constitutional right to a healthy environment as of 2009

David R. Boyd
Atmosphere

Measuring Progress, p. 5
The upper delta area shown in the left-hand image had over 7 million people in 1990, but has since more than tripled to over 25 million, with the cities of Dongguan, Foshan, Guangzhou and Shenzhen beginning to merge into one continuous city. This intense urbanization has led to the loss of productive farmland and natural areas, as well as creating a variety of environmental problems.
Water

Figure 4.14 Threats to water security with and without infrastructure investment, 2000

Source: Vörösmary et al. 2010
Coasts

Figure 4.12 World hypoxic and eutrophic coastal areas, 2010

Source: Diaz et al. 2010
Oceans

Figure 4.17 CO₂ concentrations and ocean acidification in the North Pacific, 1960–2010
Chemicals

Persistent Organic Pollutants

Each Party shall prohibit and/or take the legal and administrative measures necessary to eliminate its production and use of the chemicals listed in Annex A [selected persistent organic pollutants] subject to the provisions of that Annex.

Sound Waste Management

Determined to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes.

Inadequate hazardous waste management and illegal traffic is a continuing threat. The frequency of new reports to the Basel Convention on this issue is falling, and data are sparse and difficult to interpret, especially from developing countries and countries with economies in transition. It is estimated that there are 2 million contaminated sites in Europe, the United States and the Russian Federation alone. Many developing countries lack policies governing the import of hazardous waste, resulting in unregulated dumping and human exposure. Waste electronic products (e-waste) are the world’s fastest-growing waste stream, at 20-50 million tonnes per year. Trade and movement of e-waste to some developing countries is increasing because of their often lower labour costs and health and environmental standards. People that recycle e-waste in the informal sector are exposed to heavy metals, endocrine-disruptors and other harmful substances.

DDT Levels in Human Tissue

Agricultural households, including farmers and farm workers, are exposed to DDT and other organochlorine pesticides. The use of DDT in agriculture is still widespread in some countries. DDT is a persistent and toxic chemical that can bioaccumulate in the food chain and cause adverse health effects.

Basel Convention

Number of Parties to the Convention and Parties thattranspose National Reports

Source: United Nations for the Basel Convention
Energy
Biodiversity (Life)
Summary

- GEO-5 takes a holistic Earth System approach
- Course takes the same tack with analysis of existing laws
- View effects of laws from “cradle to cradle”
- Pose solutions for gaps and dysfunctions in the law
- Share findings
Possible ways to use GEO-5 in environmental law courses

- Single-element courses (approaches to land use or water pollution)
- Regional comparative courses (approaches to some of all elements, across a region)
- Global perspective with sampling of national approaches in each area, across legal traditions
- Multidisciplinary law/science, law/economics, law/management courses
- Multi-institution collaborative projects