

Law Development and Environment

Ambedkar University, Delhi

Proposal for Launch of a Course

(To be approved by the Board of Studies and the Academic Council)

1. Title of the Course: **Law, Development and Environment.**
2. Name of the School/Centre proposing the course: **SLGC**
3. Programme(s) which this course can be a part of: **Law, Politics and Society**
4. Level at which the course can be offered: Predoctoral / Masters / PG Diploma / BA Hons. / Diploma / Certificate Masters: **Masters**
5. If it is a stand-alone course, how can it be scheduled?:(e.g., as a summer/winter course, semester-long course, regular or evening course, weekend course, etc.):
Semester Long
6. Proposed date of launch: **July 2018**
7. Course Team: (coordinator, team members etc.): **S.R.Prabakaran**
8. Rationale for the Course (Link with the institutional vision, how it fits into the programme(s), Availability of literature and resources, Expertise in AUD faculty or outside, how it would be beneficial to those who take this course, etc.):

Today rapid industrial growth is leading towards irreversible environmental degradation such as water pollution, air pollution, climate change and global warming. Moreover tremendous growth in population and urbanization have created the problems such as deforestation, huge generation of solid wastes, loss of biodiversity and degradation of land etc. In such circumstances, the role of society, the role of individuals and government has become more important to curb the situation of environmental degradation. In such background it is indeed necessary for students to understand the legislative measures for prevention of pollution, protection of environment and the Balance between Development and Environment.

Objectives of this Course

 1. To survey today's major environmental laws,
 2. To examine the intersection between law Development and environment
 3. To Explore the evolution of international environmental law and its impact on domestic environmental regulation
 4. To Understand and appreciate the critical role played by the judiciary in India in developing a rights based framework for environmental regulation in India
9. If the course is a part of one or more programme(s), its location in the programme(s) core/compulsory/optional/any other: **It is a Optional course being offered in the second year of the programme.**
10. Specific Requirements on the part of students who can be admitted to this course: (Pre requisites or prior knowledge level etc.): **Prior Knowledge not required**

11. Does the course connect to, build on or overlap with any other courses offered in AUD?

Environmental law is multidisciplinary by nature, since environmental regulation and research also require diverse scientific perspectives such as those of natural and social sciences, Global environmental problems, climate change, and the decrease in biodiversity and natural resources have contributed to the expansion of environmental legal regulation. However, it did not receive ample attention as a dedicated subject in the social science disciplines. This course aims to offer an enthusiastic course to the students by giving an overview of the principles and the legal instruments of the discipline. The student gains knowledge about the basic features of national and international developments within the field.

12. Course Description:

Environmental law aims to protect and enhance the environment, reduce the risk to human health from pollution, and achieve sustainable development of natural resources. The success of environmental law depends upon balancing the three components of sustainability: ecological, economic, and social/cultural. Today, the primary sources of this balancing act are federal, state, and local Laws. However, these statutes and regulations overlay a common, judge-made, law that establishes a system of private and public property, and a tort law that provides remedies for intentional and unintentional harms. In addition, there is a growing body of international environmental law with both similarities and differences to Indian environmental law.

Module-1: introduces the International Environmental Law.

Here we will provide an overview of the international environmental regime in terms of the Stockholm and Rio conferences and discuss critical institutions of environmental policymaking at the international level. In this context we will focus on the development and application of substantive principles of environmental law. This includes the State Responsibility for Transboundary Harm, Polluter Pays Principle, Sustainable Development, Precautionary Principle and Common but Differentiated Responsibility (CBDR). These principles will be discussed.

Module 2: states about Constitutional Mandate. In pursuance of the United Nations Conference on Human Environment convened at Stockholm in 1972, the nations of the world decided to take appropriate steps to protect and improve human environment. This Conference has transformed the environmental jurisprudence of India. In India 42nd Amendment to the Indian Constitution inserted Part IV-A of the Constitution which enumerates certain fundamental duties under Articles 48-A and 51-A (g). These Articles are more important and works as the constitutional mandates for environmental protection. Judiciary has also contributed by its activism and provided the right to pollution free and healthy environment as a part of right to life under Article 21. Judiciary has also accepted the international norms and interpreted it in administration of justice. Judiciary has evolved the principles such as polluter pay principle, precautionary principle, sustainable development, public trust doctrine.

Under Module 3: it is Pollution Laws Many of the most well known environmental laws focus on regulating pollution in general and pollution within a specific media (e.g., air or water) in particular. In this section we will learn the basics of the laws dealing with the regulation of air and water pollution,

The fourth Module deals about Wild Life and Forest. Although these have been clubbed together in the course manual – because of the various interconnections between these subject areas – they would be discussed individually.

Fifth module deals with Environment and Development, whereby specific themes of major controversies and debates in contemporary India. In particular it will focus on specific issues in rural and urban ecology such as the question of large dams, climate change, agro-biodiversity, biotechnology, forests and wildlife policies. The thematic focus of the unit will be on the impact of these debates and environmental policies on the life and livelihood security of ordinary people.

Syllabus with List of Readings

Module-1 International Environmental Law

(Week 1 and 2)

<p>Topics to be covered. Principles of International Environmental Law</p>	<p>Readings:</p> <ol style="list-style-type: none"> 1. Patricia Birnie, Alan Boyle and Catherine Redgwell (edited) (2009) Third Edition International Law & the Environment, OUP. Chapters 1 and 2. 2. Erkki J. Hollo, Kati Kulovesi and Michael Mehling (edited) (2013) Climate Change and the Law, Springer. Chapters 3,4 and 5. 3. Andrew L. Strauss (2009) "Climate Change Litigation: Opening the Door to the International Court of Justice" Adjudicating Climate Change: State, National, and International Approaches. Ed. William C. G. Burns & Hari Osofsky. Cambridge University Press. 	<p>Relevant Cases:</p> <ol style="list-style-type: none"> 1. Trail smelter case (United States, Canada) 1938 2. Gabcikovo-Nagymaros Project (Hungary v Slovakia) [1997] ICJ Rep . 7. 3. Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion of ICJ on 8 July 1996) 4. Southern Bluefin Tuna Cases (New Zealand v. Japan; Australia v. Japan),ITLOS 1999 5. Pulp Mills on the River Uruguay (Argentina v. Uruguay) Judgment of ICJ on 20 April 2010
---	--	--

Module-2 : Constitutional Mandates and Environment

(Week 3 and 4)

<p>Topics to be covered. Constitution, Acts, Rules, Regulations, PIL– liberalization of the rule of locus standi, Judicial activism. Constitution and 42nd Amendment Act of 1976, Directive Principles of State Policy, Fundamental Duties and Right to Pollution Free Environment</p>	<p>Readings:</p> <ol style="list-style-type: none"> 1. P Leelakrishnan (2012) Environmental Law in India, Lexis Nexis-Butterworths Wadhwa. Chapter 2. 2. Shyam Divan and Armin Rosencranz (2001) Environmental Law & Policy in India, OUP. Chapter 4. 3. Lavanya Rajamani (2007), The Right to Environmental Protection in India: Many a Slip between the Cup and the Lip? Review of European Community & International Environmental Law (RECIEL), 16: 274–286. 	<p>Relevant Cases:</p> <ol style="list-style-type: none"> 1. Rural Litigation and Entitlement Kendra, Dehradun vs. State of Uttar Pradesh (AIR 1988 SC 2187). 2. Subhash Kumar vs. State of Bihar (AIR 1991 SC 420). 3. Virender Gaur vs. State of Haryana(1995 (2) SCC577). 4. T. Damodar Rao vs. The Special Officer, Municipal Corporation of Hyderabad (AIR 1987 AP 171). 5. Banvasi Seva Ashram vs. State of Uttar Pradesh (AIR 1987 SC 374). 6. State of Uttar Pradesh vs. RajNarain(AIR 1975 SC 865). 7. Reliance Petrochemicals Ltd. vs. Proprietors of Indian Express Newspapers Bombay Pvt. Ltd. (AIR 1989 SC 190). 8. M.C. Mehta vs. Kamal Nath (AIR 2000 SC 1997). 9. M.C. Mehta vs. Union of India (1987 (1) SCC 395). 10. Municipal Council, Ratlam vs. Vardichand (1980 (4) SCC162). 11. sUnion Carbide Corporation vs Union Of India, 1989 SCALE (1)380 (14 February)
---	--	--

Module-3: Pollution laws.

(Week 5,6 and 7)

<p>Topics to be covered. <i>The Water</i></p>	<p>Readings:</p> <ol style="list-style-type: none"> 1. P.B. Sahasranaman (2012) Oxford Handbook of Environmental Law, OUP. 	<p>Relevant Cases:</p> <ol style="list-style-type: none"> 1. A.P. Pollution Control Board vs. Prof. M.V. Nayudu (2001 (2)
--	--	---

<p><i>(Prevention and Control of Pollution) Act of 1974</i></p> <p>a) The Framework of the Act</p> <p>b) Regulatory Mechanism: Its Powers and Functions</p> <p>c) Offences and Penalties under Water (Prevention and Control of Pollution) Act, 1974</p> <p>d) Role of Judiciary in Prevention of Water Pollution</p> <p><i>The Air (Prevention and Control of Pollution) Act of 1981</i></p> <p>a) The framework of the Act</p> <p>b) Regulatory Mechanism: Its Powers and Functions</p> <p>c) Offences and Penalties under Air (Prevention and Control of Pollution) Act, 1981</p> <p>d) Role of Courts in Prevention of Air Pollution</p> <p><i>The Environment Protection Act (EPA) of 1986</i></p> <p>a) Main Aims and Objectives of the Act</p> <p>b) Importance of Section 3 and 5 of EPA</p>	<p>Chapters 9 and 10.</p> <p>2. Shyam Divan and Armin Rosencranz (2001) Environmental Law & Policy in India, OUP. Chapter 5 and 6.</p> <p>3. Justice T S Doabia (2010) Environmental and Pollution Laws in India, Lexis Nexis- Butterworths Wadhwa. Chapters 10 and 11.</p> <p>4. Armin Rosencranz and Videh Upadhyay (2011) Some Suggestions And Recommendations Towards A Model State Pollution Control Board (SPCB) In India, Environmental Law & Practice Review, pp. 106-114.</p> <p>5. P. Cullet (2010), Water Sector Reforms and Courts in India: Lessons from the Evolving Case Law. Review of European Community & International Environmental Law, 19: 328–338.</p>	<p>SCC62).</p> <p>2. Bombay Environmental Action Group vs. State of Maharashtra (AIR 1991 Bom 301).</p> <p>3. Indian Council for Enviro-Legal Action vs. Union of India (1996 (3) SCC212).</p> <p>4. S.Jagannath vs. Union of India (Shrimp Culture Case) (AIR 1997 SC 811).</p> <p>5. Goa Foundation vs. Konkan Railway Corporation (AIR 1992 Bom.171).</p> <p>6. Vellore Citizens Welfare Forum vs. Union of India (AIR 1996 SC2715).</p> <p>7. Narula Dyeing and Printing vs. Union of India (AIR 1995 Guj. 185).</p> <p>8. M.C. Mehta vs. Union of India, (Shriram Food and Fertilizer Case) (1986) 2 SCC176).</p> <p>9. State of U.P. vs. Lalloo Singh, (2007 (7) SCC334).</p> <p>10. M.C. Mehta vs. Union of India, (2005 (2) SCC186).</p>
---	---	--

c) Violation and Penalties under the Act		
Module-4 Wildlife and Forest (Week 8, 9 and 10)		
<p>Topics to be covered. Evolution and Jurisprudence of Forest and Wildlife laws, statutory framework on Forests, Wildlife and Biodiversity: IFA, 1927; WLPA, 1972; FCA, 1980; Biological Diversity Act, 2002; Forest Rights Act, 2006.</p>	<p>Readings:</p> <ol style="list-style-type: none"> 1. Ritwick Dutta and Bhupender Yadav (2012) Supreme Court on Forest Conservation, Universal Law Publishing. Introduction (The Court's Journey through Forests) and Chapter1. 2. A.K. Poddar, Swayambhu Mukherjee and Debosmita Nandy (2011) Forest Laws and Policies in India, Regal Publications. Chapters 6, 7, 8 and 13. 3. Nupur Chowdhury (2014) From Judicial Activism to Adventurism — The Godavarman Case in the Supreme Court of India, Asia Pacific Journal of Environmental Law 	<p>Relevant Cases:</p> <p><i>Forests and Biodiversity</i></p> <ol style="list-style-type: none"> 1. Union of India v Kamath Holiday Resorts, AIR 1996 SC 1040 2. Tarun Bharat Sangh v Union of India, AIR 1992 SC 514 3. T N Godavarman Thirumulkpad v Union of India, AIR 1998 SC 769, AIR 2005 SC 4256 4. Indian Handicrafts Emporium v Union of India, AIR 2003 SC 3240 5. K M Chinappa v Union of India, AIR 2003 SC 724 6. Bimal N Desai v State of Karnataka, AIR 2003 SC 2246 <p><i>Wildlife and Animal Protection</i></p> <ol style="list-style-type: none"> 1. State of Bihar v Murad Ali Khan, (1988) 4 SCC 655 2. Balram Kumawat v Union of India, AIR 2003 SC 3268 3. Indian Handicrafts Emporium v Union of India, AIR 2003 SC 3240 4. Bombay Burmah Trading Corporation v Field Director Project Tiger and Conservator of Forests, AIR 2000 Mad. 63 5. Tarun Bharat Sangh v Union of India, AIR 1992 SC 514 6. Animal and Environment Legal Fund v Union of India, AIR 1997 SC 1071 7. Kamla Kant Pandey vs Prabhagiya Van Adhikari And Ors. AIR 2005 All 136 8. Centre for Environmental Law WWF-I v Union of India, AIR 1999 SC 354 9. Navin M Raheja v Union of India, (2001) 9 SCC 762 10. Chief Forest Conservator, Wildlife v Nisar Khan, AIR 2003 SC 1867
Module-5 Environment and Development (Week 11 and 12)		
<p>Topics to be covered.</p>	<p>Readings:</p> <ol style="list-style-type: none"> 1. Archana Prasad, Environment, Development 	

Paradigms of Modern Development and Environment: Water and Agriculture, Biodiversity and the Question of Inclusive Development: Forests and Wildlife, and Technology and Environment: Climate Change, Urban Ecology and Biotechnology.	and Society in Contemporary India: An Introduction, Macmillan 2008. Most of the sections are covered in this reader by different essays. 2. Ramachandra Guha and Madhav Gadgil, Ecology and Equity in India, Oxford University Press, 1999. 3. Ramprasad Sengupta, Ecology and Economics, Oxford University Press, 2001 4. Ramachandra Guha, Social Ecology, Oxford University Press, 1998.	
--	--	--

Background Books

The following books and Bare Acts provide useful overviews of the field, and the course draws upon portions of some of these books as part of the syllabus.

Bare Acts, Universal Law Publishing Co. Pvt. Ltd.; for the following Laws

- i. Environment (Protection) Act, 1986
- ii. Indian Forest Act, 1927
- iii. Scheduled Tribes and other Traditional Forest dwellers (recognition of Forest Rights) Act, 2006
- iv. Forest Conservation Act, 1980
- v. National Biological Diversity Act, 2002
- vi. Wildlife (Protection) Act, 1972
- vii. Provision of Panchayat extension to Scheduled Area Act, 1996
- viii. Water (Prevention & Control of Pollution) Act, 1974
- ix. Air (Prevention & Control of Pollution) Act, 1981
- x. National Green Tribunal Act, 2010

1. Jain, M.P, Indian Constitutional Law, (5th Edn.), Wadhwa and Company, New Delhi, India, Vol.1, (2003).
2. P Leelakrishnan, Environmental Law in India, (2nd Edn.), Lexis Nexis, New Delhi, 2005.
3. S. Shantakumar, Introduction to Environmental Law, (2nd Edn.), Wadhwa & Company, Nagpur, 2005
4. Shyam Dewan & Arnil Rosemcran, 2001, Environmental Law and Policy in India, Oxford
5. Upadhyay S. and Upadhyay V., Hand Book on Environmental Law-Forest Laws, Wildlife Laws and the Environment, Vol I, Lexis Nexis- Butterworths, India, 2002.

6. Philippe Sands, Principles of International Environmental Law, (2nd Edn.), Cambridge University Press, New York, 2007.
7. Patricia Birnie, Alan Boyle and Catherine Redgwell (edited) (2009) Third Edition International Law & the Environment, OUP.

12. Assessment Methodology:

A combination of final term examination, Project Writing, individual presentations, Response essay, and class participation. Rough break up: Project writing (20%), individual paper presentations (20%), final exam (40%), Response essay and class participation (20%)

13. Special needs in terms of special expertise of faculty, facilities, requirements in terms of studio, lab, clinic, library, classroom and others instructional space, linkages with external agencies (e.g., with field-based organizations, hospital) etc.: None

Signature of Course Coordinator(s)

Note:

1. Modifications on the basis of deliberations in the Board of Studies may be incorporated and the revised proposal should be submitted to the Academic Council.
2. Courses which are meant to be part of more than one programme, and are to be shared across schools, may need to be taken through the Boards of Studies of the respective schools.
3. In certain special cases, where a course does not belong to any particular school, the proposal may be submitted directly to the Academic Council.

Recommendation of the School of Studies:

The proposal was discussed by the Board of Studies in itsmeeting held on.....and has been approved in the present form.

Signature of the Dean of the School