

International and Comparative Environmental Law Skills Lab Syllabus

UF Summer Environmental Law Program
Costa Rica, June, July 2009

Course number:
6930 8430

Hours:
Tuesday: 2:00- 3:00, Wednesday 2:00-3:00, Thursday: 8:30-10:30

Location:
5th floor Conference Room at the UCR Law School

Instructors:
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Course Objective:

The course provides a general introduction to skills used in international environmental law mainly from the field of alternative dispute resolution (multiparty negotiation and mediation) but also, from traditional litigation (oral advocacy).

This applied course offering will combine examination of theoretical frameworks with the development of practical skills that will enable participants to more effectively analyze and address situations of environmental conflict. Through selected readings, case studies, role-plays and other practical activities, students will critically examine the existing EDR literature and consider its relevance to the realities of national and international environmental law enforcement.

Description

In this class we begin by getting an idea of what EDR is and move from Analyzing conflicts to prepare for them to finally learn how to intervene and hopefully resolve them. The first week gives the general introduction and the first tool: conflict analysis (matrix). The second week lays more basic language and introduces the generic conflict resolution mechanism: Negotiation, with it comes the importance of preparing to negotiate. The third week focuses on preparation in the context of what is typical of Environmental Disputes: great power unbalances: what can a disempowered party do? So up till then we have touched on everything but “sitting on the table” which we’ll tackle first by talking about mediation (week 4) and the on week 5 describe and practice a multiparty mediation, a more appropriate approach for environmental disputes.

Evaluation:

Grades will be based 50% on attendance and participation in class and 50% on the weekly journal assignment.

Weekly Schedule

Week 1: Introduction EDR and Conflict Analysis

We will explore the dimensions of environmental problems, noting characteristics that make them unique from other types of disputes. We will then consider the continuum of recognized dispute resolution techniques, including informal negotiation, mediation, arbitration, administrative hearings, and litigation.

Class Tuesday June 16: (1h) everybody introduces themselves. Review of the syllabus, class assignments and readings. The conflict analysis matrix is presented. First readings for the next day!

Class Wednesday June 17: (1h) Review of Angelo's article on EDR. Mark B. will discuss how to incorporate social relationships into his ecosystem modeling. We'll compare the ecosystem modeling to the conflict matrix.

Class Thursday June 18: (2h) Review of the matrix analysis tool, hand out of a short typical E-conflict case to be analyzed in small groups. Use the second half to present and discuss the groups' work.

Readings

Angelo, Mary Jane (2006), Environmental Dispute Resolution

Engel A. Benedikt K. (2005) Negotiation and mediation techniques for natural resources management. FAO, Rome

Week 2: Negotiation

The module will develop the core skills of interest-based negotiation with an emphasis in conservation and environmental disputes. Emphasis will be placed in the key principles of negotiation: 1) focus on interests rather than positions; 2) Separate the people from the problem; 3) Invent options for mutual gain; and 4) Use objective criteria. Students will review the main approaches to negotiation and practice the skills using role-plays and simulations. Cross-cultural issues will be particularly analyzed during the debriefing sessions.

Class Tuesday June 23: (1h) begin reviewing the previous week. Open up for comments about the book. PPT of Negotiation basics (stop for short exercises)

Class Wednesday June 24: (1h) continue with PPT of Negotiation plus short exercises

Class Thursday June 25: (2h) Simple negotiation exercise and debriefing.

Readings

Fisher R. & Ury W.(1981) *Getting to yes, Negotiating Agreement without giving in*
Penguin Books. New York.

Week 3

Power Balancing

This module will let students practice their oral advocacy skills in the format of a mock public hearing. This week's lectures and activities will directly tie in to the discussion of dams and environmental impact assessments from the international watershed management class.

The group will be divided into groups and asked to read two articles. With the aid of class lectures, you will summarize strategies and arguments commonly used by dam-affected communities to advocate that their concerns be taken into account during the environmental (and social) impact assessment process. Groups will then prepare an argument to present during a mock public hearing. A panel of guest judges will provide feedback and select a winner.

Class Tuesday June 30: PPT Intro to resistance movements

Class Wednesday July 1: PPT Case study of resistance movements in Brazil

Class Thursday July 2: Mock public hearing, group presentations

Readings

Oliver-Smith, A. 2006. *Displacement, Resistance and the Critique of Development: From the Grass Roots to the Global*. In *Development-Induced Displacement: Problems, Policies and People*. Chris de Wet, ed. Oxford: University of Oxford.

Rothman, F. 2001. *A Comparative Study of Dam-Resistance Campaigns and Environmental Policy in Brazil*. *Journal of Environment and Development* 10(4): 317-344.

Weeks 4, 5, 6

Mediation/Multiparty Processes

The module will introduce mediation as the generic type of assisted negotiation to solve environmental disputes. We will focus on two water related cases studies as the basis to present the basic conditions to intervene in environmental disputes. We'll look at the specifics of multiparty consensus building process over complex situations. The costs associated with a multiparty process as well as the benefits from more mainstream

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alternatives. We will have a final multiparty mediation exercise based on a current water conflict case.

Week 4

Class Tuesday July 7: (1h) PPT intro to mediation: skills, process, rules, roles, outcomes, diversity of models.

Class Wednesday July 8: Conference: no classes

Class Thursday July 9: field trip to EARTH University: no classes

Readings

Stone et al. 2000. *Difficult Conversations, How to Discuss What Matters Most*. Penguin New York.

Lewicki R., Gray B. & Elliot M. (2003) *Making Sense of Intractable Environmental Conflicts Concepts and Cases*. Island Press Washington.

Week 5

Class Tuesday July 14: (1h) (1h) listening skills, guest speaker

Class Wednesday July 15: Presentation on Multiparty processes based on two watershed management conflicts.

Class Thursday July 16: no classes (extended weekend)

Readings:

Selected Chapters from: Sabatier P. et. al. 2005. *Swimming Upstream: Collaborative Approaches to Watershed Management*. MIT Press

Klamath Case Materials:

http://soil4463.okstate.edu/lectures/klamath_river_case.htm

Chapter from: Susskind L. et al 1999. *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement*. SAGE

Week 6

Class Tuesday July 21: Instruction and beginning of the multiparty mediation role-play

Class Wednesday July 22: role-play

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Class Thursday July 23: final role-play and debriefing

Assignment: Journal Entries

This Journal assignment asks you to write five entries during our course. Each entry should not be less than three nor more than five pages in length. They may be handwritten legibly if word processing presents insurmountable problems. Please submit these entries individually rather than in a notebook because we will read them carefully comment on them, and return them one or two class periods later [when you then may want to insert them in a notebook or folder]. Please submit your entries double-spaced with substantial left side, top, and bottom margins so that all of us can write comments and responses as we read them. Ensure that your name appears on each set. We will keep your comments confidential and ask for your permission before sharing them with anyone, a step we will take only if we think discussing one of your experiences might benefit the class. Please feel free to reject these requests. The purpose of this assignment is to encourage you to reflect, in writing, on your experiences in this course specifically. These reflections should normally focus on aspects of environmental dispute resolution. Your journal entries should analyze whatever topics strike you as the most interesting, surprising, meaningful, valuable, challenging, or debatable. The following suggested topics are illustrative rather than mandatory. Please do not limit yourself to these possibilities.

What you did that was most effective and why it worked so well

What you did that was least effective, why it did not work, and what you would do differently next time

What the person [or persons] with you were interacting did that was most effective and why it worked so well

What surprised you the most during a classroom interaction and why it was surprising?

How you reacted? How you evaluate the effectiveness of your reaction?

What were the most important lessons you drew from classroom interactions, discussions, and critiques or feedback sessions

Questions you have about environmental dispute resolution which you would like to have answered?

Things that energized, thrilled, annoyed, frustrated, or angered you and why you had those reactions? How you dealt with those feelings?

Significant dispute-connected experiences with cultural, language, racial, gender and other differences

Experiences or observations of difference-influenced bias

Ethical tensions, concerns, worries experienced or observed

Insights regarding how negotiating, mediating, facilitating, and consensus-building is done differently in Costa Rica

How these ideas might improve your practices where you live and work

Dispute resolution aspects of topics covered in your other courses here