

1 Codification and development

1(1) Introduction

- ‘“international environmental law” is not a separate or self-contained field of law, nor is it comprehensively codified or set out in a single treaty or body of treaties’ ということからどういうことが生じるか。

1(2) The 1992 Rio Declaration on Environment and Development

- [宣言](#)
- ‘Despite its apparently soft law status it should not be underestimated by lawyers.’ という理由は？
- ‘Three factors (which) give the Rio Declaration significant authority and influence’ を説明せよ。
- ‘those matters which the Rio Declaration does not address’ を具体的に言うとは？

2 Sustainable development: legal implications

2(1) A right to sustainable development?

- ‘It is in this sense that we can talk about a “right to sustainable development”’ というときの‘this sense’とは？

2(2) The elements of sustainable development

(a) Integration of environmental protection and economic development

(b) The right to development

(c) Sustainable utilization and conservation of natural resources

(d) Inter-generational equity

- ‘the essential point of the theory [...] is incontrovertible’ なのはなぜか。

(e) Intra-generational equity

(f) Procedural elements of sustainable development

2(3) The influence of sustainable development on the law

- ‘The most potentially far-reaching aspect’ とは？
- ‘fundamental uncertainties about the concept’ とは？

2(4) An obligation to develop sustainability?

- ‘it is difficult to see an international court [...] concluding that it falls short [...], save possibly in an extreme case’の‘an extreme case’としてどのような場合が考えられるか。
- ‘although international law may not require development to be sustainable, [...] it does require development decisions to be the outcome of a process which promotes sustainable development’とはどういうことか。

3 Conservation and sustainable use of natural resources

3(1) Legal status of natural resources

(a) Permanent sovereignty over natural resources

- [天然資源に対する永久的主権決議](#)
- この概念が ‘emphasizing the apparently untrammelled sovereignty’でありながら ‘not constrained the development of treaties and rules of customary international law concerning conservation of natural resources and environmental protection’であるのはなぜか。

(b) Shared natural resources

- ‘Continued opposition to the concept of “shared natural resources”’はどのような内容か。
- ‘transboundary resources must be used equitably’というのとどう違う？

(c) Common property

- Hardin の「共有地の悲劇」とは？

(d) Common heritage

- [国連海洋法条約](#) 136 条・137 条
- [月協定](#) 11 条
- Common property とどう違うか。

3(2) The obligation of conservation and sustainable use

(a) The legal precedents

- 先例に共通して見られる three elements とは？

(b) The precautionary approach and sustainable use

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(c) Cooperation in the conservation and sustainable use of natural resources

4 Principles of global environmental responsibility

4(1) The environment as a ‘common concern’

(a) The global environment

(b) The domestic environment of states

(c) Implications of ‘common concern’

- ‘The choice of language was itself the outcome of political compromise’とはどういう妥協か。
- ‘[The concept of common concern] gives the international community of states both a legitimate interest in resources of global significance and a common responsibility to promote their sustainable development’の‘a legitimate interest’と‘a common responsibility’とはどういうものか。

4(2) *Erga omnes* status of global environmental responsibility

- *Erga omnes* obligation の定義は？
- (注 270) [国家責任条文](#) 48 条
- [南極海捕鯨事件](#)【判例国際法（第 3 版）59】【国際法判例百選（第 3 版）37】
- [南シナ海仲裁判断](#)【判例国際法（第 3 版）60】【国際法判例百選（第 3 版）36】
- ‘standing’とは？
- ‘What gives such obligations a real *erga omnes* character’を説明せよ。

4(3) Common but differentiated responsibility

- ‘near universal acceptance’がありつつ‘disagreements on how it should be implemented’もあるというが、気候変動分野においてどのような展開が見られると述べているか。

(a) Differentiated responsibility

- 差異は具体的にどのような形で現れているか。

(b) Solidarity and conditionality

- ‘a much better solution to the problem of financial assistance and technology-transfer’と

は？

(c) An assessment of Principle 7

- ‘it does provide an equitable basis for cooperation between developed and developing states’ことを実証できるか。

4(4) The precautionary approach and global environmental responsibility

5 Prevention of transboundary pollution and environmental harm

- ‘neither rule prohibits all transboundary harm’ならば、何が禁じられて（義務づけられて）いるのか。

5(1) The Rio Declaration and transboundary environmental harm

5(2) The International Law Commission

- [Articles on the Prevention of Transboundary Harm from Hazardous Activities](#)
 - どういう場合に「適用」されることを想定した条文か
- [Principles on Allocation of Loss](#)

5(3) International jurisprudence relating to prevention of environmental harm

- [Pulp Mills 事件](#) 【判例国際法（第3版）132、国際法判例百選（第2版）（別冊ジュリスト204号）79】
 - 講義ではこの判決を詳細に検討する。判決文を（必要であれば日本語解説も）用意しておくこと。

5(4) The duty to prevent, reduce and control transboundary environmental harm

- ‘Principle 2 is neither an absolute prohibition on environmental damage, nor does it confer on states absolute freedom to exploit natural resources’であることの帰結は？

5(5) The obligation to use due diligence

- ‘This is an obligation of conduct, not an obligation of result’とはどういうことか。

5(6) Equitable balancing and impermissible transboundary risks

5(7) Alternatives to due diligence: non-discrimination