

Application to the University at Buffalo School of Law Specialty Interest Journals

July-August 2020

Buffalo Environmental Law Journal

Buffalo Human Rights Law Review



To apply, submit a packet which includes, *in the following order*:

1. **Grading rubric** (page 5) with your name, email, phone number, and the journals you are applying to, ranked in order of preference (1 is the highest, 2 is the lowest). If you are interested in being on more than one specialty journal please note that in your rankings.
2. **Cover Letter/Statement of Interest**
3. **Resume**
4. **Article Edits**
 - a. ***Textual Edits***. Detach pages 8-10 from the application and staple it to your completed packet. Edit the passage for grammar and punctuation. Your edits should be on the article pages in colored ink. Assume all substantive content presented in the passage is true and supported by the footnotes (i.e., you do not need to check the sources for content).
 - b. ***Completed Bluebook Test*** (footnotes 1 through 20). On a separate page, re- write footnotes 1 through 20 in accordance with the Bluebook (20th ed.). To indicate italics, underline once. To indicate small caps, underline twice. To indicate a capital letter in small caps, underline three times. If you think you have found a discrepancy, use your best judgment in answering (you can also add a brief note explaining the alleged issue).

Applications must be submitted by ***August 1, 2020 @ 5:00 p.m. electronically***. One copy must be submitted to each journal you are applying to.

*You do not need to rewrite your article edits multiple times if you are applying to multiple journals. You may write them once, scan your packet, and print the number of copies you need. However, edits should still appear in color and clear to the grader.

We will not accept late applications. Questions or concerns may be emailed to the following:

- Buffalo Environmental Law Journal: Alex Kaczmarek (akaczmar@buffalo.edu)
- Buffalo Human Rights Law Review: Stephen Soos (ssoos@buffalo.edu)

If accepted, you will hear from your respective journal within one to two weeks. Remember, by submitting this application, you are NOT applying to the Buffalo Law Review. The Buffalo Law Review has a separate application process!

BUFFALO ENVIRONMENTAL LAW JOURNAL

The Buffalo Environmental Law Journal is a law review dedicated to publishing high quality articles on the most pressing issues facing our environment, including climate change, invasive species, energy policy, agriculture, and pollution. It serves to expand the legal community's understanding of environmental legal issues.

Responsibilities

- Edit academic articles
- Find and retrieve sources
- Correctly cite sources according to the Bluebook citation system (20th ed.)
- Meet deadlines for cite packs and promptly respond to journal communications

Benefits

- Become a member of the environmental legal community at UB and beyond
- Achieve a deeper understanding of environmental legal issues
- Enhance Bluebook citation and editing skills
- Help further the discourse on environmental law
- Develop a discussion topic for future employers

If you have any questions, or would like to learn more about the Buffalo Environmental Law Journal, please contact Alex Kaczmarek at akaczmar@buffalo.edu.

BUFFALO HUMAN RIGHTS LAW REVIEW

The Buffalo Human Rights Law Review (BHRLR) focuses on the interdisciplinary study of international human rights law. Founded in 1994 as the Buffalo Journal of International Law, the BHRLR was renamed in 1997 to better reflect the journal's projects and relationship to the UB Law International Law Program and the Buffalo Human Rights Center. The BHRLR publishes annually in the Spring. Together with the related Buffalo Human Rights Center, the Baldy Center for Law & Social Policy, and the UB Law Jessup International Moot Court competition teams, the BHRLR seeks to unite professionals, students, legal practitioners, policymakers, advocates, and cross-disciplinary scholars, and to encourage thereby the development and practical application of human rights law.

The BHRLR strives to be one of the preeminent publications in the field of human rights. In furtherance of this endeavor, the BHRLR is supported by an Editorial Board of Advisors composed of internationally recognized scholars and actors in human rights. The BHRLR prides itself on maintaining the highest level of integrity and objectivity in its selection process. As a result, admission to the BHRLR is open to the entire student body. Working on BHRLR is a good opportunity to sharpen your research and writing skills, to learn the Bluebook, and to have your own work published.

Because of the skills it teaches, membership on a journal is highly regarded by various employers. Further, if you are interested in human rights and international law, membership on the BHRLR strengthens your exposure to and understanding of international human rights issues. The benefits of joining the BHRLR extend well beyond top-paying jobs at major firms and prestigious judicial clerkships, NGOs and international fellowships and opportunities.

Members of the BHRLR spend many hours working together and as a result they form a vital part of the international network at UB Law. In conjunction with the Human Rights Center, members of the BHRLR usually overlap with other international initiatives and opportunities at UB Law.

In short, serving as a member of the BHRLR not only enhances your professional opportunities and abilities, it is an opportunity to make many new friends that share an interest in applying an international perspective to their Law School careers.

For more information contact us at buffalohrlr@gmail.com.

COVER SHEET

Please attach one sheet to the cover of each application.

Personal Information:

Name	
Phone Number	
Class Year	
E-mail Address	

Rank the journals you are applying for, in order of preference (1 highest, 2 lowest):

Buffalo Environmental Law Journal	
Buffalo Human Rights Law Review	
Check if Interested in Multiple Journals	

Scoring (leave blank, for journal use only):

Category	Value	Score
Resume	10	
Cover Letter	10	
Statement of Interest	10	
Textual Edits	18	
Bluebook Corrections	42	
Total	90	

ARTICLE EDITS DIRECTIONS

Edit the following passage for grammar and punctuation (the “**Textual Edits**”). Make your edits in colored ink on this page. A guide to proofreading and copyediting symbols can be found [here](#).

Write or type the corrected footnotes on a separate sheet or document (the “**Bluebook Corrections**”). Corrections should be made in accordance with The Bluebook: A Uniform System of Citation, 20th Edition.

For the purposes of this test, assume that all footnote sources support all statements in the text and that footnote “x” properly contains the Handl and ICESCR sources.

Grading

One point will be awarded for each correct change to a footnote.

One point will be deducted for each unnecessary change.

Disclaimer: This text is adapted from a previously published article and the University at Buffalo asserts no copyright in the following work. A citation to the original work will be provided, upon request, at the close of the application period.

II. What International Human Rights Can Offer United States Environmental Law

To date, the primary avenue by which international environmental norms emerging from human rights theory have entered the United States legal discourse has been through Alien Tort Claims Act¹ suits alleging that environmental wrongs violated the law of nations. The thrust of the argument has therefore been focused on *whether* there is a human right to a healthy environment. United States domestic courts have so far resisted the invitation to find such a right, under either international human rights² or in domestic constitutional rights,³ often concluding instead that the Legislative and Executive branches of government are better suited to establish environmental rights. A primary objection to the notion of recognizing independent environmental human rights is that ‘the evolution of environmental protection measures has involved a constant reordering of socio-economic priorities, of accommodating, adjusting or offsetting mutually restrictive if not exclusive public policy objectives.’⁴ Among the major sticking points is the question of who would hold such a right⁵ and whether the right would have to account for future generations and group rights.⁶ In an ever-more integrated, globalized world, how would the right to a healthy environment be enforced and would the right have any limits?⁷

These are certainly important and interesting questions? However, there are other

1 The Alien Tort Claims Act, 28 U.S.C. §§1350 (2006) (hereinafter ATCA); *Filartiga v. Pena-Irala*, 630 F. 2d 876, 888 (2d Cir. 1980).

2 See e.g., *Flores v. Southern Peru Copper Corp.*, 414 F.3d. 233, 256-262 (2d Cir. 2003) (affirming dismissal of ATCA environmental claim on the ground that the human rights to life, health and sustainable development were not yet definite enough to be *jus cogens* norms); *Aguinda v Texaco, Incorporated*, 142 F.Supp. 2d 534 (S.D. N.Y. 2001) (finding that Principle 2 of the Rio Declaration might constitute a binding international environmental norm but dismissing the case on *forum non conveniens* grounds); but see Séverine Fiorletta Leroy, *Can the Human Rights Bodies be Used to Produce Interim Measures to Protect Environment-Related Human Rights?* 15 REV. EUR. COMM. & INT’L ENVTL. L. 66, (2006) (arguing that human rights bodies are an appropriate forum to protect human rights).

3 Carole L. Gallagher, *THE MOVEMENT TO CREATE AN ENVIRONMENTAL BILL OF RIGHTS: FROM EARTH DAY, 1970 TO THE PRESENT*, 9 FORDHAM ENVTL. L. J. 107, 112-17 (1997).

4 Handl, *supra* n. x, at 121.

5 See John H. Knox, *Climate Change and Human Rights Law*, 50 Va. J. Int’l L. 163, 171 (2009).

6 Boyle, *supra* note x.

7 See MARY ANN GLENDON, TOMMY LEE, GRANT JACOBS, AND RALPH THOMAS, *RIGHTS TALK: THE IMPOVERISHMENT OF SOCIAL DISCOURSE* 14 (1991).

questions about these international law principles worth asking under United States domestic law. For example, as EPA uses its authority under the Clean Air Act to regulate greenhouse gas emissions, how should the agency confront questions of equity and justice, and how should it account for transnational impacts of climate change—all questions to which international human rights norms already speak.

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A. An Introduction to International Human Rights

The idea of human rights—inalienable, universal rights to which all are entitled simply by virtue of being humans—stands out as a significant achievement of twentieth-century legal thought. While the intellectual history behind human rights certainly traces its roots back to the Enlightenment,⁹ the specific principles we think of as human rights emerged from the more immediate and body context of Nazi genocide in the early decades of the twentieth-century¹⁰ Since the acceptance of the Universal Declaration of Human Rights in 1948,¹¹ the concepts of human rights have increasingly been accepted as the governing norms for state behavior.¹² Unsurprisingly in light of its moment of birth, the Universal Declaration responds to the central international legal challenge of the twentieth century—the proper limits of state power vis-à-vis individuals who are members of marginalized racial, ethnic or religious minorities. As such, international human rights law deals mainly with how people should be treated by government and its institutions.¹³ The International Human Rights Covenants¹⁴ and the proliferation of rights

⁸ Art. 1, G.A. Res. 217 (III) A, Universal Declaration of Human Rights, U.N. Doc. A / RES / 217 (III.) A (December 10, 1948) [hereinafter “Universal Declaration”].

⁹ Amy Sinden, *Climate Change and Human Rights*, 27 J. LAND RESOURCES & ENVTL. L. 255, 259-62 (Jan. 18, 2007).

¹⁰ Louis B. Sohn, *The New International Law: Protection of the Rights of Individuals Rather than States*, AM. U. L. REV. 1, 16 (1982)

¹¹ Universal Declaration, *supra* footnote 9.

¹² See Eleanor Roosevelt, *On the Adoption of the Universal Declaration of Human Rights* <http://www.americanrhetoric.com/speeches/eleanorrooseveltdclarationhumanrights.h> (Dec. 9, 1948).

¹³ See Pogge, Thomas, *The International Significance of Human Rights*, 4 J. OF ETHICS 45, 47 (2000).

¹⁴ ICESCR, *supra* note x.

treaties that followed further detail the scope and reach of Human Rights described in the Universal Declaration.

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B. *Environmental Rights Under International Law*

In making the argument that environmental regulators should rely on human rights to inform their decision making, it is important not to over state the relationship between human rights and environmental rights. Human rights and environmental protection trace their originals back to very different legal traditions and sources. To over-generalize, human rights are rooted in the natural law tradition in international law while environmental law is the product of a much more state-centered positive law tradition;¹⁵ More significantly, environmental law does not have protecting human beings *qua* individuals at its core in the same fashion that human rights law does. Indeed, environmental laws most distinctive feature is that it responds to the ramifications of human impacts on the natural environment.¹⁶ By contrast, even when evoked in the environmental context, human rights focus on protecting the human victims of environmental degradation rather than on protecting the environment itself.¹⁷ Human rights are, after all inherently anthropocentric.¹⁸ This distinction helps explain why the two legal discourses have evolved along very different tracks. That said, there are obvious points of intersection and overlap between environmental rights and human rights.¹⁹

¹⁵ Handl *supra* note x, at 120. *See also* Sohn, *infra* note 10, 16-18.

¹⁶ Richard J. Lazarus, *Restoring What's Environmental about Environmental Law in the Supreme Court*, 47 U.C.L.A. L. REV. 703 (2000)

¹⁷ Handl, *supra* note x, at 138-139.

¹⁸ *See* Dinah Shelton; *The Links Between International Human Rights Guarantees and Environmental Protection* 22 (University of Chicago, Center for International Studies, 2004), <http://internationalstudies.uchicago.edu/environmentalrights/shelton.pdf>.

¹⁹ Philippe Sands, *SUSTAINABLE DEVELOPMENT: TREATY, CUSTOM AND THE CROSSFERTILIZATION OF INTERNATIONAL LAW*, in *INTERNATIONAL LAW AND SUSTAINABLE DEVELOPMENT: PAST ACHIEVEMENTS AND FUTURE CHALLENGES* 43 (1999 Alan Boyle and David Freestone, eds.).