

Heritage and Biodiversity

International Law

Local Action Theme: Biodiversity Loss

Keywords: Heritage of Mankind | Biodiversity Loss | International Treaties

Time: Instructor Prep: 2 hours | Seminar: 1-2 class slots

Learning Outcomes:

- Students can explain the Theory of Common Heritage of Mankind
- Students can explain how the Theory of Common Heritage of Mankind can be applied to biodiversity conservation efforts

INTRODUCTION

This teaching guide is meant to be easily integrated into existing classes in International Law. The guide is created for teachers and professors interested in including environmental issues as examples for their students to understand the concepts in their introductory courses. This particular guide uses the topic of biodiversity loss and links it to **Theory of Common Heritage of Mankind**. It also hopes to create an understanding of the vital role International Law can play in the creation of a sustainable future for our planet.

CONCEPT - COMMON HERITAGE OF MANKIND

The **Theory of Common Heritage of Mankind** asserts that certain areas and resources are the common heritage of all humankind. This means that these areas and resources should therefore be preserved and used for the benefit of present and future generations, rather than being exploited solely for the benefit of individual countries or private entities.

The concept of the Common Heritage of Mankind has been primarily applied to areas and resources beyond national jurisdiction, including the deep seabed, the open ocean, outer space, and Antarctica. It aims to ensure that these areas are used for peaceful purposes and the collective benefit of all countries, taking into consideration the interests and needs of low-income nations.

There are several key legal documents describing the Common Heritage of Mankind Principle, including:

- *The United Nations Convention on the Law of the Sea (UNCLOS)*, establishing an international regime for the deep seabed mining beyond the limits of national jurisdiction.
- *The Outer Space Treaty*, establishing the exploration and use of outer space as a common heritage and prohibiting the placement of nuclear weapons in space and limiting the use of celestial bodies to peaceful purposes, and preventing any national appropriation by claim of sovereignty.

- *The Antarctic Treaty*, designating Antarctica as a scientific preserve for international cooperation and establishing it as the common heritage of mankind. The treaty prohibits military activities, mineral mining, nuclear testing, and nuclear waste disposal in Antarctica, ensuring that the continent is used exclusively for peaceful and scientific purposes.
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SUSTAINABILITY CONCEPT - BIODIVERSITY LOSS

Biodiversity is the variety of life on Earth, ranging from single-cell organisms up to blue whales. Through the increased pressure of humanity, biodiversity loss is now a significant threat. For example, a 69% decline in global populations of mammals, fish, birds, reptiles and amphibians has been estimated by the WWF in their Living Planet Report. This is due to a range of factors, including habitat fragmentation, pollution, climate change, and overexploitation (for example overfishing).

Biodiversity is of paramount importance to humanity due to the ecosystem services it provides. These ecosystem services provide goods like crops or freshwater, provide non-material benefits like recreation, and regulate natural processes like temperature regulation. For example, many different insects are important for pollination of our crops, and we depend on them for our food. Yet, in many regions their numbers are declining, sometimes by 80% or more. This can cause serious issues for our long-term food production.

For ease, we have developed several videos that provide basic information on these issues which can be assigned to students. You can find them on local-actions.com

CONNECTING THE DOTS

The Theory of Common Heritage of Mankind principle can be applied to biodiversity given its intrinsic value and crucial role in sustaining life on the earth. Existing international agreements and conventions such as the Convention on Biological Diversity already acknowledge that biodiversity transcends national boundaries and belongs to all people and future generations.

International treaties for the protection of biodiversity are especially important in certain cases. For example, within the EU, the Habitat Directive was first developed to protect migratory bird species, as it is crucial to coordinate this among nations, and not just within one nation.

Another very important treaty that can be linked to The Theory of Common Heritage of Mankind relates to the high seas. The marine environment close to our shores belongs to specific nations and is regulated in Exclusive Economic Zones. These extend 200 nautical miles (370 km or 230 miles) of the coast of nations. Within the EEZ nations have the autonomy to protect biodiversity and prevent overfishing. However, the waters beyond this, as described in *The United Nations Convention on the Law of the Sea*, are international waters, and often lack protection. In 2023 the landmark Biodiversity of Areas Beyond National Jurisdiction treaty (commonly called the High Seas Treaty) came into effect. This crucial piece of legislation has been developed to protect and conserve biological diversity in international waters.

LOCAL ACTION AND IN CLASS ACTIVITY

Local Action: Biodiversity around you

NOTE: a more detailed instruction which can be downloaded can be found on local-actions.com

- Biodiversity is crucial for our well-being, yet it is declining globally. Insect populations in certain areas have decreased by 80%, while populations of vertebrate animals (mammals, reptiles, birds, fish, and amphibians) have decreased by approximately 70%.
- Yet, biodiversity is still present all around us, especially when we start paying attention.
- In this local action you will go out and find biodiversity around your home.
- Download the app iNaturalist from your app store. This app helps you to identify plants and animals around you
- Go out, and spend 30-60 minutes trying to collect as many different species of plants and animals as possible
- Next, consider ways within your own town or city on how biodiversity is currently protected, or think of ways to promote biodiversity.

In-class activity 1: Case Study Analysis (30 minutes):

- Present a real-life case study related to biodiversity conservation and international law, where conflicts arise over the use of shared biodiversity resources. (Examples are given below).
- Divide students into groups and provide them with relevant information about the case study.
- Each group discusses the case study within the framework of the Theory of Common Heritage of Mankind, identifying the legal principles at play and proposing solutions to the conflicts.

In-class activity 2: Analysis of International Treaties (25 minutes):

- Review key international treaties (for example *The United Nations Convention on the Law of the Sea*, *the Antarctic Treaty* or *the High Seas Treaty*) related to biodiversity conservation, emphasizing provisions that align with the Theory of Common Heritage of Mankind
- Divide students into pairs and assign each pair a specific treaty.
- Instruct students to analyse their assigned treaty from the perspective of the Theory of Common Heritage of Mankind, identifying clauses that reflect the concept of shared heritage.
- Each pair presents their findings, discussing how the treaty contributes to the conservation of biodiversity as the common heritage of humanity.

CASE MATERIALS AND RESOURCES

- Gabcikovo-Nagymaros (Hungary/Slovakia): This case, heard by the International Court of Justice (ICJ) in 1997, involved a dispute between Hungary and Slovakia over the construction of dams on the Danube River. One of the key issues was the environmental impact of the dams, and the ICJ emphasized the obligation of both states to take environmental considerations into account, reflecting the idea of shared environmental heritage.
- Case Concerning Pulp Mills on the River Uruguay (Argentina/Uruguay): In this case, heard by the ICJ in 2010, Argentina brought a complaint against Uruguay concerning the construction of two pulp mills on the Uruguay River. Argentina claimed that the mills polluted the river, which was shared by both countries. The ICJ ruled that Uruguay had breached procedural obligations regarding notification but did not find that Uruguay violated the principle of shared natural resources explicitly. Nevertheless, the case illustrates the tensions that can arise when countries share a natural resource.
- Whaling in the Antarctic (Australia v. Japan: New Zealand Intervening): While not directly related to the Common Heritage of Mankind, this case, heard by the International Court of Justice in 2014, involved a dispute between Australia and Japan over Japan's whaling program in the Southern Ocean. The case highlighted the importance of sustainable resource management and the role of international law in regulating activities that impact shared natural resources.