

Course Outline

COURSE: LAWS 4800 B – Environmental Regulation and Social Justice

TERM: Winter 2012

PREREQUISITES: Fourth-year Honours standing

CLASS: **Day & Time:** Monday, 11:30am-2:30pm
 Room: Please check with Carleton Central for current room location

INSTRUCTOR: Professor Peter Swan

CONTACT: **Office:** LA D489 (Loeb Bldg)
 Office Hrs: Wednesday 12:00pm-2:00pm
 Telephone: 613-520-3690 x. 8212
 Email: pswan@connect.carleton.ca

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: <http://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

While in North America and Europe, there appears to be a wide spread agreement on the value of 'nature' as one of our most important collective goods, there is little consensus on what constitutes a fair distribution of nature's resources. Similarly there is little agreement on who should make the decisions with respect to this distribution. Such disagreements have fundamental repercussions for the justness of the legal regulation of the environment. Despite a recognition of limitations in the existing regime of environmental law, a significant part of the environmental movement continues to insist on the need to mobilize existing legal resources and to push for legal reforms to provide both a more effective form of environmental protection and for wider participation in decisions about the environment as a collective good. In this seminar course, we will examine the potential of environmental law to protect the environment and to promote an equalization of opportunities for an informed participation in environmental decision-making. In addition, we will explore a number of specific issues of justice that are raised by the contemporary legal regulation of the environment.

MARKING SCHEME

Research Proposal & Annotated Bibliography (5-6 pages) 20 % of Final Mark

Due: November 3, 2011

Research Paper (15 - 20 pages) 50 % of Final Mark

Due: December 1, 2011

Class Participation 30 % of Final Mark

15% for group participation

15% for attendance and individual participation

The participation mark will be based on attendance, contribution to classroom discussion, quality of presentation of the material by both individuals and the group as a whole, group peer evaluations and evidence of reading course material and engagement (thinking about it) with that material.

TEXTBOOK

- ***LAWS 4800A Coursepack*** Available at the Carleton University Bookstore.
- *Selected Course Readings: in Course Pack also on Reserve at MacOdrum Library & Chet Mitchell Resource Centre, D494 Loeb.*

Speaking for Ourselves: Environmental Justice in Canada, ed. By Julian Agyeman, et al. UBC Press, 2009
Available at the Carleton University Bookstore.

CLASS SCHEDULE

1. January 9 Introduction
2. January 16 Thematic Introduction: Meanings of justice in the context of environmental regulation
3. January 23 The Environmental Justice Frame & the Relationship Between Environmental Problems and Social Justice
4. January 30 Environmental Justice as Distribution of Risk [Group 1 Class Presentation,]
5. February 6 Issues in Environmental Justice: Eco-feminism [Group 2 Class Presentation]
6. February 13 Issues in Environmental Justice: Environmental Racism [Group 3 Class Presentation]
7. February 27 Issues in Environmental Justice: Environmental Justice and Aboriginal Peoples in Canada [Group 4 Class Presentation]
8. March 5 Legal Mobilization and the Struggle for Environmental Justice and Rights [Group 5 Class Presentation]
9. March 12 Struggles for recognition in the Context of Environmental Justice [Group 1 Class]
10. March 19 Contesting Scientific and Technical Claims in Environmental Hearings: Part 1 [Groups 2 & 3 Presentation]
11. March 26 Contesting Claims in Environmental Hearings: Part 2 [Group 4 Presentation]
12. April 2 Environmental Justice in Practice: Justice in the Siting of Hazardous Waste Facilities in Canada & the United States [Group 5 Presentation]

Wednesday, April 4 Final essay to be handed in at my office

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### **SYLLABUS**

#### **2. *Thematic Introduction: Two Models of Social Justice in the Context of the Environmental Regulation***

*Patrick . Monahan, "Social Equity and Waste Management" in A. Greenbaum et al., Social Conflict and Environmental Law , Vol. 1, pp. 135-141*

*Iris Marion Young, "Justice and Hazardous Waste", Michael Bradie et al. eds., The Applied Turn in Contemporary Philosophy, Vol. 5, 1983, 171-183*

**3. The Environmental Justice Frame & the Relationship Between Environmental Problems and Social Justice**

Stella Čapek, "The Environmental Justice Frame" (1992) *Social Problems*

Leith Deacon & Jamie, "Framing Environmental Inequity in Canada" in *Speaking for Ourselves: Environmental Justice in Canada* (UBC Press: Vancouver, 2009) pp. 181-202

Supplementary Reading

Giavanna Di Chiro, "Nature as Community: The Convergence of Environment and Social Justice" in William Cronon, ed., *Uncommon Ground: Rethinking the Human Place in Nature* (1995)

**4. Environmental Justice as Distribution of Risk**

S. Harris Ali, "The Political Economy of Environmental Inequality: The Social distribution of Environmental Injustice" in *Speaking for Ourselves: Environmental Justice in Canada* (UBC Press: Vancouver, 2009) pp. 97-110.

Roger Keil, Melissa Ollevier & Erica Tsang, "Why There is No Environmental Justice In Toronto? Or is There?" in *Speaking for Ourselves: Environmental justice in Canada* (UBC Press: Vancouver, 2009) pp. 42- 63

**5. Issues in Environmental Justice: Eco-feminism**

Robert R. M. Verchick, "In a Greener Voice: Feminist Theory and Environmental Justice" (1996) 19 *Harvard Women's Law Journal* 23

Barbra Rahder, "Invisible Sisters and Environmental Justice in Canada" in *Speaking for Ourselves: Environmental justice in Canada* (UBC Press: Vancouver, 2009) pp. 81-96.

Supplementary Reading

Elaine Hughes, "Fish Wives and Other Tails: Ecofeminism and Environmental Law" In (1995) 8 *Canadian Journal of Women and the Law* 502

**6. Issues in Environmental Justice: Environmental Racism**

Howard McCurdy, "Africville: Environmental Racism" in *Faces of Environmental Racism: Confronting Issues of Global Justice*, Laura Westra & Peter S. Wenz, eds. (1995)

Beenash Jafri, "Rethinking "Green" Multicultural Strategies" in *Speaking for Ourselves: Environmental justice in Canada* (UBC Press: Vancouver, 2009) pp. 219-232.

Supplementary Reading

Chapters by Lavelle & Coyle, LaDuke in R. Hofrichter, ed., *Toxic Struggles* (Supplemental Readings)

**7. Issues in Environmental Justice: Environmental Justice and Aboriginal Peoples in Canada**

John Borrows, "Living Between Water and Rocks: First nations, Environmental Planning and Democracy" (1997) 47 *University of Toronto Law Journal* 417

Sarah Fleisher Trainor *et al.*, "Environmental Injustice in the Far North: Persistent Organic Pollutants and arctic Climate Impacts" in *Speaking for Ourselves: Environmental justice in Canada* (UBC Press: Vancouver, 2009) pp. 144-162

Anna J. Willow, Clear-Cutting and Colonialism: the Ethnopolitical Dynamics of Indigenous Environmental Activism in Northwestern Ontario in 56 *Ethnohistory*, winter 2009 pp 35-66.

**8. Legal Mobilization and the Struggle for Environmental Justice and Rights**

Michael McCann and Helena Silverstein, "Social Movements, Legal Mobilization and the Democratization of the State: Recent U. S. Experiences", Leo Panitch et al. eds., *A Different Kind of State*, 1993

Leonard J. Waks, "Environmental Claims and Citizen Rights" in (1996) 18 *Environmental Ethics* 133.

Robyn Eckersley, "Environmental Rights and Democracy" in Roger Keil et al., eds., *Political Ecology: Global and Local*, (1998)

Supplementary Reading

Dinah Shelton, "Human Rights, Environmental Rights, and the Right to Environment" (1991) 28 *Stanford Journal of International Law* 103

James W. Nickel & Eduardo Viola, "Integrating Environmentalism and Human Rights", (1994) 16 *Environmental Ethics* 265 (Supplementary Reading)

Alexandre Kiss, "Concept and Possible Implications of a Right to Environment" in K. E. Mahoney and P. Mahoney, eds., *Human rights in the Twenty-first Century* at p. 551. (1993) (Supplementary Reading)

**9. Struggles for Recognition in the context of Environmental Justice**

David Schlosberg, (2003). "The Justice of Environmental Justice: Reconciling Equity, Recognition, and Participation in a Political Movement." In Andrew Light and Avner deShalit, eds., *Moral and Political Reasoning in Environmental Practice*. Cambridge, MA: MIT Press. Available as a (pdf) file at <http://web.me.com/dschlosberg/Site/Publications.html>

Chief Bernard Ominayak with Kevin Thomas, "These are Lubicon Lands: A first nation forced to Step into the Regulatory Gap" in *Speaking for Ourselves: Environmental justice in Canada* (UBC Press: Vancouver, 2009) pp. 111-122

Supplementary reading

D. Schlosberg, "Reconceiving Environmental Justice: Global Movements and Political Theories." 2004 *Environmental Politics* 13, No. 3: 517-540. Available as a (pdf) file at <http://web.me.com/dschlosberg/Site/Publications.html>

**10. Contesting Scientific and Technical Claims in Environmental Hearings: Part 1**

Mary Richardson et al., *Winning Back the Words: Confronting experts in public hearings*, Introduction and Chapters 1-4.

**11. Contesting Claims in Environmental Hearings: Part 2**

Mary Richardson et al., *Winning Back the Words: Confronting experts in public hearings*, Chapter 5 - end of book.

Joan Sherman and Michael Gismondi, "Jock Talk, Goldfish, Horse Logging and Star Wars", (1996) 23 *Alternatives* 14.

Supplementary Reading

Brian Wynne, "Misunderstood Misunderstandings: Social Identities and Public Uptake of Science" in A. Irwin & B. Wynne, eds., *Misunderstanding Science?* (1996)

**12. Environmental Justice in Practice**

Robert W. Lake, "Volunteers, NIMBYs, and Environmental Justice: Dilemmas of Democratic Practice", (1996) 28 *Antipode* 160

Barry Rabe et al., "Alternatives to NIMBY Gridlock: Voluntary Approaches to Radioactive Waste Facility Siting in Canada and the United States", (1995) 37 *Canadian Public Administration* 644

Supplementary Reading

Daniel C. Wigley and Kristen Shrader-Frechette, "Consent, Equity, and Environmental Justice: A Louisiana Case Study" in *Faces of Environmental Racism: Confronting Issues of Global Justice*, Laura Westra & Peter S. Wenz, eds. (1995)

