

COURSE: LAWS 4800A - Environment and Social Justice

PREREQUISITES: Fourth-year Honours standing

TERM: Fall 2017

CLASS: Day &
Time: Wednesday, 11:35am - 2:25pm
Room: Please check Carleton Central for current room location

INSTRUCTOR: Professor Peter Swan

CONTACT: Office: LA D590 (Loeb Bldg)
Office Hrs: Tuesday 1:00-3:00 pm
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Academic Accommodations:

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

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Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>

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 1, 2017

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

Due: Friday December 8, 2017

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 with that material.

TEXTBOOKS

Speaking for Ourselves: Environmental Justice in Canada: edited by J. Agyeman, P. Cole, R Haluza-Delay, P. O'Riley

Winning Back the Words: Confronting experts in environmental Public Hearings

LAWS 4800A Course pack All Available at the Carleton University Bookstore.

CLASS SCHEDULE

1. September 6 Introduction
2. September 13 Thematic Introduction: Meanings of justice in the context of environmental regulation?
3. September 20 The Environmental Justice Frame & the Relationship Between Environmental Problems and Social Justice
4. September 27 Environmental Justice as Distribution of Risk: [Class Presentation Group 1]
5. October 4 Issues in Environmental Justice: Eco-feminism [Class Presentation Groups 2 & 3]
6. October 11 Issues in Environmental Justice: Environmental Racism [Class Presentation Group 4]
7. October 18 Issues in Environmental Justice: Environmental Justice and Aboriginal Peoples in Canada. [Class Presentation Group 5]
8. November 1 Legal Mobilization, the Role of Rights and the Struggle for Recognition in the Context Environmental Justice [Class Presentation Group 1]
9. November 8 Contesting Scientific and Technical Claims in Environmental Hearings: Part 1 [Class Presentation Group 2]
10. November 15 Contesting Claims in Environmental Hearings: Part 2 [Class Presentation Groups 3&4]
11. November 22 The Role of Traditional Aboriginal Knowledge in Environmental Justice [Class Presentation Presentation Group 5]
12. November 29 If necessary to allow for class presentations to be completed.
- December 6 No class: Final essay to be handed in **at the drop box outside of C473 Loeb** (By 4:30 pm.)

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 (Source book)

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

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

Stella Čapek, "The Environmental Justice Frame" (1992) *Social Problems* (pp. 5-24)

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

Supplementary Reading which may be useful for paper topics

Giovanna 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- 88

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) PP. 75-92 (Sourcebook)

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

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* pp 417 -468 (Sourcebook)

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

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

8. The Role of Rights and the Struggle for Recognition in the Context Environmental Justice:

Robyn Eckersley, "Environmental Rights and Democracy" in Roger Keil *et al.*, eds., *Political Ecology: Global and Local*, (1998) pp. 353-376.

Schlosberg, David (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.

Supplemental Reading: 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 (pp 131-143

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. 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.

10. 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)

11. The Role of Traditional Aboriginal Knowledge in Environmental Justice & NIMBYISM and EJ

Deborah McGregor, Linking Traditional Knowledge and Environmental Practice in Ontario, 43 *Journal of Canadian Studies* No 3 Fall 2009, pp.69-100