



## Syllabus

### **EES1701HS Environmental Policy and Legislation**

**Thursday 1- 3pm, Classes commence Thursday September 16, 2021**

**Professor: Eva Ligeti [eligeti@sympatico.ca](mailto:eligeti@sympatico.ca)**

**TA: Megan Sheremata [megan.sheremata@utoronto.ca](mailto:megan.sheremata@utoronto.ca)**

**Location: Online**

*"Knocking on a door to signal a desire to enter is a slightly inhibited and symbolic form of kicking the door down" ~ attributed to anthropologist Edward Sapir.*

*"This combination of consensual inhibition and symbolic expression is called Civilization" ~ Michael Vincent Miller*

## **COURSE DESCRIPTION**

This course will provide an overview of the policies and laws that determine the way the environment is managed in Canada. We will cover environmental legislation at all levels of government. Students will consider the values, assumptions and guiding principles which underlie changes in environmental policy and legislation and will learn workings of the legal regime governing the environment.

## **COURSE OBJECTIVES**

Almost all stages and all processes of human production and consumption of materials result in disruptions and discharges that are harmful to the environment. Law is a key instrument in the management and mitigation of these harms.

This course provides an overview of environmental legislation and policy approaches and challenges at the federal, provincial and municipal level. Readings and materials provided will be supplemented with videos and presentations. Students will consider the ethical, political, and social contexts of the development and implementation of environmental law and will sample:

1. The laws and policies that exist to manage environmental harms, and where these laws and policies are absent, incomplete, or inadequate.
2. The legal and political relationships of the citizens, government officials, courts and environmental tribunals, environmental professionals such as engineers, biologists, planners, lawyers and representatives of industries and corporate concerns who influence the creation, administration and enforcement of environmental laws and policies; and

3. Critical developments in Canadian environmental laws and policy including topics such as conflicts over Indigenous rights, deregulatory agendas, and the climate crisis.

## SCHEDULE

Date	Topic	Readings : <b>PRIOR TO ATTENDING CLASS PLEASE REVIEW THE FOLLOWING</b>
<b>Lecture 1. Sept.16</b>	<b>INTRODUCTION</b> Overview to the course Overview of environmental law and the role of law to protect the Environment Environmental law and environmental science Indigenous rights in Canada How to read a court opinion	<b>Required Material in text :</b> Introduction and Chapter 1 Supplementary materials posted Homework assignment: 1. Optional 1-page written assignment 2. <b>Video:</b> <a href="https://www.ted.com/talks/wade_davis_on_endangered_cultures">https://www.ted.com/talks/wade_davis_on_endangered_cultures</a>
<b>Lecture 2. Sept 23</b>	<b>AN OVERVIEW OF THE CANADIAN LEGAL SYSTEM</b> a) Courts and their structure b) Sources of Law i. Constitutional division of powers ii. S.35 Indigenous rights iii. Statutes (and Regulations) iv. Common law v. Municipal law vi. International Law c) Federal Provincial Territorial Cooperation and Partnership	<b>Video:</b> <i>A Civil Action</i> <b>Practice Assignment:</b> Answer to questions <b>Required Material in text:</b> Chapters 2 and 4 Supplementary materials posted
<b>Lecture 3. Sept.30</b>	<b>SOURCES OF LAW: Overview of Common Law Causes of Action:</b> a) Nuisance b) Negligence c) Trespass d) Customary law e) Other	<b>Required Material in text:</b> Chapter 5 Supplementary materials posted Anthropocene Movie trailer <a href="https://www.youtube.com/watch?v=2OrqwsT6pI">https://www.youtube.com/watch?v=2OrqwsT6pI</a>
<b>Assigned on Sept 30</b>	<b>Assignment #1 posted on Quercus</b>	<b>Due before noon Oct 7</b>
<b>Lecture 4. Oct 7</b>	<b>SOURCES OF LAW: Overview of Statutory Causes of Action</b> a) Environmental protection legislation – types of legislation and the role of governmental departments: i.e. Health Canada, Environment Canada, MOE, Natural Resources Canada b) Indigenous treaty rights c) Liability, offences, prosecutions d) Private prosecutions	<b>Required Material in text:</b> Chapters 6, 7, 8, 9, 13 Supplementary materials posted Biomimicry: <a href="https://www.ted.com/talks/janine_benyus_biomimicry_in_action?language=en">https://www.ted.com/talks/janine_benyus_biomimicry_in_action?language=en</a>
<b>Lecture 5. Oct 14</b>	<b>SOURCES OF LAW:</b> International environmental law a) Definition, sources, origins, enforceability b) Rights and duties: custom c) Rights and Duties: international treaties d) Relationship to Canadian law	<b>Required Material in text:</b> Chapter 4 Supplementary materials posted

		Indigenous law in the Anthropocene  <a href="https://www.youtube.com/watch?v=JfEktNtWLDc">https://www.youtube.com/watch?v=JfEktNtWLDc</a>
<b>Assigned on Oct 14</b>	<b>Take home assignment #2 posted on Quercus</b>	<b>Due before noon Oct 21</b>
<b>Lecture 6. Oct 21</b>	<b>CLIMATE CHANGE AND ENVIRONMENTAL LAW</b> vii. mitigation and liability viii. adaptation ix. statutory context x. international context xi. concepts of sustainability	<b>Required</b>  <b>Material in text:</b> Chapter 18 Supplementary materials posted  <b>Recommended</b> Climate Change Backgrounder
<b>Lecture 7. Oct 28</b>	<b>INDIGENOUS RIGHTS IN ENVIRONMENTAL DECISION-MAKING</b>  a) Aboriginal and Treaty Rights b) The Honour of the Crown c) UNDRIP d) Implications for land-use and evidence-based policy	<b>Required</b>  <b>Material in text:</b> Chapter 3 Supplementary materials posted The Calamity of Caledonia (Moore, 2010)  Towards reconciliation: 10 Calls to Action to natural scientists working in Canada. (Wong, C., Ballegooyen, K., Ignace, L., Johnson, M.J. and Swanson, H., 2020)  Realizing the right to be cold? Framing processes and outcomes associated with the Inuit petition on human rights and global warming. Law & Society Review. (Jodoin, S., Snow, S. and Corobow, A. 2020)
<b>Assigned on Oct 28</b>	<b>Oral presentations</b>	<b>In class Nov 4 to Dec 2</b>
<b>Lecture 8. Nov 4</b>	<b>ISSUES AND APPROACHES IN STANDARD SETTING</b> a) Pollution prevention b) Regulatory versus non-regulatory approaches c) Risk Assessment and the Precautionary Principle d) An Overview to Enforcement and Compliance	<b>Required</b>  <b>Material in text:</b> Chapters 7,1 5,17 Supplementary materials posted
<b>Lecture 9. Nov 11</b>	<b>STANDARD-SETTING, APPROVALS &amp; ENFORCEMENT</b> a) Definition and nature of "standard-setting" b) Types of standards - legal policy tools c) Case examples of how standards are developed	<b>Required</b>  <b>Material in text:</b> Chapter 6 Supplementary materials posted
<b>Lecture 10. Nov 18</b>	<b>ENVIRONMENTAL RIGHTS and PARTICIPATION IN HEARINGS</b> Natural justice & judicial review Intervener funding The Ontario Environmental Bill of Rights Indigenous rights to consultation—moving toward UNDRIP	<b>Required</b>  <b>Material in text:</b> Chapters 1, 3, 15, 19

	<b>GUEST LECTURE: Dean Jacobs</b> , Consultation Manager Walpole Island First Nation <b>former Chief</b>	Supplementary materials posted  Pam Palmater Taking back Kanata <a href="https://www.youtube.com/watch?v=qzv0aSMYb0k">https://www.youtube.com/watch?v=qzv0aSMYb0k</a>
<b>Lecture 11. Nov 25</b>	<b>LAND USE PLANNING AND THE ROLE OF MUNICIPALITIES</b> a) Overview to the land-use planning regime b) The legislative backdrop i. Municipal Act ii. Planning Act iii. Other c) Planning tools i. Official Plans ii. Zoning By-Laws d) Current issues	<b>Required</b>  <b>Material in text:</b> Chapter 13 Supplementary materials posted  <i>Town of Hudson v. Spraytech</i> Supplementary materials posted on intranet
<b>Lecture 12. Dec 2</b>	<b>APPLICATIONS OF LAW: Environmental Assessment</b> a) The Canadian Environmental Assessment Act i. Recent cases b) The Ontario Environmental Assessment Act i. The Environmental Review Tribunal ii. The EA Act and Practice c) Developments in the federal EA regime	<b>Required</b>  <b>Material in text:</b> Chapter 12 Supplementary materials posted  <b>Recommended:</b> Regulating GHGs in Canada: Constitutional and Policy
<b>Assigned date TBD</b>	<b>Final take home assignment posted on Quercus</b>	<b>Due date TBD</b>

**Lecture format:** Lectures will be held virtually each week on Zoom. An invitation and password will be sent to you approximately one hour before each lecture begins. Only students registered for this course are permitted to access the course, so do not share the log-in information. Once you receive the invitation to join the class via video conference on Zoom, click the invitation link. You will be prompted to download the Zoom plugin. Follow the prompts to join the meeting, after which will be asked to verify that you would like to join the meeting using video from your device's camera, and audio from your device's microphone. **Please keep your video on.** Note: Students **may not** create audio or video recordings of classes. See the University Code of conduct on classroom privacy.

Evaluation: Evaluation will be 10% by way of preparation and participation, 10% for reading summary (précis), 20% by way of take-home written assignment, 25% by way of oral presentation (PowerPoint), and 35% by way of a final take home/open book examination. The take home written assignment will be due in class one week after assigned. The take home final exam will be due in class one week after assigned, date to be determined with class input. **(\*plus up to 5% optional assignment)**

(*Optional 1-page personal essay	5%*)
Preparation and Class Participation	10%**
Precise (reading summary)	10%
Take home assignment (midterm)	20%
Presentation (10 minutes)	25%
Take home final (exam)	35%
	100% (+5)

**Preparation and Class Participation:** Classes will include time for discussion of the materials. You will be expected to have read assigned readings and viewed assigned materials prior to class. Both your questions and comments on the materials are welcome during the class. Classes will combine lectures with group exercises and presentations.

(\*Optional 1-page personal essay describing the impact of the pandemic on your studies -- handed in before the start of the second class 5%\*)

\*\* Note: For full marks for class preparation and participation you must be in (virtual) class, on camera (video on) and have participated in some way at least 10 of the 12 lectures. A template will be provided for tracking and reporting on your participation.

**Précis:** For the reading summary or précis, a sample will be provided to the class prior to the assignment. Feedback on this assignment will include constructive feedback on your writing, aimed at helping you focus on writing clarity and analytical accuracy through the rest of the course.

**Written Assignments:** The written assignments and final exam will be limited open book. You will be permitted to use the required text, any handouts, your notes and anything handed out by the instructor during the term. Unless discussed in class and made available to all registered students, no additional resources will be required or credited. The written assignment has a limit of 10 pages, double-spaced, 12 point font. The take home final exam has a limit of 20 pages, double-spaced, 12 point font. References to readings must be cited for each point made.

**All written assignments will be graded having regard to criteria including: accuracy, clarity of analysis, comprehensive use of assigned materials and readings (referencing at least the majority of the assigned readings), quality of arguments and the quality of writing.**

**Presentation:** For the PowerPoint presentation students will be required to cover an assigned reading in an oral and PowerPoint presentation format in a maximum time of 10 minutes. After the presentations there will be 5 minutes for questions. Grades will be assigned for a total of 25 marks as follows:

1.	Accuracy of information	5 marks
2.	Clarity of presentation	5 marks
3.	Comprehensiveness	5 marks
4.	Relevance of material (within context of course)	5 marks
5.	Response to questions demonstrating thorough understanding	5 marks
		25 marks

PLEASE NOTE: NO GRADE will be earned for statements that are not referenced. References to lecture notes or oral statements will not earn a grade unless relevant reading is also cited.

Evaluation will be carried out in accordance with the Graduate Grading and Evaluation Practices Policy (and how that policy is interpreted and applied in this Dept.) <http://www.governingcouncil.utoronto.ca/policies/uniasapp.html>

## VERIFICATION OF ILLNESS AND ABSENCES

A **Verification of Illness (also known as a "doctor's note") is temporarily not required.** Students who are absent from academic participation for **any reason** (e.g., COVID, cold, flu and other illness or injury, family situation) and who require consideration for missed academic work should report their absence through the online absence declaration. The declaration is available on **ACORN under the Profile and Settings menu**. Students should also advise their instructor of their absence. Visit [COVID-19 Information for University of Toronto Students](#) page on the Vice-Provost, Students website for information on this and other frequently asked questions.

## EMERGENCY PLANNING

Students are advised to consult the university's preparedness site (<http://www.preparedness.utoronto.ca>) for information and regular updates regarding procedures relating to emergency planning.

## ACCESSIBILITY NEEDS

The University of Toronto is committed to accessibility. If you require accommodations for a disability, or have any accessibility concerns about the course, the classroom or course materials, please contact The UTSC Accessibility Services as soon as possible: <http://www.uts.utoronto.ca/~ability/>

We also suggest you also refer to the following University of Toronto Scarborough Library link: <http://utsc.library.utoronto.ca/services-persons-disabilities>

## PLAGIARISM

The University of Toronto has a site license that enables all faculty and students to use Ouriginal, a new plagiarism prevention system. To learn more about the plagiarism detection software - <https://q.utoronto.ca/courses/46670/pages/integration-plagiarism-detection-tool> .

*Normally, students will be required to submit their course essays to the University's plagiarism detection tool for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the tool's reference database, where they will be used solely for the purpose of detecting plagiarism. The terms*

that apply to the University's use of this tool are described on the Centre for Teaching Support & Innovation web site (<https://uoft.me/pdt-faq>).

For accepted methods of standard documentation formats, including electronic citation of internet sources please see the UofT writing website at <http://advice.writing.utoronto.ca/using-sources/documentation>.

The full Code of Behaviour regulations can be found here:  
<https://www.sqs.utoronto.ca/policies-guidelines/academic-integrity-resources/>

## **LATE WORK**

Students are advised to consult ASAP with the course instructor and TA if they have special circumstances which will be considered on a case by case basis. Late work will lose 10% of the assigned value per day or portion of day late.

## **WRITING AND ENGLISH LANGUAGE**

All work may be written using an academic referencing style of your choosing, but you must remain consistent to that style.

All writing about Indigenous Peoples should follow Younging's Elements of Indigenous Style (2018). The University of Toronto Libraries has an e-book version available, and excerpts will be posted on Quercus.

The following style guides may be also useful:

Purdue APA Style Guide (very widely used):  
[https://owl.purdue.edu/owl/research\\_and\\_citation/apa\\_style/apa\\_formatting\\_and\\_style\\_guide/general\\_format.html](https://owl.purdue.edu/owl/research_and_citation/apa_style/apa_formatting_and_style_guide/general_format.html)

Sylvan Barnett, *A Short Guide to Writing About Art*. 5-7th edition (New York: Harper-Collins, 1997)

William Strunk Jr., E.B. White. *The Elements of Style* (New York: MacMillan Publishing)

The UTSC Writing Centre provides one-on-one consulting and other writing supports for graduate students:  
<https://www.utsc.utoronto.ca/ctl/writing-support>

## **REQUIRED READINGS**

1. Jamie Benidickson, *Environmental Law*, 5th ed. (Irvin Law, 2019). Available in the library and bookstore.
2. Supplementary materials for weekly topics which are posted at least one week before the class.

### **Additional suggested textbooks:**

E. L. Hughes, A. R. Lucas and W. A. Tillman (eds.), *Environmental Law and Policy*, 3rd ed. (Toronto: Edmond Montgomery, 2003)

David R. Boyd, *Unnatural Law* David R. Boyd, *Unnatural Law, Rethinking Canadian Environmental Law and Policy*, (UBC University Press, 2003)