

COURSE OUTLINE			
TERM: Fall 2018		COURSE NO: LAW 335	
INSTRUCTOR:		COURSE TITLE: Environmental Law	
OFFICE:	LOCAL:	SECTION NO(S):	CREDITS: 3.0
E-MAIL:	@capilanou.ca		
OFFICE HOURS:			
COURSE WEBSITE:			

Capilano University acknowledges with respect the Lil'wat, Musqueam, Squamish, Sechelt, and Tsleil-Waututh people on whose territories our campuses are located.

COURSE PREREQUISITES

LAW 101, LAW 110 and LAW 210, OR 45 credits of 100-level or higher coursework.

COURSE FORMAT

Three hours of class time, plus an additional hour delivered through on-line or other activities for a 15-week semester, which includes two weeks for final exams. In addition to work done in the classroom, it is expected that students will do the required reading and assignments at home and will use on-line resources and materials provided in class.

CALENDAR DESCRIPTION

In this course, students will study the principles and practices of environmental law in Canada. The course will focus on the main areas of protection of the environment – traditional tort law, environmental regulation, environmental assessments and international agreements. Students will gain a thorough knowledge of the current problems in enforcing environmental protections, including such important topics as biodiversity, climate change and the enforcement of international standards in bi-national and transnational law. Students will also critically assess both the effectiveness and, more fundamentally, the effect of Canadian and international environmental law.

COURSE NOTE

LAW 335 is an approved Self and Society course for Cap Core requirements.

REQUIRED TEXTS AND/OR RESOURCES:

Meinhard Doelle and Chris Tollefson, *Environmental Law: Cases and Materials*, 2nd ed. (Toronto: Carswell, 2013)

Instructors' Lecture Notes, Articles and Model Problems posted on Moodle.

COURSE STUDENT LEARNING OUTCOMES

On successful completion of this course, students will be able to do the following:

1. Effectively describe and explain the principles and rules of environmental law, including those related to private property rights, jurisdictional disputes and international law.
2. Prepare written and oral analyses of problems and cases.
3. Research the historical case law and resulting rules, principles and exceptions.
4. Analyze and apply the common law and statutory rules, principles and practices in the enforcement of environmental standards, including the law of animals, the rights of economic actors in resource industries, the law of the sea, and the rights of indigenous peoples.
5. Work with partners and study groups to analyze and synthesize the relevant statutory laws, treaties and relevant principles of international law.
6. Discuss current events relating to environmental crimes on a national and international level.

Students who complete this Self and Society course will be able to do the following:

1. Identify potential root causes of local/global problems and how they affect local/global cultures, economies, politics and policies.
2. Assess and evaluate individual and collective responsibilities within a diverse and interconnected global society.
3. Apply concepts of sustainable development to address sustainability challenges in a global context.
4. Synthesize a range of differing community perspectives on ethics and justice and explain how these perspectives can inform structural change.

COURSE CONTENT

WEEKLY COURSE CONTENT	
WEEK	CONTENT
PART I – DOMESTIC LAW	
1	<p>THE COMMON LAW</p> <p>In this introductory lecture students examine the traditional common law approach to environmental law – the application of tort law principles to private disputes. We examine the strengths and shortcomings of this approach, the place of class action lawsuits and the question of “common law public rights” in relation to environmental degradation.</p>
2	<p>JURISDICTION OVER THE ENVIRONMENT</p> <p>Within the Canadian federation, jurisdiction is divided between federal and provincial and federal and territorial governments. There is also the inherent jurisdiction of Indigenous Peoples and their rights to a sustainable future. Students examine the often conflicting goals and challenges that face Canadian societies on the question of jurisdictional rivalries.</p>

WEEKLY COURSE CONTENT	
WEEK	CONTENT
3	<p>ENVIRONMENTAL REGULATION</p> <p>Environmental regulations are daunting to understand. This lecture introduces the various regulatory models in Canadian law and analyzes their suitability and success. The lecture also looks at governance-based and goal-based models of legal regulation and their prospects for successful adoption in Canada.</p>
4	<p>COMPLIANCE AND ENFORCEMENT</p> <p>This lecture and set of readings looks at the prosecution and enforcement of environmental charges, and the strategies and methods used to enforce environmental standards in Canadian law. Students will also examine so-called “citizen enforcement” and the place of public and private actions that influence the enforcement of environmental laws.</p>
5	<p>JUDICIAL REVIEW</p> <p>Administrative decisions and judicial review of those decisions form one of the core areas of environmental case law in Canada. This lecture looks at the issues raised both by the decision-making authority of administrative tribunals and the place of superior courts in reviewing those decisions. A question is asked: is it not time for an Environmental Court of Canada?</p>
6	<p>ENVIRONMENTAL ASSESSMENTS</p> <p>Federal legislation governing environmental assessments has undergone significant changes in the past five years, particularly with the introduction of the revised <u>Canadian Environmental Assessment Act</u> in 2012. Many believe it is not an improvement. This lecture will examine this question, particularly in relation to the economic development of resources in Western Canada.</p>
7	<p>MID-TERM WEEK</p>
	<p>PART II – SPECIAL ISSUES</p>
8	<p>PARKS AND PROTECTED AREAS</p> <p>Another main historical means for environmental protection has been the setting aside of public parks and protected areas, including protected marine areas. This lecture examines the current challenges facing these forms of environmental protection. [MB]</p>
9	<p>TOXIC TORTS</p> <p>This lecture reviews the principles that students first studied in the Introductory Lecture and looks at the significant environmental risks posed in British Columbia by environmental spills. We assess these risks in light of the remedies available at common law and the regulatory regimes we have studied so far. When it comes to protection, how far is far enough?</p>

WEEKLY COURSE CONTENT	
WEEK	CONTENT
10	<p>ENDANGERED SPECIES</p> <p>Species at risk reflect the degradation of the natural environment and extinction of species is an ongoing tragedy. Gone is gone. This lecture, connected with the next, considers the magnitude of species loss and the measures currently undertaken to slow or stop species loss. Some of these measures relate to habitat protection, while others relate to species protection or enhancement. At its centre, this topic focusses on the relationship of humans to other species, and the shortcomings of human understanding.</p>
11	<p>HUMAN CONSUMPTION OF PLANTS AND ANIMALS</p> <p>Human consumption governs the degradation of biodiversity; from the use of animal products in musical instruments, the use of plants in herbal medicines, to the hunting of animals for ivory, oils, bone and organs. Humans consume animal and plant species on a vast international scale. Can law make a difference?</p>
PART III – TRANS-NATIONAL LAWS	
12	<p>INTERNATIONAL ENVIRONMENTAL LAW</p> <p>Following upon the discussions from the previous lectures on endangered plants and animals, we now turn our attention to international mechanisms for the protection of the environment. We look at the impact of international protocols, Conventions on Biodiversity and the status and effects of bi-national agreements.</p>
13	<p>CLIMATE CHANGE</p> <p>Finally, we will look at the widest global consequence of human actions – planetary climate change. Students will study climate change in relation to each of the main topic areas we have covered in this course: the rules of tort law, the Division of Powers between Canadian governments, judicial review, environmental assessment, biodiversity, and International Law. Where is law?</p>
14 – 15	FINAL EXAM

EVALUATION PROFILE

Midterm Exam	30%
Final Exam	30%
Participation	0 – 10%
Written Assignments	<u>30 – 40%</u>
TOTAL:	100%

* Note: No single evaluation component will be worth more than 35%.

GRADING PROFILE

A+ = 90-100	B+ = 77-79	C+ = 67-69	D = 50-59
A = 85-89	B = 73-76	C = 63-66	F = 0-49
A- = 80-84	B- = 70-72	C- = 60-62	

Incomplete Grades

Grades of Incomplete "I" are assigned only in exceptional circumstances when a student requests extra time to complete their coursework. Such agreements are made only at the request of the student, who is responsible to determine from the instructor the outstanding requirements of the course.

Late Assignments

Assignments are due at the beginning of the class on the due date listed. If you anticipate handing in an assignment late, please consult with your instructor beforehand.

Missed Exams/Quizzes/Labs etc.

Missed exams, quizzes and/or tests are given at the discretion of the instructor. They are generally given only in medical emergencies or severe personal crises. Some missed activities may not be able to be accommodated. Please consult with you instructor.

Attendance / Participation

Students are expected to attend all classes and associated activities. Class and online activities will involve participation in presenting cases to the class, isolating the main facts and issues of the case presented. Typically, there will be two cases each term, with 5% mark for each presentation.

English Usage

Students are expected to proofread all written work for any grammatical, spelling and stylistic errors. Instructors may deduct marks for incorrect grammar and spelling in written assignments.

Electronic Devices

Students may use electronic devices during class for note-taking only.

On-line Communication

Outside of the classroom, instructors will (if necessary) communicate with students using either their official Capilano University email or Moodle; please check both regularly. Official communication between Capilano University and students is delivered to students' Capilano University email addresses only.

UNIVERSITY OPERATIONAL DETAILS**Tools for Success**

Many services are available to support student success for Capilano University students. A central navigation point for all services can be found at: <http://www.capilanou.ca/services/>

Capilano University Security: download the [CapU Mobile Safety App](#)

Policy Statement (S2009-06)

Capilano University has policies on Academic Appeals (including appeal of final grade), Student Conduct, Cheating and Plagiarism, Academic Probation and other educational issues. These and other policies are available on the University website.

Academic Integrity (S2017-05)

Any instance of academic dishonesty or breach of the standards of academic integrity is serious and students will be held accountable for their actions, whether acting alone or in a group. See policy S2017-05 for more information: <http://www.capilanou.ca/about/governance/policies/Policies/>

Violations of academic integrity, including dishonesty in assignments, examinations, or other academic performances, are prohibited and will be handled in accordance with the Student Academic Integrity Procedures.

Academic dishonesty is any act that breaches one or more of the principles of academic integrity. Acts of academic dishonesty may include but are not limited to the following types:

Cheating: Using or providing unauthorized aids, assistance or materials while preparing or completing assessments, or when completing practical work (in clinical, practicum, or lab settings), including but not limited to the following:

- Copying or attempting to copy the work of another during an assessment;
- Communicating work to another student during an examination;
- Using unauthorized aids, notes, or electronic devices or means during an examination;
- Unauthorized possession of an assessment or answer key; and/or,
- Submitting of a substantially similar assessment by two or more students, except in the case where such submission is specifically authorized by the instructor.

Fraud: Creation or use of falsified documents.

Misuse or misrepresentation of sources: Presenting source material in such a way as to distort its original purpose or implication(s); misattributing words, ideas, etc. to someone other than the original source; misrepresenting or manipulating research findings or data; and/or suppressing aspects of findings or data in order to present conclusions in a light other than the research, taken as a whole, would support.

Plagiarism: Presenting or submitting, as one's own work, the research, words, ideas, artistic imagery, arguments, calculations, illustrations, or diagrams of another person or persons without explicit or accurate citation or credit.

Self-Plagiarism: Submitting one's own work for credit in more than one course without the permission of the instructors, or re-submitting work, in whole or in part, for which credit has already been granted without permission of the instructors.

Prohibited Conduct: The following are examples of other conduct specifically prohibited:

- Taking unauthorized possession of the work of another student (for example, intercepting and removing such work from a photocopier or printer, or collecting the graded work of another student from a stack of papers);
- Falsifying one's own and/or other students' attendance in a course;
- Impersonating or allowing the impersonation of an individual;
- Modifying a graded assessment then submitting it for re-grading; or,
- Assisting or attempting to assist another person to commit any breach of academic integrity.

Sexual Violence and Misconduct

All Members of the University Community have the right to work, teach and study in an environment that is free from all forms of sexual violence and misconduct. Policy B401 defines sexual assault as follows:

Sexual assault is any form of sexual contact that occurs without ongoing and freely given consent, including the threat of sexual contact without consent. Sexual assault can be committed by a stranger, someone known to the survivor or an intimate partner.

Safety and security at the University are a priority and any form of sexual violence and misconduct will not be tolerated or condoned. The University expects all Students and Members of the University Community to abide by all laws and University policies, including [B.401 Sexual Violence and Misconduct Policy](#) and [B.401.1 Sexual Violence and Misconduct Procedure](#).

Emergencies: Students are expected to familiarise themselves with the emergency policies where appropriate and the emergency procedures posted on the wall of the classroom.