



CENTRE FOR
LAW & THE ENVIRONMENT



PETER A. ALLARD
SCHOOL OF LAW
THE UNIVERSITY OF BRITISH COLUMBIA

COURSE SYLLABUS

GREEN RIGHTS AND WARRIOR LAWYERS

LAW 391D Topics in Environmental Law

Seminar, 3 credits

Thursdays 9:30 am to 12:30 pm

Allard Hall Room 335

Instructor

Professor [Stepan Wood](#), Canada Research Chair in Law, Society & Sustainability, Allard School of Law

Special guest instructor [Silver Donald Cameron](#), Farley Mowat Chair in Environmental Communication, Cape Breton University

Short Description

Around the world, citizens and lawyers are trying to use law to realize the rights of people to live in a healthy environment and the rights of nature to exist and flourish. In this seminar, students explore the theory and practice of environmental rights and public interest legal advocacy through real world case studies of environmental lawyers and defenders on the front lines of struggles to protect people, species and ecosystems in Canada and beyond. Using a range of sources including documentary film, video interviews, guest lectures, biographical materials, news media, case law, legislation and scholarly writing, you will select a lawyer to profile, make a presentation to the class on that lawyer and their work, and prepare a research paper applying lessons from the theory and practice of environmental rights to a current environmental law issue in Canada or abroad.

Evaluation

Class participation: 15%

Presentation or blog post: 15%

Research paper or project: 70%

The academic rules regarding the required average range of grades do not apply to the individual components of your evaluation in this course.

Required Materials

Required reading and viewing assignments are listed under each course module. If an item is available online, follow the hyperlinked item title to access it via the Web (open access), UBC Libraries (use your CWL to log in), the course Canvas site (use your CWL to log in), or The Green Interview (see below for login information).

Unlike most law school courses, a substantial portion of the required course materials takes the form of video interviews and documentary films. These materials are available on [The Green Interview](#) website, an unique archive of interviews and documentary films by renowned environmental author and educator Dr. Silver Donald Cameron, the inaugural Farley Mowat Chair in Environmental Communication at Cape Breton University in Sydney, Nova Scotia. You are required to watch the documentary film [Green Rights](#), plus around two dozen of Dr. Cameron's interviews of environmental lawyers. The videos average one hour each.

All the required videos plus more than seventy additional interviews with environmental leaders and defenders are available via [The Green Interview](#) website. A discounted six-month student subscription costs \$29.99 (regularly \$49.99) (prices subject to change without notice). To register for this subscription, go to the [Membership page](#), select "Student subscription" and enter the discount code provided on UBC Canvas (login required).

Optional Reading

Silver Donald Cameron, *Warrior Lawyers: From Manila to Manhattan, Attorneys for the Earth* (Halifax: Green Interview Books, 2016). This book is a collection of transcripts of most of the required video interviews. It is available from the [UBC Bookstore](#) (\$27.20 hardcopy), [Amazon](#) (\$26.38 hardcopy, \$9.99 Kindle), and Dr. Cameron's [website](#) (\$24.99 hardcopy, \$9.99 ebook) (prices subject to change without notice).

Class participation (15%)

Active participation in class is essential and will form 15% of your final mark: 10% for general participation in the class meetings and 5% for facilitating discussion of a reading on an assigned day. General participation (10%) will be evaluated partly for quantity but more importantly for quality, taking into account thoughtfulness, constructiveness, knowledgeability and other relevant considerations. Unexcused absences will count against you, but reasonable excuses will be accommodated. You are expected to give advance notice of absences unless circumstances prevent it. Class facilitation (5%) will be evaluated on the basis of preparation, accuracy, creativity and ability to engage peers in active learning. Activities such as role-playing simulations, buzz groups, elevator pitches and mental mapping exercises are encouraged.

Presentation or Blog Post (15%)

You will make a class presentation or write a blog post exploring the personal story of an environmental lawyer of your choice and its lessons for advancing environmental rights. The individual must be formally trained as a lawyer or recognized as a bearer of indigenous legal knowledge. The individual may be someone who has been interviewed by The Green Interview or another person approved by the

instructor. You will conduct biographical research on your chosen lawyer using publicly available sources. You are not expected to interview the person yourself. You might ask such questions as:

- What is their story?
- What makes them a “warrior lawyer” struggling to advance environmental rights and the rights of nature through law?
- What legal ideas do they promote (or fight against)?
- What legal and non-legal tools and strategies do they use to put these ideas into action?
- What obstacles and challenges have they faced in doing so?
- What have they accomplished?
- What lessons can be drawn from their experiences for advancing environmental rights in other contexts?

Early in the course, you will choose between a class presentation and a blog post.

Presentation

If you choose this option, you will make a presentation to the class on your chosen lawyer, their work and its implications, illustrated with slides. Your mark (15%) will be broken down as follows: a written component worth 5% of your final mark and consisting of a Powerpoint slide deck; and an oral component worth 10% of your final mark and consisting of your in-class presentation. The Powerpoint slide deck should be in 16:9 widescreen format, and should use Notes Pages to contain point form speaking notes identifying the highlights to be covered under each slide. The slide deck will be evaluated for creativity, accuracy and effective use of the visual medium. Keep in mind that a picture is worth a thousand words, and that slides should not be text-heavy—but note that all images must be reproduced with permission and accompanied by attribution. Your slide deck should include only as many slides as you can present effectively in 15 minutes. You must submit your slide deck to the Instructor by 11:59 pm on the day before your presentation. Your class presentation will take approximately 20 minutes, including questions and discussion. It will be evaluated for effective public speaking and audience engagement.

Blog post

Your other option is to write a blog post on your chosen lawyer and the lawyer’s work on Green Rights, for posting on the Centre for Law & the Environment blog, subject to the approval of the Director of the Centre and copyediting (barring such approval, your post will be published on the course Canvas site and the instructor will help you find an alternative venue). Your mark (15%) will be broken down as follows: a first draft of the blog post (5%) and final draft (10%). The blog post should be written in Word, in an engaging yet serious style suitable for an academic blog. It should be approximately 750 words and should include hyperlinks to sources and further reading. It should include at least one image—but note that all images must be reproduced with permission and accompanied by attribution. It should have no footnotes, endnotes or bibliography. It should be accompanied by a short biographical sketch (maximum 100 words, excluded from the word count for the blog post itself) and a head-and-shoulders photo of you. Your blog post will be evaluated for creativity, accuracy, style, effective use of the Internet medium, and constructive use of instructor feedback. In appropriate cases, the instructor will work with you to pursue publication of your blog post as an op-ed piece co-authored with the instructor.

Research Paper or Project (70%)

You will prepare a final paper or project on a research topic of your choice related to green rights and warrior lawyers. Your topic must be approved by the instructor in advance. The research paper is due by the deadline for final submission of research papers.

The research paper must be between 6,000 and 7,000 words, exclusive of footnotes, headers, footers and appendices, if any. The paper should have a title page indicating the title, course name and code, your name and the date of submission. Pages should be numbered. All sources referred to in the paper must be cited in footnotes. Citations should be in McGill Guide format. No bibliography is needed, provided that all sources are cited in full in footnotes.

Projects other than research papers will be approved on a case by case basis and might take such forms as a film, video, website, consulting report, law reform proposal, or submission to a legislative committee or other decision-making forum.

Before starting your research paper or project you will submit a proposal for informal, formative feedback. Your proposal must include the following:

- Your name, the name of the course and the date submitted;
- A draft title indicating the proposed topic;
- A clear and concise statement of the research question addressed, along with a statement of your tentative thesis;
- A brief explanation of the importance of the paper or project;
- A preliminary outline of the structure of the paper (or the nature and format of the project, if other than a research paper); and
- A list of the bibliographic references you have identified to date.

The proposal should be no more than 1000 words, not including the list of references.

Due dates

Due dates for the various assignments will be posted on Canvas.

Late Penalties

Late submission of written assignments will be penalized in accordance with Allard's policy on mark deduction for late assignments, i.e. For each or any part of a day that the assignment is late, including weekends and statutory holidays and other days when the law school is closed, the student will lose 5% of the maximum possible value of the assignment for the first day or part of a day that the assignment is late and an additional 2% for each subsequent day or part of a day.

Academic Integrity:

The academic enterprise is founded on honesty, civility, and integrity. As members of this enterprise, all students are expected to know, understand, and follow the codes of conduct regarding academic integrity. At the most basic level, this means submitting only original work done by you and acknowledging all sources of information or ideas and attributing them to others as required. This also means you should not cheat, copy, or mislead others about what is your work. Violations of academic integrity (i.e., misconduct) lead to the breakdown of the academic enterprise, and therefore serious consequences arise and harsh sanctions are imposed. For example, incidences of plagiarism or cheating

may result in a mark of zero on the assignment or exam and more serious consequences may apply if the matter is referred to the President's Advisory Committee on Student Discipline. Careful records are kept in order to monitor and prevent recurrences. (copied from Appendix K, pg 69 of [A Guide to Curriculum for UBC Vancouver](#))

Course Schedule

Guest lecturers and order of topics are subject to change.

Week 1 (Sept. 5):

Course Orientation

Required reading and viewing:

[Green Rights: The Human Right to a Healthy World](#) (documentary, 2016, dir. Chris Beckett) (67 minutes) (watch in class)

Unit 1. Introducing Green Rights

Week 2 (Sept. 12):

1. Setting the Scene: History and Theory of Human Rights and Green Rights

Required reading and viewing:

Feature interview: [David Boyd](#) (Canada) (1 hour)

Boyd, David (2012), [The Environmental Rights Revolution](#) (Vancouver: UBC Press), read chapters 1 & 13 (pp 3-19, 278-291)

Collins, Lynda & David R. Boyd (2016), "[Non-Regression and the Charter Right to a Healthy Environment](#)" *Journal of Environmental Law & Practice* 29: 285-304 (20 pages).

Rodríguez-Garavito, César (2018) "[A Human Right to a Healthy Environment? Moral, Legal, and Empirical Considerations](#)" in John H. Knox and Ramin Pejan, eds. *The Human Right to a Healthy Environment* (Cambridge: Cambridge), 155-168. (13 pages)

Week 3 (Sept 19):

2. Making It Real: Translating Rights on the Books into Change on the Ground

Required reading and viewing:

Feature interviews: [Daniel Sallaberry](#) (Argentina) (37 min); Marina Aizen (Argentina) (52 min)

Environmental Rights Database: Good Practices in the Use of Human Rights to Protect the Environment ([Category: Substantive Obligations](#)) (follow all "read more" buttons on the page)

Boyd, David R. (2018), [Catalyst for Change: Evaluating Forty Years of Experience in Implementing the Right to a Healthy Environment](#), in John H Knox & Ramin Pejan, eds., *The Human Right to a Healthy Environment* (Cambridge: Cambridge), pp. 17-41 (24 pages).

Piomelli, Ascanio (2013), "[Sensibilities for Social Justice Lawyers](#)" *Hastings Race & Poverty Law Journal* 10: 177 (if the URL doesn't work, click [here](#) and navigate to the article).

Cole, Luke (1994-95), "Lawyers, the Law and Environmental Justice: Dangers for the Movement," *Race, Poverty and the Environment* 5 (2-3): 3-7 and 55-57 (access via Canvas).

Optional background:

Boyd, David R. (2012), *The Environmental Rights Revolution* (Vancouver: UBC Press), chapters 11 & 12.

Unit 2. Realizing Green Rights

Week 4 (Sept 26):

3. Holding Industry to Account: Chevron Tóxico, Oil and Indigenous Amazonians

Special video guest (to be confirmed):

Natalia Greene (Ecuador) is a lawyer and coordinator of the Rights of Nature program at the Fundación Pachamama.

Required reading and viewing:

Feature Interviews: [Pablo Fajardo \(Ecuador\) and Steven Donziger \(USA\)](#) (1h:21); [Natalia Greene \(Ecuador\)](#) (1h:00)

Amazon Frontline (2019), "[Worani people win historic appeal against Ecuador's government: Final verdict protects a half-million acres of Amazon rainforest from oil drilling](#)," *Intercontinental Cry* (13 July)

Kimerling, Judith (2016), "[Habitat as Human Rights: Indigenous Huaorani in the Amazon Rainforest, Oil, and Ome Yasuni](#)," *Vermont Law Review* 40: 445-524 (79 pages).

Yaiguaje v. Chevron Corporation, [2018 ONCA 472](#) (54 pages).

Week 5 (Oct. 3):

4. Holding Government to Account: the *Urgenda* Case

Required reading and viewing:

Feature Interviews: [Marjan Minnesma](#) (Netherlands) (1h:03), [Roger Cox](#) (Netherlands) (1h:16)

Urgenda Foundation (2019), "[The Urgenda Climate Case against the Dutch Government](#)," (read main page and the [Climate Case Explained](#) page, and follow any other links that interest you)

Cox, Roger (2015), [A Climate Change Litigation Precedent: *Urgenda Foundation v The State of the Netherlands*](#), CIGI Paper No. 79, November (Waterloo, ON: Centre for International Governance Innovation) (14 pages).

Verschuuren, Jonathan (2018) "[Urgenda Climate Change Judgment Survives Appeal in the Netherlands](#)," IUCN Online (October 24).

Kaminski, Isabella (2019), "[Final Appeal in Historic Urgenda Case May Hinge on Human Rights](#)," *Climate Liability News* (28 May).

Peel, Jacqueline and Hari Osofsky (2018), "[A Rights Turn in Climate Change Litigation?](#)" *Transnational Environmental Law* 7 (1): 37–67 (30 pages).

Van Zeben, Josephine (2015), "[Establishing a Governmental Duty of Care for Climate Change Mitigation: Will Urgenda Turn the Tide?](#)" *Transnational Environmental Law* 4 (2): 339–357 (focus on Parts 3-5, 11 pages).

Optional background:

Supplementary video conversation with Marjan Minnesma, Spring 2019.

Week 6 (Oct. 10):

5. Defending the Defenders: The Lives and Deaths of the Champions of Green Rights

Required reading and viewing:

Feature Interview: [Femke Wijdekop](#) (Netherlands) (1h:14); [Santiago Manuin Valera](#) (Awajun, Peru) (52 mins).

Watts, Jonathan (2019), "[Philippines is deadliest country for defenders of environment](#)," *The Guardian* (30 July).

Watts, Jonathan (2018), "[Nine activists defending the Earth from violent assault](#)" *The Guardian* (21 July).

Global Witness (2019), [Enemies of the State? How Governments and Business Silence Land and Environmental Defenders](#) (London, UK: Global Witness) (35 pages)

Klippensteins Barristers & Solicitors (2019), *Choc v Hudbay Minerals Inc. & Caal v Hudbay Minerals Inc.*, <http://www.chocversushudbay.com/> (read the main page and watch the embedded Defensora video).

Optional background:

Introduction to The Guardian's [Defenders](#) Project

Butt, Nathalie et al. 2019. The Supply Chain of Violence. *Nature Sustainability* 2: 742-747 (7 pages).

Unit 3. Expanding Green Rights

Week 7 (Oct. 17):

6. Rights of the Future, Part 1: *Juliana* and Atmospheric Trust Litigation

Special video guest (to be confirmed):

Mary Christina Wood (USA) is a law professor at the University of Oregon and originator of the theory and strategy of atmospheric trust litigation, which is the basis for dozens of lawsuits launched by minors across the United States.

Required reading and viewing:

Feature Interview: [Mary Christina Wood](#), USA (1h:07)

Wood, Mary Christina (2018), "[Atmospheric Trust Litigation: Securing a Constitutional Right to a Stable Climate System](#)," *Colorado Natural Resources, Energy & Environmental Law Review* 29: 321 (19 pages) (If direct link does not work, click [here](#) and navigate to the article).

Juliana v USA (2016) 217 F.Supp.3d 1224 (D. Oregon), excerpts (11 pages) (access via Canvas)

ENvironnement JEUnesse v Canada, motion for authorization of class action (Nov. 26, 2018) (unofficial English translation) (24 pages) (access via Canvas)

Optional background:

Supplementary Interviews: David Suzuki, Canada

Check out [this blog post](#) on The Conversation by Mary Christina Wood and Michael Blumm about the *Juliana* case, first posted in 2016 and updated in late 2018.

A propos of today's theme of the rights of future generations, Check out Pennsylvania public television's 2019 video special, "[Generations Yet to Come](#)," on Pennsylvania's venerable constitutional environmental right, enacted in 1971.

Week 8 (Oct. 24):

7. Rights of the Future, Part 2: From the *Oposa* Doctrine to Global Legal Mischief

Required reading and viewing:

Feature interview: [Antonio Oposa Jr.](#), Philippines (1h:15)

Oposa v Factoran (July 30, 1993, Philippines SC), excerpts (5 pages) (access via Canvas)

Houck, Oliver A. (2007), "[Light from the Trees: The Stories of Minors Oposa and the Russian Forest Cases](#)," *Georgetown International Environmental Law Review* 19: 321-373 (skip Part III, pages 345-372) (25 pages)

Oposa, Antonio Jr. 2017. *Shooting Stars and Dancing Fish: A Walk to the World We Want*. Cebu City, Philippines: Ramon Aboitiz Foundation. Read Foreword, pages 31-46, 54-65, 95-99, 109-114, 167-72, 206-210, 213-220 and any other parts that catch your eye (access via Canvas).

David Suzuki (2019), "[Is it time to let the kids vote?](#)" *Victoria Times-Colonist* (1 September).

Optional background:

Supplementary conversation with Tony Oposa, Spring 2019.

Week 9 (Oct. 31):

8. Rights of Nature and of Communities

Special video guest (to be confirmed):

Mari Margil (USA) is Associate Director of Mercersburg, Pennsylvania-based CELDF, where she runs the international program, working to advance the rights of nature.

Required reading and viewing:

Feature interview: [Mari Margil and Thomas Linzey](#) (USA) (1h:31)

Community Environmental Legal Defense Fund (2019), *Rights of Nature: Toledo, Ohio* (video) (5 minutes) (watch on [CELDF website](#) or [Youtube](#))

City of Toledo, Ohio (2019), Amendment to the Charter of the City of Toledo to enact a [Lake Erie Bill of Rights](#) (3 pages).

Brown, H. Claire (2019), "[How Ohio's Chamber of Commerce Killed an Anti-Pollution Bill of Rights](#)," *The Intercept* (29 August).

Community Environmental Legal Defense Fund (2019), *How We Work*, <https://celdf.org/celdf-services/> (read this page and any other pages on the CELDF website that catch your eye)

Boyd, David R. (2017), [The Rights of Nature: A Legal Revolution that Could Save the World](#) (Toronto: ECW), read chapter 7 (pp. 109-30) (21 pages).

Frazier, Reid (2018), "[Judge fines environmental attorneys \\$52,000 for 'frivolous' injection well suit](#)," *State Impact Pennsylvania* (12 January).

Optional background:

Boyd, David R. (2018), "[Recognizing the Rights of Nature: Lofty Rhetoric or Legal Revolution?](#)" *Natural Resources & the Environment* 32(4): 13-17 (5 pages).

Week 10 (Nov. 7)

9. Wild Law and the Rights of Nature

Special video guest (to be confirmed):

Cormac Cullinan (South Africa) is Director of South Africa's oldest specialist environmental law firm and founder of the Wild Law movement.

Required reading and viewing

Feature interviews: [Cormac Cullinan](#) (South Africa) (1h:03), [Pablo Solón](#) (Bolivia) (0h:48)

Boyd, David R. (2017), [The Rights of Nature: A Legal Revolution that Could Save the World](#) (Toronto: ECW), read chapter 10 (pp. 165-84), 12 (pp. 206-18) (26 pages).

Pontin, Ben (2007), “Wild Law: Sustainable Development and Beyond?” and Cullinan, Cormac (2007), “Sowing Wild Law,” *Environmental Law & Management* 19: 59-62 and 71-76 (10 pages) (access via Canvas).

Cullinan, Cormac (No date; circa 2008), “If Nature Had Rights,” *Orion Magazine*, <https://orionmagazine.org/article/if-nature-had-rights/> (6 pages)

Cullinan, Cormac (No date; circa 2008), “Extracts from Wild Law,” *Orion Magazine*, <https://orionmagazine.org/article/extracts-from-wild-law/> (4 pages)

Solón, Pablo (2018), *Vivir Bien: Old Cosmovisions and New Paradigms*, Great Transition Initiative (February) (13 pages)

Houck, Oliver A. (2017), “Noah's Second Voyage: The Rights of Nature as Law,” *Tulane Environmental Law Journal* 31: 1-50 (50 pages, but ignore the footnotes, which take up half the length).

Optional background

Supplementary Interviews: Mumta Ito (Scotland), Alberto Acosta and Natalia Green (Ecuador).

Week 11 (Nov 14):

10. Green Rights and the Climate Crisis

Special guest (to be confirmed):

David Boyd (Canada) is a professor in UBC's Institute for Resources, Environment and Sustainability and the UN Special Rapporteur on Human Rights and the Environment.

Required reading and viewing:

Feature Interview: David Boyd (if you haven't watched it yet)

Report of the Special Rapporteur on Human Rights and the Environment to the United Nations General Assembly on Environmental Rights and Climate Change (to be distributed).

Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Doc A/73/188 (19 July 2018) (19 pages) (access via Canvas).

Optional background:

Supplementary video conversation with David Boyd, Winter 2019.

Boyd, David R. (2015), *The Optimistic Environmentalist: Progressing Towards a Greener Future* (Toronto: ECW).

Unit 4. Transcending Green Rights

Week 12 (Nov. 21):

11. New Law for the Anthropocene: Making Ecocide a Crime

Required reading and viewing:

Feature Interview: [Polly Higgins](#), UK (1h:08)

Higgins, Polly, Damien Short and Nigel South (2013), "[Protecting the Planet: A Proposal for a Law of Ecocide](#)," *Crime, Law & Social Change* 59:251–266 (16 pages).

Mehta, Sailesh and Prisca Merz (2015), "[Ecocide – A New Crime Against Peace?](#)" *Environmental Law Review* 17(1): 3–7 (5 pages).

Kalkandelen, Kübra and Darren O'Byrne (2017), "[On Ecocide: Toward a Conceptual Framework](#)," *Distinktion: Journal of Social Theory*, 18:3, 333-349 (Read only Parts 1 & 3, pp 333-336 and 341-342) (6 pages)

Lindgren, Tim (2018), "[Ecocide, Genocide and the Disregard of Alternative Life-Systems](#)," *International Journal of Human Rights*, 22:4, 525-549 (Read only pp 536-44, starting at the heading "When some life-systems matter more than others") (9 pages)

Optional background:

Supplementary Interview: [Maxine Burkett](#), USA (47 mins)

Week 13:

12. Indigenous Laws and Green Rights

Required reading and viewing:

Feature Interviews: [John Borrows](#), Anishnaabe (Canada) (1h:07); [Edmund Metatawabin](#) (Cree, Canada) (1h:38); [Albert Marshall](#) (Mi'kmaw, Canada) (1h:09)

Borrows, John (2002), *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press), pp. 29-55 (26 pages) (access via Canvas).

Borrows, John (2019), *Law's Indigenous Ethics* (Toronto: University of Toronto Press) (excerpts to be determined).

McMillan, L. Jane (2018), *Truth and Conviction: Donald Marshall Jr. and the Mi'kmaw Quest for Justice* (Vancouver: UBC Press), excerpts (23 pages) (access via Canvas).

Napoleon, Val (2016), "What is Indigenous Law? A Small Discussion," Indigenous Law Research Unit, University of Victoria, <https://www.uvic.ca/law/about/indigenous/indigenoulawresearchunit/index.php> (4 pages).

Optional background:

Supplementary conversation with John Borrows, Spring 2019.

Supplementary Interview: Larry Kowalchuk, Canada

Borrows, John (2010), *Drawing Out Law: A Spirit's Guide* (Toronto: University of Toronto Press).

Borrows, John (2010), *Canada's Indigenous Constitution* (Toronto: University of Toronto Press).

Borrows, Lindsay Keegitah (2018), *Otter's Journey through Indigenous Language and Law* (Vancouver: UBC Press).