

Sustainability Law and Policy | SSM1070H

Winter 2022

Professor: Laurel Besco

Schedule: Tuesday 9am-12pm EST

** note, there is only one day where the entire timeframe will be used for an in-class lecture, all other weeks materials can be viewed in advance and the live portion of the class will happen from **10:30am-12pm EST** (online until at least January 31, 2022 – details below)**

Location: Zoom

Meeting ID: 889 7915 6460

Passcode: 508603

Only authenticated users will be granted access – please use your utoronto zoom ID

Office Hours: Tuesday 1pm-2:30pm

Meeting ID: 867 8719 1824

Passcode: 218630

Contact: laurel.besco@utoronto.ca

Course website: Quercus

Teaching Assistant: Jae Page (j.page@mail.utoronto.ca)

Course Calendar Description

The course is designed to provide students with a basic understanding of various laws and policies related to the environmental, social, and economic pillars of sustainability that have relevance to a practicing professional sustainability manager. The course commences with an overview of the structure of the Canadian legal system and then divides in two parts. The first part focuses on environmental law and policies. This part covers international agreements, such as Global Programme of Action for Sustainable Development (Agenda-21), Kyoto Protocol, Biodiversity Convention, and Future We Want (outcome of Rio+20); Canadian laws, such as Environmental Protection Act, Federal Sustainable Development Act, Federal Sustainable Development Strategy and Bill C-45; and Ontario's laws such as Environmental Protection Act, Environmental Assessment Act, Green Energy Act, and Open for Business Act. The second part focuses on laws related to social and economic pillars and covers the Canadian laws of torts, contracts, sole proprietorship, partnerships, corporations, bankruptcy

Course Details

This course has two main goals: the first is to introduce students to the legal frameworks and policy contexts within which sustainability law operates. The focus will be on the Canadian legal system, but we will also look at international frameworks. The second goal of this course is to give students an idea

of the variety of ways which different sustainability challenges can, and have been, addressed by law and policy. We will look at issues including resource use, climate change, biodiversity, agriculture, and others. Students should finish the course with a good overview of how legal frameworks can address different sustainability challenges.

Learning Outcomes

This course is designed to get students to think about sustainability problems and potential solutions and how these play out in Canadian and international legal and regulatory frameworks. By the end of this course students will understand:

- Key aspects of Canadian and international law as they relate to sustainability;
- Some key concepts related to Canadian business and the law;
- A variety of different law and policy instruments and tools available to decision makers; and
- The ways that many sustainability issues are currently addressed in the context of law and policy.

Teaching Methods

Due to the ongoing COVID pandemic and the need for this course to be taught on Zoom until at least January 31, 2022, course material will be delivered in three ways:

1. Pre-recorded lectures – these will be available prior to class each week and students may choose to watch them at any time so long as they have been viewed *before* the weekly discussion (details on this below).
2. Podcasts/Interviews with experts – there are several weeks where podcasts or interviews with my colleagues are assigned as course content. These are excellent at getting more detail on the topic of the week and they also need to be reviewed *before* the weekly discussion.
3. In-class discussion – this is the only ‘live’ part of class and will occur at the end of the scheduled class time (Tuesday’s from 10:30am-12pm EST). For at least the month of January, this will happen virtually on Zoom (details above). Further details on whether this will switch to in-person will be provided later in the term. Attendance is mandatory and you are expected to participate fully. This is an opportunity to ask questions and discuss the content in the pre-recorded lectures, readings, and other materials. Discussion questions may be provided in advance, depending on the topic for the week.

The concepts and ideas presented in the readings, pre-recorded lectures, and additional material posted online are interrelated in important ways, and therefore students must be prepared to review and participate each week in the assigned readings, recordings, and in-class discussion.

A variety of evaluation methods will also be used throughout this course in an attempt to account for different learning styles. You will, of course, be required to complete all assignments and examinations, no matter your preference, but it is the hope of the instructor that each student will find they are more comfortable with at least one of the methods of evaluation and therefore will feel more confident about their knowledge of the course material. A more complete description of these evaluations is provided below in the section entitled *Course Evaluation*.

Required Materials:

Paul Muldoon, Alastair R. Lucas, Robert Gibson & Peter Pickfield, [*An Introduction to Environmental Law and Policy in Canada*](#), 3rd ed. (Toronto: Edmond Publishing, 2019) [Muldoon Text]

You will also likely need to use one of the following legal research books throughout the term (in-class and for assignments). It is up to you whether you choose to purchase a copy or to use those in the library. The bookstore has both books as does the library.

Maureen F. Fitzgerald & Susan Barker, *The Ultimate Guide to Canadian Legal Research*, 4th ed. (Toronto: LexisNexis, 2016).

Arlene Blatt & JoAnn Kurtz, *Legal Research: Step by Step*, 5th ed. (Toronto: Edmond Publishing, 2020).

Additional readings are listed below as well as under the 'Library Reading List' tab on Quercus.

Course Evaluation

<i>Evaluation</i>	<i>Percentage of Final Grade</i>
Participation and Discussion Posts	15%
Current Issues Paper/Analysis	15%
Policy Brief	25%
Take Home Final	35%
Combined Case Competition	10%

Participation and Discussion Posts (15%) **Throughout term**

This is a graduate-level course and therefore the expectation is that you are fully prepared for class and are willing and able to contribute to discussion based upon the course content. Attendance at the 1.5 hour class discussion is mandatory.

In addition, students are expected to post a reflection, question, or comment related to the topic of the week by Monday at 5pm EST. These posts will help students solidify their knowledge of content and will serve as jumping off points for the in-class discussions held each Tuesday. Posts must be respectful, thoughtful, and reflect clear thought and analysis of the week's content.

Finally, part of your grade is associated with your professional conduct. You are enrolled in a professional master's program and therefore it is important that you conduct yourself in class as you would in any other work environment. As such, you are expected to be present in every class, be on

time, refrain from using phones or laptops for anything other than class-related activities, and generally behave in a professional way.

Current Issues Analysis (15 %) **Due February 8**

Recently a number of significant events related to sustainability law and policy have occurred both in Canada and abroad. This assignment is an opportunity for you to take a deep dive into one of these developments. The assignment requires you to pick one relevant (to this course) legal happening in the past two calendar years (2020 or 2021) and to conduct and present a legal analysis of what happened and why as well as the impact this development has had/will have on society, the economy, and the environment. Further details will be provided in the first couple weeks of class.

On a related note, you should make a habit of reading the news on a daily basis – the world of sustainability law and policy is constantly changing, so staying up to date is important. We expect a number of significant developments to happen during the course, so you need to be familiar with current issues. The University of Toronto Library has subscriptions to many newspapers that will help you to stay up-to-date: for example, you can access the Globe and Mail [here](#).

Policy Brief Assignment (25%) **March 29**

You will submit a policy brief on an issue related to sustainability law and policy of your choosing. Topics must be confirmed by completing the ‘survey’ on Quercus prior to submission of the full assignment. You will be providing recommendations to a senior decision maker in the federal or provincial government responsible for the issue area that you have chosen to investigate. In certain situations, and with the permission of the student, these recommendations (in the form of the policy brief) will be passed along to actual government decision makers. More details will be provided throughout the term.

Case Competition (10%) **March 9**

A case competition in which students are expected to apply the concepts, theories etc., from different courses. The case is a brief description of a real situation of a given organization and students have to suggest some solutions for the challenges being proposed in the case. Students prepare the case in a group and all groups make presentations to all faculty members and some representatives from the host organization.

Take Home Final (35%) **Available on Quercus at 5pm EST on April 5 and due to Quercus by 12pm EST on April 7**

The final examination, in the form of a take home exam, forms a significant part of your final grade so it is important that you prepare for it as you would an exam scheduled in class or during the exam period. The take home is to be done independently. The exam will be long answer/essay format. Further details will be provided in class and closer to the exam period.

The exam will be graded largely based on content and demonstrated understanding as well as the use of ideas presented in class and demonstrated discussion which builds upon them. Style and organization will also be considered.

The exam will be available at 5pm on April 5 and must be submitted to Quercus by 12pm on April 7. As this is a final exam, a late submission will result in a grade of zero, so be sure you have plenty of time to upload your submission properly.

Academic Misconduct

Students should note that copying, plagiarizing, or other forms of academic misconduct will not be tolerated. Any student caught engaging in such activities will be subject to academic discipline ranging from a mark of zero on the assignment, test or examination to dismissal from the university as outlined in the academic handbook. Any student abetting or otherwise assisting in such misconduct will also be subject to academic penalties.

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>). If you have an objection to the use of Turnitin for the submission of your work, please make an appointment to speak personally with the Course Instructor to discuss alternative arrangements.

Late Penalties & Extensions

As per the MScSM program policy.

Course Drop Deadline

For information purposes, the Final date to drop full-year and Winter session courses without academic penalty is February 20, 2022. Please note that MScSM Program students must have the written permission of the Program Director to drop a course. Please consult with the Program Registrar if you are considering dropping a course.

Course Calendar:

<u>Class Date</u>	<u>Subject Matter</u>	<u>Required Preparation</u>	<u>Exams/ Assignments/Notes</u>
January 11	Course overview & expectations Introduction to Legal Research	<u>Recorded Lecture:</u> 1. overview of course 2. introduction to legal research <u>Discussion Post Topic:</u> 1. Legal research	
January 18	Overview of Canadian Government Branches Key Concepts and the Evolution of Canadian Environmental Law	<u>Recorded Lecture:</u> 1. Canadian environmental law introduction 2. Recorded chat with Dr. Alison Smith on Canadian Government <u>Reading:</u> 1. Muldoon Text: Chapter 1 2. Chapter 2 in Andrea Olive, The Canadian Environment in Political Context , 2 nd ed. (Toronto, ON: University of Toronto Press, 2019) (pp3-42) <u>Discussion Post Topic:</u> 1. Canadian government and the complexity of environmental challenges	Brief introduction from Andrew Nicholson (librarian)
January 25	The Constitution and the Division of Powers	<u>Recorded Lecture:</u> 1. The Canadian constitution, the division of powers, and jurisdiction <u>Reading:</u> 1. Muldoon Text: Chapter 2 (pp. 33-46) 2. Chapter 2 in Dorothy DuPlessis, Steven Enman, Shannon O'Byrne & Philip King, <i>Canadian Business and the Law</i> , 6 th ed. (Toronto: Nelson Education Ltd, 2017) 3. <i>References re Greenhouse Gas Pollution Pricing Act</i> (you do not have to read the entire thing, but you should be familiar with the key aspects of the decision) <u>Discussion Post Topic:</u> 1. Which level of government is best suited to dealing with sustainability challenges?	
February 1	The Structure of Canadian Courts Tort Law & Toxic Torts	<u>Recorded Lecture:</u> 1. Canada's Court System 2. Introduction to Tort Law 3. Recorded conversation with Professor Heather McLeod-Kilmurray (uOttawa) <u>Reading:</u> 1. Muldoon Text: Chapter 2 (pp. 47-51) & Chapter 10 2. Chapter 10 in Dorothy DuPlessis, Steven Enman, Shannon O'Byrne & Philip King, <i>Canadian Business and</i>	

		<p><i>the Law</i>, 6th ed. (Toronto: Nelson Education Ltd, 2017) 3. Chapter 1 in Linda Collins & Heather McLeod-Kilmurray, <i>The Canadian Law of Toxic Torts</i> (Aurora, ON: Canada Law Book, 2014).</p> <p><u>Discussion Post Topic:</u> 1. Do you believe pursuing toxic tort cases is something that will make a difference in achieving sustainability goals?</p>	
February 8	The Role of Indigenous Communities	<p><i>There are no recorded lectures for you to listen to today, but you will be expected to attend class during the 9am-12pm class time period as Annie Thuan will be giving a live guest lecture on zoom. There is also no requirement for posting on the discussion board this week, but you should attend Annie's presentation prepared to ask insightful questions.</i></p> <p><u>Reading:</u> 1. Muldoon Chapter 3 2. Haida Nation v. British Columbia (Minister of Forests)</p>	<p>GUEST LECTURE DURING CLASSTIME: Annie Thuan</p> <p>Current Issues Analysis Assignment Due to Quercus by 8:59am EST</p>
February 15	International Law	<p><u>Recorded Lecture:</u> 1. What is international law? 2. The relationship between international and domestic law</p> <p><u>Reading:</u> 1. Muldoon Text: Chapter 4 2. Blodgett, M. S., Hunter, R., & Lozada, H. R. (2008). A primer on international environmental law: Sustainability as principle of international law and custom. <i>ILSA Journal of International & Comparative Law</i>, 15(1), 15-32.</p> <p><u>Discussion Post Topic:</u> 1. What role does international law play in addressing sustainability challenges?</p>	
February 22	<i>Reading Week – No Classes</i>		
March 1	<p>Business Perspectives</p> <p>Legal Toolbox</p>	<p><u>Recorded Lecture:</u> 1. The legal structures of business 2. Corporate veil and liability 3. The legal and regulatory toolbox</p> <p><u>Reading:</u> 1. Chapter 14 in Dorothy DuPlessis, Steven Enman, Shannon O'Byrne & Philip King, <i>Canadian Business and the Law</i>, 6th ed. (Toronto: Nelson Education Ltd, 2017) 2. Raul Pacheco-Vega (2020) Environmental regulation, governance, and policy instruments, 20 years after the stick, carrot, and sermon typology, <i>Journal of Environmental Policy</i></p>	

		<p>& Planning, 22:5, 620-635, DOI: 10.1080/1523908X.2020.1792862</p> <p><u>Discussion Post Topic:</u> 1. Discuss the relationship between the corporate veil and liability for environmental harm</p> <p>OR</p> <p>What is your favourite legal instrument and what sustainability challenge do you feel it is best suited to help address?</p>	
March 8	Municipal Perspectives	<p><u>Recorded Lecture:</u> 1. Recorded conversation with Professor Sara Hughes (University of Michigan) 2. Recorded conversation with Anél Du Plessis (North-West University)</p> <p><u>Reading:</u> 1. Muldoon Text: Chapter 8 (pp. 188-202) 2. Schwartz, Elizabeth. (2016). Developing Green Cities: Explaining Variation in Canadian Green Building Policies. Canadian Journal of Political Science, 49(4), 621-641. 3. Du Plessis, A. (2017) The readiness of South African law and policy for the pursuit of Sustainable Development Goal 11 <i>Law, Democracy and Development</i> 21, 239.</p> <p><u>Discussion Post Topic:</u> <u>1.</u> Do you think cities can take the lead on sustainability issues? Should they have to?</p>	Case Competition Week
March 15	Environmental Assessment Power and Participation in Law	<p><u>Recorded Lecture:</u> 1. The evolution of environmental assessment law and policy 2. The role of public participation</p> <p><u>Reading:</u> 1. Muldoon Text: Chapter 7 2. Muldinar, P. (2020) Polycentric to monocentric governance: Power dynamics in Lake Victoria's fisheries. <i>Environmental Policy and Governance</i> 31:302–315. 3. MiningWatch Canada v. Canada (Fisheries and Oceans)</p> <p><u>Discussion Post Topic:</u> 1. Do we need environmental assessment? If so, what role should it play in achieving sustainability goals?</p>	
March 22	Resources	<p><u>Recorded Lecture:</u> 1. Energy and law in Canada 2. Recorded conversation with Pierre Cloutier de Repentigny on the complexities of aquaculture law and policy</p>	

		<p><u>Readings:</u></p> <ol style="list-style-type: none"> Muldoon Text: Chapter 6 Cox, S. (2020). Fish out of water: How B.C.'s salmon farmers fell behind the curve of sustainable, land-based aquaculture. <i>The Narwhal</i> https://thenarwhal.ca/bc-salmon-farming-transition/ <p><u>Discussion Post Topic:</u></p> <ol style="list-style-type: none"> What new areas of resource extraction/use are going to challenge sustainability law and policy approaches? 	
March 29	Climate Change	<p><u>Recorded Lecture:</u></p> <ol style="list-style-type: none"> The current state of climate change law and policy in Canada Watch the Ted Talk by Christina Figueres https://www.ted.com/talks/christiana_figueres_the_inside_story_of_the_paris_climate_agreement?utm_campaign=tedspread&utm_medium=referral&utm_source=tedcomshare <p><u>Readings:</u></p> <ol style="list-style-type: none"> Chalifour, Nathalie. (2016). Canadian Climate Federalism: Parliament's Ample Constitutional Authority to Legislate GHG Emissions through Regulations, a National Cap and Trade Program, or a National Carbon Tax. <i>National Journal of Constitutional Law</i>, 36, 331-407. Investigate topics in Volume I of the Edward Elgar Environmental Law Encyclopedia. https://www-elgaronline-com.myaccess.library.utoronto.ca/view/nlm-book/9781786436986/b-9781783477616-I_27.xml# <p><u>Discussion Post Topic:</u></p> <ol style="list-style-type: none"> How would you design law and policy to deal with climate change? What level (international, national, subnational, municipal, other) would be your focus? 	Policy Brief Due to Quercus by 8:59am EST
April 5	Environmental Justice, Judicial Education & The Charter	<p><u>Recorded Lecture:</u></p> <ol style="list-style-type: none"> Environmental and Climate Justice in the courts Judicial Education <p><u>Readings:</u></p> <ol style="list-style-type: none"> Besco, Laurel. (2018). Judicial Education for Sustainability. <i>McGill Journal of Sustainable Development Law</i>, 14(1). Time Person of the Year for 2019 Profile of Greta Thunberg https://search-ebSCOhost-com.myaccess.library.utoronto.ca/login.aspx?direct=true&db=buh&AN=140308599&site=ehost-live <p><u>Discussion post:</u></p> <ol style="list-style-type: none"> What role do you think protests and youth court cases will have in shaping environmental and sustainability 	

		action by governments?	
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Expectations:

You are students in a professional Master's program and as such the expectation is that you act in a manner befitting a professional. Treat this class time as you would a meeting in a professional environment (be prompt, turn off your cell phone, refrain from using social media, etc.). Treat the course requirements as you would tasks in a job. If you do this, you will not only be more likely to succeed in the course, you will also be more prepared to enter the work force!

As your professor, students can expect:

- That I will arrive on time and the class will begin on schedule;
- That I will be prepared for class, and if I do not have the answer to your question on the spot, I will follow up with you;
- That I will be clear in the expectations for the weekly in-class activities, midterm, article review assignment and take home exam;
- That I will be available for consultation;
- That I will inform you with as much time as possible if there needs to be an alteration to the course timetable/schedule (due to cancelled classes etc);
- That I will provide feedback on assignments and exams; and
- That I will be open to feedback and suggestions for course improvements.

As students, you are expected:

- To be on time for class and to attend regularly;
- To come to class prepared to participate in discussions and in-class exercises and to have completed the assigned readings;
- To complete your assignments and exams using original research and in a manner conducive to academic integrity;
- To turn in assignments and exams on time; and
- To be respectful of the instructor and other students in the class when they are speaking and to refrain from watching videos and/or using YouTube, Facebook and other non-related websites during class

Additional Services:

Being a student can be overwhelming at times and occasionally you may need a helping hand. The University has many services to help you through more difficult times – take a minute to become familiar with them.

Student Affairs & Services: <https://www.utm.utoronto.ca/sas/student-affairs-services>

Notice of video recording and sharing (Download and re-use prohibited)

This course, including your participation, will be recorded on video and will be available to students in the course for viewing remotely and after each session. Course videos and materials belong to your instructor, the University, and/or other sources depending on the specific facts of each situation, and are protected by copyright. Do not download, copy, or share any course or student materials or videos without the explicit permission of the instructor. For questions about recording and use of videos in which you appear please contact your instructor