

## Sustainability Law and Policy | SSM1070H

Winter 2019

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**Professor:** Laurel Besco  
**Schedule:** Thursday 9am-12pm  
**Location:** K132  
**Office Hours:** DV 3293 – Wednesday 1-2:30; or by appointment  
**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*

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### 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**

This course is taught based on the principle that not all students learn and participate in the same way and therefore the instructor will make an effort to use a variety of teaching styles (i.e. lecturing, experiential learning through group discussions and exercises, visual presentations) throughout the term. When in-class exercises are presented, students should make every effort to engage in this type of learning and take a lead role in integrating what has been learned to spur discussion and develop creative solutions.

A variety of evaluation methods will also be used throughout this course in an attempt to, again, 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\*](#), 2<sup>nd</sup> ed. (Toronto: Edmond Publishing, 2015) [Muldoon Text]  
**Course Reserves KE3619 .I68 2015**

You will also be required 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 UTM library reserve desk.

Maureen F. Fitzgerald & Susan Barker, *The Ultimate Guide to Canadian Legal Research*, 3<sup>rd</sup> ed. (Toronto: LexisNexis, 2016).

**Course Reserves KE250 .F572 2016**

Margaret Kerr, JoAnn Kurtz, & Arlene Blatt, *Legal Research: Step by Step*, 4<sup>th</sup> ed. (Toronto: Edmond Publishing, 2018).

**Course Reserves KE250 .K477 2018**

**Course Evaluation**

<i>Evaluation</i>	<i>Percentage of Final Grade</i>
Weekly Reading, Participation & Professionalism	15%
Case Brief Presentation	15%
Policy Brief	15%
Midterm Examination	25%
Take Home Final	30%

***Weekly Reading, Participation & Professionalism (15%) Throughout term***

The concepts and ideas presented in the readings and during lecture are interrelated in important ways, and therefore completion of both readings and regular class attendance is necessary to fully absorb the course content. You must ensure you have done the readings prior to class!

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 readings. If discussion in class is slow, you can expect to be called upon from time to time for your thoughts on a topic or reading.

You should also 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](#).

Finally, part of your grade is associated with your professional conduct. You are enrolled in a professional masters 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 in time, refrain from using phones or laptops for anything other than class-related activities, and generally behave in a professional way.

***Case Brief Presentation (15%) As assigned, throughout term***

The case brief assignment is intended to help you learn how to read and understand a court case. There is both a written and oral component to this course component. As a group, you will be required to read a case, prepare a written brief, and give a 10-minute presentation to the class. In addition, prior to submission/presentation, you are required to meet with your TA (Jae Page) to ensure your group has correctly interpreted your assigned case. This meeting will form part of your evaluation (i.e. if you come to your meeting with Jae without any idea of what the case is about/your analysis is incorrect and she needs to spend a lot of time guiding your group, your overall grade on this assignment will be impacted).

Jae has dedicated a block of time each week where you should plan to meet with her as a group. The time is Monday between 12-4. Be sure you confirm with her well in advance, what half hour period she

can expect to meet with you. If there is some unavoidable conflict with this time, you should contact Jae directly to find an alternative, but that course of action should be only used as a last resort.

In writing a case brief, one's task is to essentially summarize a court ruling. In many ways a *case brief* can be compared to a *book report*, as it is meant to summarize the key aspects of a larger body of information. Your written submission should be essentially the same as your presentation. Remember, other members of your class have not read your case, and you should provide them with enough information about the case and its significance to the course/your specific week, that they could answer an exam question about it.

Cases and group assignments will be given out the first week of class. The brief should make use of subheadings and be between 800-1000 words (approximately 2 pages, single spaced). The presentation should be 10 minutes in length.

#### ***Policy Brief Assignment (15%) March 21***

You will submit a policy brief on an issue related to sustainability law and policy of your choosing. Topics must be confirmed with Professor Besco prior to submission. 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.

#### ***Midterm Examination (25%) February 14***

The midterm exam will be comprised of multiple choice, true and false, and short answer questions. It will cover content from weeks one to six (including content covered on February 13 prior to the midterm). It will be written in the second part of class.

#### ***Take Home Final (30%) Distributed April 4, Due April 6***

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 distributed at the end of research day (April 5) and must be submitted to Quercus by 9am on April 5. 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 Turnitin.com 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 Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site. 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 Monday, February 25. 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 Reading</u>	<u>Exams/ Assignments/Notes</u>
January 10	<p>Course overview &amp; expectations</p> <p>Context &amp; challenges for sustainability law and policy</p> <p>Introduction to Legal Research</p>	<p>Muldoon Text: Chapter 3</p> <p>Chapter 1 in Jamie Benidickson, <a href="#">Environmental Law</a>, 4<sup>th</sup> ed. (Toronto, ON: Irwin Law, 2013).</p>	<p><b>Bring a laptop/tablet to class</b></p> <p><b>Andrew Nicholson on Legal Research</b></p>
January 17	<p>The Canadian Legal Framework and The Structure of Environmental Protection in Canada</p> <p>The Law and Policy Toolbox</p>	<p>Muldoon Text: Chapter 2, 7</p> <p>Chapter 2 in Dorothy DuPlessis, Steven Enman, Shannon O’Byrne &amp; Philip King, <i>Canadian Business and the Law</i>, 6<sup>th</sup> ed. (Toronto: Nelson Education Ltd, 2017)</p> <p><a href="#">R. v. Crown Zellerbach Canada Ltd.</a> (read so we can discuss as a class)</p>	
January 24	<p>Courts, Tribunals &amp; Dispute Resolution</p> <p>Torts and Toxic Torts</p>	<p>Muldoon Text: Chapter 4, 13</p> <p>Chapter 10 in Dorothy DuPlessis, Steven Enman, Shannon O’Byrne &amp; Philip King, <i>Canadian Business and the Law</i>, 6<sup>th</sup> ed. (Toronto: Nelson Education Ltd, 2017)</p> <p>Chapter 1 in Linda Collins &amp; Heather McLeod-Kilmurray, <i>The Canadian Law of Toxic Torts</i> (Aurora, ON: Canada Law Book, 2014).</p>	<p>Case Presentation: <i>Hollick v. Toronto (City)</i></p>
January 31	<p>Business and sustainability law and policy</p>	<p>Muldoon Text: Chapter 12 (pp. 297-301)</p> <p>Chapter 5 &amp; 14 (pp. 320-339 in Dorothy DuPlessis, Steven Enman, Shannon O’Byrne &amp; Philip King, <i>Canadian Business and the Law</i>, 6<sup>th</sup> ed. (Toronto: Nelson Education Ltd, 2017).</p> <p>Richardson, B. (2008). <a href="#">Socially Responsible Investment Law: Regulating the Unseen Polluters</a>. New York: Oxford University Press. (pp. 1-12).</p>	<p>Case Presentation: <i>R v. Bata Industries</i></p> <p><i>Newfoundland and Labrador v. AbitibiBowater Inc.</i></p>
February 7	<p>The Role of Indigenous Communities</p>	<p>Muldoon Chapter 5</p> <p>Chapter 9 in Andrea Olive, <a href="#">The Canadian Environment in Political Context</a> (Toronto, ON: University of Toronto Press, 2016).</p> <p>Muldoon Text: Chapter 2 (pp. 41), Chapter 5</p>	<p><b>Guest Lecture: Minh Do</b></p> <p>Case Presentation: <i>Mikisew Cree First Nation v. Canada (Governor General in Council)</i></p>

			<b>Andrew Nicholson – research for your policy brief</b>
February 14	Urban perspectives	Kammen, Daniel & Sunter, Deborah. (2016). <a href="#">City-integrated renewable energy for urban sustainability</a> . <i>Science</i> , 352(6288), 922-928.	<b>Midterm Exam (beginning at 10am)</b>
February 21	<i>Reading Week – No Classes</i>		
February 28	International Law	Muldoon Text: Chapter 6  Doelle, M. & Tollefson, C. (2009). <i>Environmental Law: Cases and Materials</i> (chapter 1, pp. 1-8 and 25-30)	Case Presentation: <i>114957 Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town)</i>
March 7	Extended Producer Responsibility	Gupt, Yamini & Sahay, Samraj. (2015). <a href="#">Review of extended producer responsibility: A case study approach</a> . <i>Waste Management &amp; Research</i> , 33(7), 595-611.	<b>Guest Lecture: Jay Illingworth</b>
March 14	Environmental Assessment	Muldoon Text: Chapter 10  Fidler, Courtney & Noble, Bram. (2012). <a href="#">Advancing strategic environmental assessment in the offshore oil and gas sector: Lessons from Norway, Canada, and the United Kingdom</a> . <i>Environmental Impact Assessment Review</i> , 34, 12-21.	Case Presentation 1: <i>Canadian Wildlife Federation Inc. v. Canada (Minister of the Environment)</i>  Case Presentation 2: <i>MiningWatch Canada v. Canada (Fisheries and Oceans)</i>
March 21	Natural Resources (Mining, Aggregate, Forestry)	Howlett, Michael & Kinney, Nigel. (2016). The current (post-staples?) state of Canada's resource industries. In Debora VanNijnatten, ed. <i>Canadian environmental policy and politics: the challenges of austerity and ambivalence</i> . Don Mills: Oxford University Press.	<b>Policy Brief Due</b>  Case Presentation: <i>British Columbia v. Canadian Forest Products Ltd.</i>
March 28	Environmental Justice, Judicial Education & The Charter	Besco, Laurel. (2018). <a href="#">Judicial Education for Sustainability</a> . <i>McGill Journal of Sustainable Development Law</i> , 14(1).  Lucky, Anthony. (2018). <a href="#">Diversity in Judgments: The Role of the Courts in Promoting Biodiversity</a> . <i>Journal of International Wildlife Law &amp; Policy</i> , 21(1) 1-10	Case Presentation: <i>Vellore Citizens Welfare Forum v. Union of India and Others</i>  (Writ Petition (C) No. 914 of 1991)
<b>TUESDAY, APRIL 2 @ 9AM</b>	Energy and Climate Change	Chalifour, Nathalie. (2016). <a href="#">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</a> . <i>National Journal of Constitutional Law</i> , 36, 331-407.	Case Presentation: <i>Massachusetts v. Environmental Protection Agency</i>

**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>