

UFSC - Short graduate seminar course - *From environmental to ecological law*

Dr. Geoffrey Garver

April 18 – May 10, 2022

This seminar course is an introduction to the emerging field of ecological law. The need for ecologically-bounded, systems-based law is summarized in the 2016 *Oslo Manifesto* (<https://www.elga.world/oslo-manifesto/>). With regard to shortcomings of environmental law, the manifesto asserts:

Environmental law is rooted in modern Western law with its origins in religious anthropocentrism, Cartesian dualism, philosophical individualism and ethical utilitarianism. In our ecological age, this worldview is out-dated and counterproductive, yet it continues to dominate the way environmental laws are conceived and interpreted. Most notably, nature is perceived as “the other” overlooking ecological interdependencies and human-nature interrelations.

By contrast:

The ecological approach to law is based on ecocentrism, holism, and intra-/intergenerational and interspecies justice. From this perspective, or worldview, the law will recognise ecological interdependencies and no longer favour humans over nature and individual rights over collective responsibilities. Essentially, ecological law internalizes the natural living conditions of human existence and makes them the basis of all law, including constitutions, human rights, property rights, corporate rights and state sovereignty.

The course is a seminar for 10-20 graduate students with three main sections:

- 1) The Problem: Problems with contemporary law and the need to move from environmental to ecological law
- 2) The Solution: Giving meaning and coherence to ecological law
- 3) Getting There: The challenge of the transition from environmental to ecological law

From environmental to ecological law was the theme of an international workshop Dr. Garver organized at the McGill Law Faculty in October 2017. Papers from this workshop were published in a special issue of the Vermont Law Review, which is a recommended reading source for the course.

Students in the course will be required to co-lead at least one discussion, to provide a brief oral reflection (10-15 minutes) on course readings at least once, and to propose a 1500-word research question on ecological law and governance with a list of at least 15 suggested sources. A reflection is an analysis or critique (NOT criticism!) of some aspect of the course readings, e.g. by highlighting and expanding on compelling aspects of one or more readings, discussing aspects of one or more readings that were not fully developed, noting and analyzing apparent conflicts or different perspectives (or reinforcements and resonance) within a reading or

between readings, noting additional issues or examples that resonate with a course theme based on the readings, etc.

The research question may be framed as either 1) a conceptual or theoretical topic or 2) an ecological law case study. In either case, the research question should relate to aspects of ecological law that could be refined or given more coherence through further research and information gathering. The written submission should include an explanation for the need for, importance of and anticipated applications of the proposed research.

Schedule

Class 1	<p>Day 1 - Introduction to the course (3 hours). Review of syllabus and discussion of key themes and course objectives. We will watch this video together during the class and discuss it: Massimiliano, M. 2017. The Failures of Environmental Law and the Shift to Ecological Law. https://youtu.be/1ta5sFtod6Y</p>
Class 2	<p>Day 2 – The problem (3 hours). Students will be introduced to the course and Dr. Garver will give a lecture on the shortcomings of contemporary law (including environmental law), followed by open discussion.</p> <p>Required reading:</p> <ol style="list-style-type: none"> 1. Oslo Manifesto (2016) https://www.elga.world/oslo-manifesto/ 2. Berry, T. (1999) <i>The Great Work: Our Way into the Future</i>. New York: Three Rivers Press (excerpt) 3. Capra, F. and U, Mattei (2015) <i>The Ecology of Law</i>. San Francisco: Berrett Koehler (excerpt) 4. Berry, W.(2008) Faustian Economics, <i>Harper’s Magazine</i> May 2008
Class 3	<p>Day 3 – The problem (3 hours). Dr. Garver will give another lecture on the limitations of contemporary law and selected students will give reflections on the readings below and lead a discussion.</p> <p>Required reading:</p> <ol style="list-style-type: none"> 1. Yang, T. and R. V. Percival (2009) The Emergence of Global Environmental Law, <i>Ecology Law Quarterly</i> 36: 615. 2. Garver, G. (2013) The Rule of Ecological Law: The Legal Complement to Degrowth Economics, <i>Sustainability</i> 5(1) 3. Rees, W. 2001. Globalization and sustainability: Conflict or convergence? <i>Bulletin of Science, Technology & Society</i> 22 <p>Recommended reading:</p> <ol style="list-style-type: none"> 4. Burdon, P. (2015) <i>Earth Jurisprudence</i>. New York: Routledge (excerpt)

<p>Class 4</p>	<p>Day 4 – The solution (3 hours). This class will focus on key themes and concepts within ecological law. Dr. Garver will give a lecture on how ecological law can overcome problems with contemporary law and selected students will give reflections on the readings and lead a discussion.</p> <p>Required reading:</p> <ol style="list-style-type: none"> 1. Cullinan, C. 2011. <i>Wild Law: A Manifesto for Earth Justice (2nd ed.)</i>. White River Junction VT: Chelsea Green (excerpt) 2. Steffen, W. et al. (2015) Planetary boundaries: Guiding human development on a changing planet. <i>Science</i> 347(6223): 1259885-1 - 1259885-10. 3. Kotze, L.J. and R.E. Kim (2020) Exploring the Analytical, Normative and Transformative Dimensions of Earth System Law. <i>Envtl. Policy and Law</i> 50: 457-470. <p>Recommended reading:</p> <ol style="list-style-type: none"> 1. Merchant, C. 2003. <i>Reinventing Eden: The Fate of Nature in Western Culture</i>. New York: Routledge. (excerpt)
<p>Class 5</p>	<p>Day 5 – The solution (3 hours). This class will take a close, critical look at rights of nature and their relation to ecological law. Dr. Iván Vargas Roncancio will give a lecture and selected students will give reflections on the readings and lead a discussion.</p> <p>Required reading:</p> <ol style="list-style-type: none"> 1. Burdon, P. and C. Williams (2016) Rights of nature: a constructive analysis. In <i>Research Handbook on Fundamental Concepts of Environmental Law (Douglas Fisher, ed.)</i>, pp 196-218. Northampton, MA: Edward Elgar 2. Burrows, J. (2010) <i>Canada’s Indigenous Constitution</i>. Toronto: University of Toronto Press. (excerpt) 3. Vargas Roncancio, I. D. (2017) Nomadic ecologies: Plants, embodied knowledge, and temporality in the Colombian Amazon. En: <i>Boletín de Antropología</i>. Universidad de Antioquia, Medellín, vol. 32, N.o 53, pp. 255 - 276. https://www.redalyc.org/pdf/557/55750078014.pdf OR Vargas Roncancio, I.D. (2021) Conjuring sentient beings and relations in the law: rights of nature and a comparative praxis of legal cosmologies in Latin America, in Anker, K. et al., eds, <i>From Environmental to Ecological Law</i>. New York: Routledge. 4. Chapron, G. et al. (2019) A rights revolution for nature. <i>Science</i> 363(6434) : 1392-1393. <p>Recommended reading:</p> <ol style="list-style-type: none"> 5. Anker, K. (2017). Law as Forest: Eco-Logic, Stories and Spirits in Indigenous Jurisprudence. <i>Law Text Culture</i> 21: 191-213.

	<p>6. Yelkotte, R (2016) Listening to Law. Windsor Yearbook of Access to Justice, 33(1): 47-64.</p>
<p>Class 6</p>	<p>Day 6 – Transition (3 hours) Dr. Garver will give a lecture on the challenges of the transition from environmental to ecological law and selected students will give reflections on the readings and lead a discussion.</p> <p>Required reading:</p> <ol style="list-style-type: none"> 1. Garver, G. (2019) A Systems-based Tool for Transitioning to Law for a Mutually Enhancing Human-Earth Relationship. <i>Ecological Economics</i> 157: 165-174. 2. Kim, R. E., and K. Bosselmann (2013) International Environmental Law in the Anthropocene: Towards a Purposive System of Multilateral Environmental Agreements. <i>Transnational Environmental Law</i> 2: 285-309 3. Häyhä, T. et al. (2016) From Planetary Boundaries to national fair shares of the global safe operating space – How can the scales be bridged? <i>Global Environmental Change</i> 40: 60-72. 4. Maloney, M. (2021) Practical pathways to ecological law: Greenprints and a bioregional, regenerative governance approach for Australia, in Anker, K. et al., eds, <i>From Environmental to Ecological Law</i>. New York: Routledge. <p>Recommended reading:</p> <ol style="list-style-type: none"> 1. Egan, D., E.E. Hjerpe and J. Abrams, eds. (2011) <i>Human Dimensions of Ecological Restoration: Integrating Science, Nature, and Culture</i>. Washington: Island Press. (excerpt) 2. Meadows, D. (1999) <i>Leverage Points: Places to Intervene in a System</i>. Hartland VT: The Sustainability Institute. 3. Nyquist, B., A. Persson, F. Moberg, L. Persson, S. Cornell and J. Rockström. (2013) <i>National Environmental Performance on Planetary Boundaries: A study for the Swedish Environmental Protection Agency</i>. Stockholm: Swedish Environmental Protection Agency.
<p>Class 7</p>	<p>Day 7 – Transition (3 hours). Dr. Carla Sbert will give a lecture on the “lens of ecological law” and selected students will give reflections on the readings and lead a discussion.</p> <p>Required reading:</p> <ol style="list-style-type: none"> 1. Sbert, C. (2019) Salvador’s Mining Ban and Mining in Ontario’s Ring of Fire from the Lens of Ecological Law, <i>Vermont Law Review</i> 43(3): 517-547 2. Escobar, A. (2010) Latin America at a Crossroads, <i>Cultural Studies</i> 24(1): 1-65, DOI: 10.1080/09502380903424208. Online: http://uninomade.org/wp/wp-content/uploads/2012/03/Escobar-Latin-America2010.pdf

	<p>3. Kallis, G. (2019) Capitalism, Socialism, Degrowth: A Rejoinder, <i>Capitalism Nature Socialism</i> 30(2): 267-273, DOI: 10.1080/10455752.2018.1563624 Online: https://doi.org/10.1080/10455752.2018.1563624</p> <p>4. G. Garver, G. (2019) Confronting Remote Ownership Problems with Ecological Law. <i>Vermont Law Review</i> 43(3): 425-454.</p> <p>Recommended reading:</p> <p>1. Gudynas, E. (2011) Más allá del nuevo extractivismo: transiciones sostenibles y alternativas al desarrollo. En Wanderley, Fernanda (Coord.), <i>El Desarrollo en Cuestión. Reflexiones desde América Latina</i>. La Paz: Oxfam y CIDES, pp. 379-410. Online: https://www.researchgate.net/publication/326672439_Mas_alla_del_nuevo_extractivismo_transiciones_sostenibles_y_alternativas_al_desarrollo</p> <p>2. Kallis, G. (2011) In defence of degrowth. <i>Ecological Economics</i>, 70: 873-880.</p> <p>3. Martinez-Alier, J. (2014) The environmentalism of the poor. <i>Geoforum</i> 54: 239-241.</p>
Class 8	<p>Day 8 – Ecological law case studies (3 hours). Dr. Derani, Gabriela Pinheiro and Dr. Garver will discuss the L4E ecological law case studies project. Students will then engage in interactive discussions to brainstorm about other case study topics.</p>
Class 9	<p>Day 9 - Research question talks (5 mins each) and wrap up (1.5 hours). Students will briefly describe the research question they developed, followed by open discussion to wrap up the course.</p>

Additional recommended course reading:

Vermont Law Review, Special Issue, *From Environmental to Ecological Law: The Future Lies Ahead*. Spring 2019.

Garver, G. (2021) *Ecological Law and the Planetary Crisis: A Legal Guide for Harmony on Earth*. New York: Routledge.

Recommended course videos:

Anker, K. 2017. Indigenous Law in the Anthropocene: Beyond the “Ecological Indian”

<https://youtu.be/VwchEeO2TBo>

Bosselmann, K. 2017. Ecological Integrity as a Grundnorm of Law in the Anthropocene.

https://youtu.be/WH_ZRnqrTDs

Kotzé, L. 2017. A Global Environmental Constitution for the Anthropocene.

<https://youtu.be/ErPJ0ODORfw>

Roy, S. 2017. Fiduciary Duties Under Trusteeship Theory: The Contribution of Canadian Law. <https://youtu.be/BavZpdCjm38>

Sbert, C. 2017. The Ring of Fire and the El Salvador mining ban from the lens of ecological law.

https://youtu.be/m_zuIVL4DqI

Selected ELGA webinars (2019-2022)