

WORKING SYLLABUS

Class meetings: Tuesdays 10:00 a.m. - 1:00 p.m., online (via Adobe connect)
First class: Tuesday September 6th, 2016
Last class: Tuesday, November 29th, 2016

Student seminar organizers: Janica Anderzén (UVM), Aurélie-Zia Gakwaya (McGill), Emery Hartley (McGill), Alia Karim (York)

Faculty advisor: Peter G. Brown (McGill)

Mentors: Robert P. Godin (McGill) Ellie Perkins (York)

Community scholar: Vanessa Gray (Aamjiwnaang First Nation)

COURSE RATIONALE

This student-led seminar will examine the basis and frameworks of a range of law and governance systems in Turtle Island/North America with the aim of identifying critical gaps in understanding and research, as well as potential arenas of social change to reground the predominant human-nature relationship. Students will critically analyze the inner mechanisms of Western systems of law and governance, their historical roots and their concrete effects on human lives and relations to other beings. This student-led seminar provides for a deep consideration of alternatives of both global and local governance systems that acknowledge the bio-physical limits of the Earth and potentially bring a shift towards a mutually enhancing human-nature relationship. Throughout the semester, this seminar will focus on the histories of Indigenous Peoples in Turtle Island/North America who struggle for “decolonization” and whose cultures are arguably based on understanding human relationships with the ‘more-than-human’ in different ways from mainstream Western culture.

GUIDING QUESTIONS

- How are our societies functioning now and why it is problematic? What economic, political and socio-cultural worldviews and historical events have shaped Western law and governance systems?
- What existing and potential systems of law and governance can potentially ‘reground’ the human-Earth relationship in the Anthropocene?
- Can Indigenous knowledge and traditions inform environmental governance and environmental law? What can this teach us about reshaping law and governance systems?

COURSE PLAN

PART I – INTRODUCTION

Guiding Question: How are our societies functioning now and why is it problematic? What economic, political and socio-cultural worldviews and historical events have shaped Western law and governance systems?

Session 1: The Governance Challenges of the Anthropocene
September 6th, 2016
In charge: E. Hartley

Learning objectives: The opening class will review what are the challenges and drivers of the Anthropocene. Specifically the orphans of law and governance will be explored. The main questions asked will reflect on where we are (planetary boundaries, social conflicts, power relations), how we got here (ideologies, material causes, historical tipping points), and what we, as students, see as the most important aspects of governance that need to adapt in the Anthropocene?

Reading list:

- Biermann F. et al. "Navigating the Anthropocene: Improving Earth System Governance" (2012) 335:6074 *Science* 1306.
- Moore, J. (2016) "On the Nature and Origins of Our Ecological Crisis" online: <http://www.jasonwmoore.com/uploads/The_Capitalocene_Part_I_June_2014.pdf>
- Atleo, E. R. (2011). *Principles of Tsawalk: an Indigenous approach to global crisis*. Vancouver: UBC Press. (Chapter 1)

Session 2: Law and Governance
September 13th, 2016
In charge: AZ. Gakwaya

Learning objectives: Students will first address basic questions: What does "law" mean? What is it for? What is the legal system comprised of? What is governance? How are law and governance related and also independent? What is the "rule of law"? How do social factors (such as religion, taboos or other local customs) influence governance? How do Justice and Legitimacy influence governance systems?

Reading list:

- Kotzé, L. J. (2014a). "Rethinking global environmental law and governance in the Anthropocene". *Journal of Energy & Natural Resources Law* 32 (2): 121.
- Marmor, A and A. Sarch. "The Nature of Law", *The Stanford Encyclopedia of Philosophy* (Fall 2015 ed.), Edward N. Zalta (ed.), online: <<http://plato.stanford.edu/archives/fall2015/entries/lawphil-nature/>>.
- Webber, J. "Legal Pluralism and Human Agency" (2006) 44:1 *Osgoode Hall Law Journal* 167-198.

- Young, O. R. (2012). "Sugaring off: enduring insights from long-term research on environmental governance". *International Environmental Agreements: Politics, Law and Economics* 13(1): 87–105.

Possible guest speaker:

- Louis J. Kotzé (Global environmental governance, North-West University)

Session 3: Settler-Colonialism
September 20th, 2016
In charge: A. Karim

Learning objectives: This class will help reveal some of the fundamental erasures that have been used to legitimize the current power relations in North America. Students will be introduced to the history of settler-colonialism in Turtle Island/North America; how settler-colonialism significantly transformed the human-Earth relationship (e.g. the shift to intensive resource extraction, exploitation of people for their labour-power, profit-maximization, colonial governance structures, etc.), and how the “politics of recognition” have reproduced configurations of colonial power that Indigenous Peoples have historically sought to transcend.

Reading list:

- Wolfe, P. (2006). "Settler colonialism and the elimination of the native". *Journal of Genocide Research* 8(4): 387-409.
- Harris, C. R. (2004). "How did colonialism dispossess? Comments from an edge of Empire". *Annals of the Association of American Geographers* 94(1): 165-182.
- Interview with Glen Coulthard

Possible guest speakers:

- Janice Makokis (Lawyer and Consultant for Onion Lake Cree Nation)
- Terri Monture (Six Nations of the Grand River)

Session 4: Foundations of Law and Governance Systems in Turtle Island
September 27th, 2016
In charge: AZ. Gakwaya

Learning objectives: Students will be introduced to the historical nature and sources of law, particularly Indigenous law, in Turtle Island/North America, and in reference to international law; the role of governments and courts; and the prospect of a multi-juridical legal culture.

Reading list:

- Borrows, J. (2010). *Canada's Indigenous constitution*. Toronto: University of Toronto Press. (Chapters 1 and 2)
 - o *Suggested readings:* Chapters 5 and 9
- Mack, J. (2011). Hoquotist: reorienting through storied practice. *Storied communities: Narratives of contact and arrival in constituting political community*.

Eds. Hester Lessard, R. Johnson and J. Webber. Vancouver: UBC Press. 287-307.
(Chapter 2)

- *Suggested readings*: Chapters 1 and 18

PART II – THEORIES ON GLOBAL AND LOCAL GOVERNANCE

Guiding Question: What existing and potential systems of law and governance can potentially ‘reground’ the human-Earth relationship in the Anthropocene?

Session 5: Theories of the State and Property **October 4th, 2016** **In charge: A. Karim**

Learning objectives: Students will identify the dynamics of “the state” and the role of legitimacy and power in structuring relationships between actors (capitalism, neoliberalism, socialism, private vs. collective ownership of capital).

Reading list:

- Henry, J. F. (2008). The theory of the state: the position of Marx and Engels. *Forum for Social Economics* 37: 13-25.
- Mansfield, B. (2007). Privatization: property and the remaking of nature-society relations. *Antipode* 39(3): 393-405.
- Peck, J. (2001). Neoliberalizing states: thin policies/hard outcomes. *Progress in Human Geography* 25 (3): 445–455. Gradin, S. (2015)

Possible guest speakers:

- Greg Albo (Political economy, Department of Political Science, York University)
- Robert Bridi (Political ecology/neoliberalism, Department of Geography, York University)

Session 6: Ecological and Environmental Law **October 11th, 2016** **In charge: AZ. Gakwaya**

Learning objectives: Students will understand the distinction between environmental law and ecological law and understand the parallels between ecological economics and ecological law.

Reading list:

- Bosselmann, K. (2015). *Earth governance: trusteeship of the global commons*. Cheltenham: Edward Elgar. (Chapter 2)
- Garver, G. (2013). The rule of ecological law: the legal complement to degrowth economics. *Sustainability* 5(1): 316-337.
- Kotzé, L., J. TBD by the author.

Guest speakers:

- Geoffrey Garver (Earth system governance/ecological law, McGill University)
- (possible) Louis J. Kotzé (Global environmental governance, North-West University)

Session 7: Environmental Governance: Institutional Alternatives
October 18th, 2016

In charge: E. Hartley

Learning objectives: Students will gain a conceptual understanding of environmental governance challenges, institutions, and the need for new institutional foundations to reground the human-Earth relationship.

Reading list (preliminary)

- Garmestani, A. S. & Benson, M. H. (2013). "A Framework for Resilience-based Governance of Social-Ecological Systems." *Ecology & Society*, 18 (1), 1–11. online: <<http://doi.org/10.5751/ES-05180-180109>>.
- Paavola, J. (2007). "Institutions and Environmental Governance: A Reconceptualization." *Ecological Economics* 63 (1): 93–103. online: <doi:10.1016/j.ecolecon.2006.09.026>.
- Pelletier, N. (2010). "Of Laws and Limits: An Ecological Economic Perspective on Redressing the Failure of Contemporary Global Environmental Governance" 20 *Global Env't'l Change* 220.

Guest speaker:

- Asim Zia (Earth System Governance, Department of Community Development and Applied Economics, University of Vermont)

PART III – APPLIED LAW AND GOVERNANCE: INDIGENOUS PERSPECTIVES

Guiding Question: Can Indigenous knowledge and traditions inform environmental governance and environmental law? What can this teach us about reshaping law and governance systems?

Session 8: Local Governance: Indigenous Perspectives
October 25th, 2016

In charge: J. Anderzén

Learning objectives: Students will explore Indigenous perspectives, Indigenous ways of knowing, and radical Indigenous resurgence. In addition, students will see how broader Canadian and American societies could replicate Indigenous practices in order to shift towards a mutually enhancing human-nature relationship.

Reading list:

- Corntassel, J. (2012). "Cultural restoration in international law: pathways to indigenous self-determination". *Canadian Journal of Human Rights* 1(1): 94-125.

- Cameron, E., & Levitan, T. (2014). "Impact and benefit agreements and the neoliberalization of resource governance and Indigenous-state relations in Northern Canada". *Studies in Political Economy* 93: 25-52.
- Selected excerpts from reports of the *Truth and Reconciliation Commission of Canada* (2015)

Possible guest speakers:

- Kirsten Anker (Property, Indigenous Peoples and law, Faculty of Law, McGill University)

Session 9: Local Governance: Indigenous Perspectives
November 1st, 2016
In charge: J. Anderzén

Learning objectives: Students will explore Indigenous perspectives, Indigenous ways of knowing, and radical Indigenous resurgence. In addition, students will see how broader Canadian and American societies could replicate Indigenous practices in order to shift towards a mutually enhancing human-nature relationship.

Reading list:

- Atleo, E. R. (2011). *Principles of Tsawalk: an Indigenous approach to global crisis*. Vancouver: UBC Press. (Chapters 4 and 5).
- McGregor, D. (2004). "Coming full circle: indigenous knowledge, environment and our future". *American Indian Quarterly* 28(3-4): 385-410.
- Gudynas, E. (2011). "Buen Vivir: Today's tomorrow". *Development*, 54(4), 441–447.

Possible guest speakers:

- Mijael Carbone (Mapuche leader)
- Deborah McGregor (Indigenous environmental governance/ environmental justice, Osgoode Law School, York University)

Sessions 10 & 11: Field trip to Aamjiwnaang First Nation
Visit of Sarnia's "Chemical Valley" with Vanessa Gray

Learning objectives: Students will be in contact with an Indigenous community in Quebec or Ontario, likely the Aamjiwnaang First Nation, and engage in a positive dialogue on their traditional governance. Students will write a blog post for the E4A website on the field visit.

Reading list: TBD

PART IV – CONCLUSION AND RECONCILING DISCIPLINES

Guiding Question: How the content of the seminar relates, is linked to, and informed by the disciplines of (1) Ethic and Cosmology and (2) Economics and Finance?

**Session 12: Meeting with *Economy and Finance* group
November 22nd, 2016**

Topic and details to be determined

Learning objectives: For one half of the class, students from the Law and Governance group will prepare questions they want to discuss with Economy and Finance group, on issues that have come through the semester. Students will send one paper and a list of questions or issues in advance to the Economy and Finance group. For the second half of the class, students will prepare according to the paper and the list of questions/issues received by the Economy and Finance group.

**Session 13: Meeting with *Ethic and Cosmology* group
November 29th, 2016**

Topic and details to be determined

Learning objectives: For one half of the class, students from the Law and Governance group will prepare questions they want to discuss with Ethic and Cosmology group, on issues that have come through the semester. Students will send one paper and a list of questions or issues in advance to the Ethic and Cosmology group. For the second half of the class, students will prepare according to the paper and the list of questions/issues received by the Ethic and Cosmology group.

COURSE EVALUATION

Evaluation Component	Due date	% of Grade:
1. Participation (individual) Students will be evaluated on the quality of their contributions to discussions during class time; Students will also be evaluated on the quality of their contributions and their preparation when leading class discussions.	Throughout term - Peer assessment (15%) - Mentor's assessment (15%)	30%
2. Syllabus Revision (group)	Throughout term	10%
3. Research Agenda (group)	November 16th	20%
4. Paper (group) Within the first weeks of the term, students will identify a journal where they want to submit their paper and follow the guidelines accordingly.	Detailed outline due November 9th (10%) First version due December 1st (30%)	40%