

COURSE OUTLINE

ADVANCED ISSUES IN ENVIRONMENTAL LAW & POLICY

ENVR 4650/GEOG 7010

Winter 2024
Wednesday, 2:30 – 5:15 PM
Wallace Room 217

Nicole Wilson
Meetings by appointment
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Credit Hours 3 + 0

Prerequisites a minimum grade of C in ENVR 3160 (or the former ENVR 2650), or permission of department head.

CALENDAR DESCRIPTION

This course provides an in-depth review of Canadian law and policy relating to environmental protection and management. In particular, the course describes the laws governing a variety of topics related to the environment, including constitutional responsibilities, federal and provincial environmental legislation, water law, parks and protected areas, wildlife and fisheries management, species at risk, and climate change policy. At each stage, relevant case law will be presented to clarify the prevailing interpretation of law.

Learning Outcomes

By the end of the course, you will gain knowledge of:

- Critical thinking skills on environmental governance and policy.
- The constitutional positions of the federal, provincial, municipal, and Indigenous governments as they relate to the environment and natural resources.
- Federal and provincial legislation, regulations and policies related to natural resources management, environmental protection, wildlife & fisheries management, species at risk, water quality, greenhouse gas emissions, and other topics.
- Civil causes of action (e.g., nuisance, negligence) and regulatory offences.
- Legal and procedural aspects of federal and provincial environmental assessment.
- Current policy developments.

Territorial Acknowledgement

The University of Manitoba campuses are located on original lands of the Anishinaabeg, Cree, Ojibwe-Cree, Dakota, and Dene peoples, and on the homeland of the Red River Métis. We respect the Treaties that were made on these territories, we acknowledge the harms and mistakes of the past, and we dedicate ourselves to move forward in partnership with Indigenous communities in a spirit of Reconciliation and collaboration.

COURSE MATERIALS

Required Materials

There is one required textbook for this course. The full text is available through U of M learn.

Benidickson, J., 2019. Environmental Law, 5th ed, Essentials of Canadian Law. Irwin Law, Toronto, CA.

All other course materials will be made available through the UofM's course management interface UMLearn. Articles and links will be posted weekly. Students can also access these academic articles through the UofM Library e-journal service.

Course Schedule

This schedule is subject to change at the discretion of the instructor and/or based on the learning needs of the students but such changes are subject to [Section 2.8 of ROASS](#) (<https://umanitoba.ca/governance/governing-documents-academic#responsibilities-of-academic-staff-with-regard-to-students>).

Date	Lecture / Event	Required Reading
January 10 th	Intro to environmental governance, law and policy – Government, Courts and Sources of Law	Benidickson, 2019 – Introduction and Chapter 1: Basic Concepts in Environmental Law p. 11-33. Lemos, M.C., Agrawal, A., 2006. Environmental governance. <i>Annu. Rev. Environ. Resour.</i> 31, 297–325. Recommended (Graduate Student) Delaney, D., 2015. Legal geography I: Constitutivities, complexities, and contingencies. <i>Progress in Human Geography</i> 39, 96–102. https://doi.org/10.1177/0309132514527035
January 17 th	The Constitution (federal, provincial/territorial,	Benidickson, 2019 – Chapter 2: The Constitutional Allocation of Environmental Responsibilities. p. 33 – 55

	<p>municipal jurisdiction)</p> <p>Presentation: Matthew Renaud, Librarian</p>	<p>Recommended (Graduate Students) Harris, L.M., 2017. Political ecologies of the state: Recent interventions and questions going forward. <i>Political Geography</i> 58, 90–92. https://doi.org/10.1016/j.polgeo.2017.03.006</p>
January 19th	Registration Deadline	
January 24 th	<p>Indigenous Peoples and Environmental Governance</p> <p>Final Paper proposal due</p>	<p>Patzer, J., 2019. Indigenous rights and the legal politics of Canadian coloniality: what is happening to free, prior and informed consent in Canada? <i>The International Journal of Human Rights</i> 23, 214–233. https://doi.org/10.1080/13642987.2018.1562915</p> <p>Craft, A., Plotkin, R., 2022. <i>Governance Back: Exploring Indigenous Approaches to Reclaiming Relationships with Land</i>. David Suzuki Foundation; Decolonizing Water, Toronto, ON. https://daidsuzuki.org/wp-content/uploads/2022/09/DSF-governance-back-September-20-v2-003.pdf</p> <p>Recommended (Graduate Student) Morales, S., 2017. UNDRIP Implementation: Braiding International, Domestic and Indigenous Laws, in: <i>UNDRIP Implementation: Braiding International, Domestic and Indigenous Laws</i>. Centre for International Governance Innovation, Waterloo, ON, Canada, pp. 63–80. https://www.cigionline.org/publications/undrip-implementation-braiding-international-domestic-and-indigenous-laws</p>
January 31 st	<p>Environmental Rights –International Context</p> <p>Guest Lecture: Heather Fast</p>	<p>Benidickson, 2019 – Chapter 3: Environmental Rights, Chapter 4: International Context of Canadian Environmental Law. p. 55 – 105.</p> <p>Berge, C., 2022. This Canadian river is now legally a person. It’s not the only one. [WWW Document]. Travel. URL https://www.nationalgeographic.com/travel/article/these-rivers-are-now-considered-people-what-does-that-mean-for-travelers (accessed 10.30.23).</p> <p>Recommended (Graduate Student)</p>

		Boyd, D.R., 2017. Recognizing the Rights of Nature: Lofty Rhetoric or Legal Revolution. <i>Nat. Resources & Env't</i> 32, 13–17.
February 7 th	Civil Liability and Harm – Environmental Regulations and Approvals	Benidickson, 2019 – Chapter 5: Civil Liability for Environmental Harm, Chapter 6: Environmental Regulations and Approvals p. 106-146. Recommended (Graduate Student) Conde, M., Walter, M., Wagner, L., Navas, G., 2023. Slow justice and other unexpected consequences of litigation in environmental conflicts. <i>Global Environmental Change</i> 83, 102762. https://doi.org/10.1016/j.gloenvcha.2023.102762
February 14 th	Environmental Assessment Undergrad: Mid-Term Exam Grad: Policy Brief due	Benidickson, 2019 – Chapter 12 Environmental Assessment p. 257 – 279. Sinclair, A.J., Doelle, M., Gibson, R.B., 2018. Implementing next generation assessment: A case example of a global challenge. <i>Environmental Impact Assessment Review</i> 72, 166–176. https://doi.org/10.1016/j.eiar.2018.06.004 Recommended (Graduate Student) Blakley, J., Noble, B., 2022. The Keeyask Project: “No Significant Cumulative Effects”?, in: Craft, A., Blakley, J. (Eds.), <i>In Our Backyard: Keeyask and the Legacy of Hydroelectric Development</i> . University of Manitoba Press, Winnipeg, Manitoba, pp. 93–117. MacDonald, C.O., Alistair, 2022. Indigenous impact assessment: A quiet revolution in EIA?, in: <i>Routledge Handbook of Environmental Impact Assessment</i> . Routledge, pp. 221–238.
February 19 th to 23 rd	Louis Riel Day and Winter term break	
February 28 th	Toxic Substances	Benidickson, 2019 - Chapter 13 Toxic Substance. p. 280 – 304. Recommended (Graduate Student) Liboiron, M., 2021. <i>Pollution Is Colonialism</i> . Duke Univ Pr, Durham.

<p>March 6th</p>	<p>Protected Areas and Endangered Species</p>	<p>Benidickson, 2019 – Chapter 14: Protected Areas and Endangered Species p. 305-336.</p> <p>Indigenous Circle of Experts’ Report and Recommendations, 2018. We Rise Together: Achieving Pathway to Canada Target 1 through the creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation. https://static1.squarespace.com/static/57e007452e69cf9a7af0a033/t/5ab94aca6d2a7338ecb1d05e1522092766605/PA234-ICE_Report_2018_Mar_22_web.pdf</p> <p>Recommended (Graduate Student) Bernauer, W., Roth, R., 2021. Protected areas and extractive hegemony: A case study of marine protected areas in the Qikiqtani (Baffin Island) region of Nunavut, Canada. <i>Geoforum</i> 120, 208–217. https://doi.org/10.1016/j.geoforum.2021.01.011</p>
<p>March 13th</p>	<p>Fisheries – Water</p>	<p>Francis, R., 2023. Canada’s Response to Mi’kmaq Aboriginal and Treaty Fishing Rights: Reconciliation or Legal Colonial Oppression? https://doi.org/10.2139/ssrn.4471739</p> <p>Horbulyk, T., 2017. Water Policy in Canada, in: Renzetti, S., Dupont, D.P. (Eds.), <i>Water Policy and Governance in Canada, Global Issues in Water Policy</i>. Springer International Publishing, Cham, pp. 29–43. https://doi.org/10.1007/978-3-319-42806-2_3</p> <p>Recommended (Graduate Student) Wilson, N.J., 2020. Querying Water Co-Governance: Yukon First Nations and Water Governance in the Context of Modern Land Claim Agreements. <i>Water Alternatives</i> 13, 93–118.</p>
<p>March 20th</p>	<p>Climate Change – Pipelines – Carbon Tax</p>	<p>Benidickson, 2019 – Chapter 18: Climate Change: Canadian Legal and Policy Responses p. 396-423.</p>

		<p>Choquette, C., Klautt, D., Shay Lynes, L., 2021. Climate Change Litigation in Canada, in: Sindico, F., Mbengue, M.M. (Eds.), Comparative Climate Change Litigation: Beyond the Usual Suspects, Ius Comparatum - Global Studies in Comparative Law. Springer International Publishing, Cham, pp. 153–197. https://doi.org/10.1007/978-3-030-46882-8_8</p> <p>Recommended (Graduate Student) Reed, G., Gobby, J., Sinclair, R., Ivey, R., Matthews, H.D., 2021. Indigenizing Climate Policy in Canada: A Critical Examination of the Pan-Canadian Framework and the ZéN RoadMap. Frontiers in Sustainable Cities 3, 78. https://doi.org/10.3389/frsc.2021.644675</p>
March 20th	Voluntary Withdrawal deadline	
March 27 th	Presentation preparation No Class	No readings
April 3 rd	Presentations	Students sign up for a 10-minute presentation slot
April 10 th	Presentations	Students sign up for a 10-minute presentation slot
April 12th to 26th	Final Exam period	No final exam. Final paper due April 17th

*Dates of topics and events not in bold type are subject to change, depending upon the pace of the class.

Evaluation & Grading

Undergraduate Student Assignments

Assignments*	Weight	Date Due
Participation**	5%	Ongoing
Reading Responses	15%	Three reading responses throughout the semester. Option to revise and resubmit one of these.
Final Paper proposal	10%	January 24 th
Mid-term Exam	25%	February 14 th
Presentation	20%	April 3 rd or 10 th
Final Paper due	25%	April 17 th

* Further details on all assignments will be made available in separate handouts

** Will be based on in class discussion including asking questions during presentation Q&A

Graduate Student Assignments

Assignments*	Weight	Date Due
Participation**	15%	Weekly response papers to be submitted before class
Final Paper proposal	10%	January 31 st
Policy Brief	25%	February 14 th
Presentation	20%	TBD
Final Paper due	30%	April 17 th

* Further details on all assignments will be made available in separate handouts

** Will be based on in class discussion including asking questions during presentation Q&A

Evaluative Feedback

All marks will be posted on UM learn. Let your instructor know immediately if you believe that there has been a marking error. Evaluative feedback will be provided by the voluntary withdrawal date for this course, which is March 22nd, 2023.

In-Class Tests:

Failure to write scheduled tests without a valid medical certificate (original) or compassionate reason (e.g., death of an immediate family member) will normally result in a mark of zero on that test. For those students who do have a valid reason for not writing, the instructor may (1) reschedule the missed test, (2) assign an alternate assignment, or (3) redistribute the percentage value of the missed test among the remaining assignments and/or exams.

Final Grade

A total mark of less than 50% in the course will result in a grade of **F**. Marks between 50% and 100% will be graded from **D** to **A+**. Tests will be graded and recorded as a percentage. The final letter grade will be assigned based on the total percentage of available marks.

Letter Grade	Percentage	Letter Grade	Percentage
F	0-49%	B	70-74%
D	50-59%	B+	75-79%
C	60-64%	A	80-89%
C+	65-69%	A+	90-100%

Course Policies

Communication with students

The University of Manitoba has a new policy on electronic contact with students that requires **all email contact on university business to use students' official University email addresses**. The policy is at:

http://umanitoba.ca/admin/governance/governing_documents/community/electronic_communication_with_students_policy.html

Academic regulations and expectations (additional information in Schedule A)

Recording Class Seminars: Dr Nicole Wilson of the University of Manitoba hold copyright over the course materials and lectures that form the components of this course. No audio or video recording of lectures is allowed in any format, openly or surreptitiously, in whole or in part without permission of the instructor. Course materials are for the participant's private study and research.

Academic Dishonesty: Plagiarism, Cheating and Examination Impersonation

Plagiarism or any other form of cheating in examinations, term tests or academic work is subject to serious academic penalty (e.g., suspension or expulsion from the faculty or university). Cheating in examinations or tests may take the form of copying from another student or bringing unauthorized materials into the exam room (e.g., crib notes, pagers, or cell phones). Exam cheating can also include exam impersonation. (Please see Exam Impersonation, found in the Examination Regulations section of the General Academic Regulations). A student found guilty of contributing to cheating in examinations or term assignments is also subject to serious academic penalty.

To plagiarize is to take ideas or words of another person and pass them off as one's own. In short, it is stealing something intangible rather than an object. Plagiarism applies to any written work, in traditional or electronic format, as well as orally or verbally presented work. Obviously, it is not necessary to state the source of well-known or easily verifiable facts, but students are expected to appropriately acknowledge the sources of ideas and expressions they use in their written work, whether quoted directly or paraphrased. This applies to diagrams, statistical tables and the like, as well as to written material, and materials or information from Internet sources.

To provide adequate and correct documentation is not only an indication of academic honesty but is also a courtesy which enables the reader to consult these sources with ease. Failure to provide appropriate citations constitutes plagiarism. It will also be considered plagiarism and/or cheating if a student submits a term paper written in whole or in part by someone other than him/herself or copies the answer or answers of another student in any test, examination, or take-home assignment.

Working with other students on assignments, laboratory work, take-home tests, or on-line tests, when this is not permitted by the instructor, can constitute Inappropriate Collaboration and may be subject to penalty under the [Student Discipline By-Law](#).

An assignment which is prepared and submitted for one course should not be used for a different course. This is called "duplicate submission" and represents a form of cheating because course requirements are expected to be fulfilled through original work for each course.

When in doubt about any practice, ask your professor or instructor.

The Student Advocacy Office, 519 University Centre, 474-7423, is a resource available to students dealing with Academic Integrity matters.

Academic Supports: The University of Manitoba provides many services and supports to encourage good scholarship and encourage all members and students to maintain a respectful work and learning environment. Policies have been developed regarding threatening behavior, or assaults whether verbal or physical to support victims and discipline offenders. For more information on these see Schedule A attached and available on the UM Learn site.

Department Policies

<http://umanitoba.ca/faculties/environment/departments/geography/index.html>

Student Advocacy - <http://umanitoba.ca/student/advocacy/>; 520 University Centre; 204 474 7423; student_advocacy@umanitoba.ca

SCHEDULE A

Academic Supports

Writing and Learning Support: The Academic Learning Centre (ALC) offers services that may be helpful to you throughout your academic program. Through the ALC, you can meet with a learning specialist to discuss concerns such as time management, learning strategies, and test-taking strategies. The ALC also offers peer supported study groups called Supplemental Instruction (SI) for certain courses that students have typically found difficult. In these study groups, students have opportunities to ask questions, compare notes, discuss content, solve practice problems, and develop new study strategies in a group-learning format.

You can also meet one-to-one with a writing tutor who can give you feedback at any stage of the writing process, whether you are just beginning to work on a written assignment or already have a draft. If you are interested in meeting with a writing tutor, reserve your appointment two to three days in advance of the time you would like to meet. Also, plan to meet with a writing tutor a few days before your paper is due so that you have time to work with the tutor's feedback. These Academic Learning Centre services are free for U of M students. For more information, please visit the Academic Learning Centre website at:

<http://umanitoba.ca/student/academiclearning/>

You can also contact the Academic Learning Centre by calling 204-480-1481 or by visiting 201 Tier Building.

University of Manitoba Libraries (UML) - As the primary contact for all research needs, your liaison librarian can play a vital role when completing academic papers and assignments. Liaisons can answer questions about managing citations, or locating appropriate resources, and will address any other concerns you may have, regarding the research process. Liaisons can be contacted by email or phone, and are also available to meet with you in-person. A complete list of liaison librarians can be found by subject: <http://bit.ly/WcEbA1> or name: <http://bit.ly/1tJ0bB4>.

In addition, general library assistance is provided in person at 19 University Libraries, located on both the Fort Garry and Bannatyne campuses, as well as in many Winnipeg hospitals. For a listing of all libraries, please consult the following: <http://bit.ly/1sXe6RA>. When working remotely, students can also receive help online, via the Ask-a-Librarian chat found on the Libraries' homepage: www.umanitoba.ca/libraries

Mental Health

For 24/7 mental health support, contact the Mobile Crisis Service at 204-940-1781.

Student Counseling Centre: Contact SCC if you are concerned about any aspect of your mental health, including anxiety, stress, or depression, or for help with relationships or other life

concerns. SCC offers crisis services as well as individual, couple, and group counselling.

<http://umanitoba.ca/student/counselling/>; 474

University Centre; S207 Medical Services; (204) 474-8592

Student Support Case Management: Contact the Student Support Case Management team if you are concerned about yourself or another student and don't know where to turn. SSCM helps connect students with on and off campus resources, provides safety planning, and offers other supports, including consultation, educational workshops, and referral to the STATIS threat assessment team. <http://umanitoba.ca/student/case-manager/index.html>; 520 University Centre; (204)

474-7423

University Health Service: Contact UHS for any medical concerns, including mental health problems. UHS offers a full range of medical services to students, including psychiatric consultation. <http://umanitoba.ca/student/health/>; 104 University Centre, Fort Garry Campus; (204) 474-8411 (Business hours or after hours/urgent calls)

Health and Wellness: Contact our Health and Wellness Educator if you are interested in information on a broad range of health topics, including physical and mental health concerns, alcohol and substance use harms, and sexual assault. <http://umanitoba.ca/student/health-wellness/welcome.html>; 469 University Centre; (204) 295-9032

Live Well @ UofM: For comprehensive information about the full range of health and wellness resources available on campus, visit the Live Well @ UofM site:

<http://umanitoba.ca/student/livewell/index.html>

Copyright Information - All students are required to respect copyright as per Canada's *Copyright Act*. Staff and students play a key role in the University's copyright compliance as we balance user rights for educational purposes with the rights of content creators from around the world. The Copyright Office provides copyright resources and support for all members of the University of Manitoba community. For more information: <http://umanitoba.ca/copyright>

Rights and Responsibilities

Your rights and responsibilities: As a student of the University of Manitoba you have rights and responsibilities. It is important for you to know what you can expect from the University as a student and to understand what the University expects from you. Become familiar with the policies and procedures of the University and the regulations that are specific to your faculty, college or school.

The [Academic Calendar](http://umanitoba.ca/student/records/academiccalendar.html) <http://umanitoba.ca/student/records/academiccalendar.html> is one important source of information. View the sections *University Policies and Procedures* and *General Academic Regulations*.

While all the information contained in these two sections is important, the following information is highlighted.

If you have questions about your grades, talk to your instructor. There is a process for term work and final **grade appeals**. Note that you have the right to access your final examination scripts. See the Registrar's Office website for more information including appeal deadline dates and the appeal form: <http://umanitoba.ca/registrar/>

You are expected to view the General Academic Regulation section within the Academic Calendar and specifically read the **Academic Integrity** regulation. Consult the course syllabus or ask your instructor for additional information about demonstrating academic integrity in your academic work. Visit the Academic Integrity Site for tools and support <http://umanitoba.ca/academicintegrity/> View the **Student Academic Misconduct** procedure for more information.

The University is committed to a respectful work and learning environment. You have the right to be treated with respect and you are expected to conduct yourself in an appropriate respectful manner. Policies governing behavior are included in the next section.

Policies and Services Information

Respectful Work and Learning Environment:

http://umanitoba.ca/admin/governance/governing_documents/community/230.html

Student Discipline

http://umanitoba.ca/admin/governance/governing_documents/students/student_discipline.html

and,

Violent or Threatening Behaviour

http://umanitoba.ca/admin/governance/governing_documents/community/669.html

If you experience **Sexual Assault** or know a member of the University community who has, it is important to know there is a policy that provides information about the supports available to those who disclose and outlines a process for reporting. The **Sexual Assault** policy may be found at: http://umanitoba.ca/admin/governance/governing_documents/community/230.html | More information and resources can be found by reviewing the Sexual Assault site <http://umanitoba.ca/student/sexual-assault/>

Intellectual Property - For information about rights and responsibilities regarding **Intellectual Property** view the policy:

http://umanitoba.ca/admin/governance/media/Intellectual_Property_Policy_-_2013_10_01.pdf