

UNDER THE UMBRELLA OF ENVIRONMENTAL LAW

BY KAITLIN THOMAS

YLS HAS A STRONG HISTORY OF PRODUCING LEADERS IN THE ENVIRONMENTAL LAW FIELD. TODAY OUTSTANDING FACULTY, AN ARRAY OF INTERDISCIPLINARY CURRICULAR OFFERINGS, A STRONG PARTNERSHIP WITH YALE'S SCHOOL OF FORESTRY & ENVIRONMENTAL STUDIES, THE OFFERINGS OF THE YALE CENTER FOR ENVIRONMENTAL LAW & POLICY, AND AN ACTIVE ENVIRONMENTAL LAW CLINIC ARE JUST SOME OF THE ELEMENTS OF YALE LAW SCHOOL'S EXPANDED PROGRAM IN ENVIRONMENTAL LAW.

THE FOUR STUDENT PROFILES THAT FOLLOW GIVE A SAMPLING OF THE TYPES OF ACADEMIC AND EXTRACURRICULAR ENVIRONMENTAL LAW WORK THAT YLS STUDENTS ARE INVOLVED IN.



AT THE CROSSROADS OF HUMAN RIGHTS AND ENVIRONMENTAL LAW

STEPHANIE SAFDI '13

Before she arrived at Yale Law School, Stephanie Safdi '13 had been living in the south of Israel, working on a Fulbright scholarship with the indigenous Arab Bedouin population. Her work focused on public health issues, many of which happened to be related to environment and property rights.

"I was working in this crossroads of health and the environment and human rights, and when I came here I began investigating those intersections more fully," she says.

The Schell Center and human rights courses naturally became a home for Safdi, but she also quickly became involved in the Yale Environmental Law Association (YELA) and became increasingly interested in environmental issues.

"I hadn't had previous academic experience in environmental law or environmental sciences, but I started attending events put on by YELA and at the School of Forestry and I became captivated by this huge umbrella that is environmental law and how it intersects with so many areas that are fascinating to me," she explains.

At the end of her 2L year she decided to complete a joint degree with Yale's School of Forestry & Environmental Studies. The joint degree has given her a facility with both science and the law that she hopes will inform her practice in years to come and allow her to approach the field of environmental law in a broader way.

Safdi has also found extracurricular outlets for her interest in environmental law. Realizing that there had been a two-decade hiatus since the Law School had hosted an environmental law conference, Safdi and fellow students organized the first New Directions in Environmental Law conference in 2011.

"It was kind of this beautiful moment where students who were interested in this type of work found a home," she says. With support from alumnus Kevin

Czinger '87 and the Yale Center for Environmental Law & Policy, the conference has just finished its third year. (See page 12.)

Safdi has continued her involvement in human rights work—much of which involves an environmental law angle. She continues to work on behalf of Arab Bedoins facing eviction in the Negev desert and has also traveled to Papua, Indonesia, to examine the impact of bio-fuel development and plantation farming on the indigenous residents and natural environment of that area. Last year she worked on a complaint before The World Bank concerning population displacement and pollution caused by World Bank-subsidized coal fired power plants and mining operations.

Safdi is now clerking in Seattle with Judge Ricardo Martinez in the Western District of Washington. Serendipitously, she will be working with Martinez on the progeny of *United States v. Washington*, a landmark case that affirmed the treaty rights of Washington tribes to fishing resources and, nearly four decades later, continues to elicit disputes over natural resource allocation and habitat conservation.

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Stephanie Safdi '13

THE YALE CENTER FOR ENVIRONMENTAL Law & Policy (YCELP) is a core part of the environmental law program at Yale. A joint undertaking by Yale Law School and the School of Forestry & Environmental Studies, YCELP was established in 1994 by Dan Esty '86, Hillhouse Professor of Environmental Law and Policy, and is currently led by interim director Doug Kysar, Joseph M. Field '55 Professor of Law.

YCELP draws upon resources throughout Yale University to develop and advance environmental policy locally, regionally, nationally, and globally. In addition to hosting a variety of lectures, conferences, webinars and other events, the center runs the Environmental Protection Clinic, where students have opportunities to address environmental law and policy problems on behalf of client organizations. Key initiatives of YCELP include:

▼ The Environmental Performance Measurement Program—the Center's flagship research project—which aims to encourage environmental policy making that uses data-driven indicators and statistics. The program's primary product is the biennial Environmental Performance Index, which ranks countries on performance indicators tracked across policy categories covering both environmental public health and ecosystem vitality.



▼ An annual policy workshop webinar series. Titled "Emerging Issues in Shale Gas Development" this past year's eight-part series was designed to answer important questions about extraction, the environment, and the future of energy by grounding the debate about natural gas extraction with expert speakers from a variety of disciplines.

▼ A conference titled "Global Climate Policy Without the US: Thinking the Unthinkable" was co-sponsored by The Oscar M. Ruebhausen Fund at Yale Law School and YCELP last fall. The conference brought together leading experts from a variety of disciplines to consider how climate change might be addressed assuming a lack of formal, cohesive participation by the United States.

▼ "The Climate and Energy Bookshelf"—a new speaker series hosted by the Yale Climate & Energy Institute and YCELP featured publications by renowned climate and energy scholars including Berkeley School of Law Professor Andrew Guzman; University of Colorado School of Law Professor Sarah A. Krakoff; Duke University School of Law Professor Jedediah Purdy '01; and Pulitzer Prize winning author Daniel Yergin, Vice Chairman of IHS and Founder of Cambridge Energy Research Associates.

website  <http://envirocenter.yale.edu/>

In February, YCELP and the Yale Sustainable Food Project co-hosted a panel called "Eating Invaders: A Panel Discussion on Invasive Species." Panelists discussed the ecological impacts of invasive species and the hotly debated question of whether eating these (often) tasty creatures is the best strategy for protecting the natural environment. From left: Mark Bomford, Director of the Yale Sustainable Food Project; panelist Bun Lai, owner of Miya's Sushi; Josh Galperin, Associate Director of YCELP; panelist Dan Simberloff, Gore Hunger Professor of Environmental Science, University of Tennessee; panelist Jackson Landers, freelance writer and hunting instructor; and moderator Jim Gorman, New York Times science reporter.



AN ACADEMIC INTEREST IN THE POLITICS OF ENVIRONMENTAL LAW

NATE LOEWENTHEIL '13

Nate Loewentheil '13 first became interested in environmental law as an undergraduate at Yale when, in 2007, he heard Gus Speth '69 (then Dean of the Yale School of Forestry & Environmental Studies) deliver the DeVane lectures. Speth's lectures, which focused on the relationship of capitalism and the environment, sparked Loewentheil's interest in environmental law, policy, and politics.

Following his graduation from Yale College, Loewentheil spent two years in DC running the Roosevelt Institute, a national student political organization he had helped found as an undergraduate.

Fast forward to his 2L year at YLS when Loewentheil took a course on law and social movements and became interested in the political battles over cap-and-trade legislation over the last decade and, in particular, the defeat of the Waxman-Markey climate change bill in 2010. That defeat was an enormous loss to the environmental community,

which had invested dozens of years and hundreds of millions of dollars into the effort.

Despite the importance of the battle over the climate bill, it turned out that very little of an academic nature had been written about its failure. "It was just a striking gap in the literature," Loewentheil says.

Loewentheil decided to continue his research into the Waxman-Markey bill while a student in Professor Doug Kysar's climate change course.

"The environmental movement right now is really struggling about where to go next," Loewentheil says. "But to plan for the future the movement really needs to understand the past—what went wrong, and why."

To that end, Loewentheil wrote an article analyzing the political conflict over climate in Obama's first term. "A big part of the paper was figuring out the political forces that blocked the bill, like political polarization, the political geography of energy, and the power of the carbon industry."

The paper will be published as a law review article in the coming year. Loewentheil credits the process of researching and writing it with piquing his interest in national economic policy, an interest he'll pursue next year at the National Economic Council at the White House.

Loewentheil praises the flexibility of YLS and his professors for supporting him while he followed his interests in researching the bill. While Loewentheil's paper counted as his Supervised Analytical Writing requirement, he also completed a sustained independent study with Professor David Grewal on the history of environmental thought, extending his analysis of environmental politics back into earlier eras.

"YLS is very interdisciplinary—and that made a huge difference," Loewentheil says.



AN INTERDISCIPLINARY AND ACTIVITY-RICH APPROACH TO ENVIRONMENTAL LAW

HALLEY EPSTEIN '14

As president of the Yale Environmental Law Association (YELA) during the 2012–2013 academic year, Halley Epstein '14 helped develop programming to increase awareness of environmental law issues at the law school.

"There has been an increasing presence of environmentally minded students on campus," Epstein says. Though YLS doesn't offer a dedicated environmental law certificate program, Epstein feels that there are more courses on environmental law than she will be able to take in her three years at YLS.

"It's amazing how interdisciplinary some of the courses are and how so many classes—from administrative law to legislation to property—include some sort of focus on environmental law. Visiting Associate Professor Stephanie Stern '99 put an environmental focus on our property class because she has research interests in that area. My international business transactions class touched on issues of natural

resources extraction and international deals regarding minerals and resources more broadly. There are several courses I haven't yet had a chance to take—including environmental law and policy; energy law; water law; the Environmental Protection Clinic... I've barely even scratched the surface of the offerings here, but I feel like I'm getting the skills I need if I decide to eventually become an environmental lawyer."

Epstein has had opportunities to connect with environmental law experts both at the Law School (*see YELA sidebar, page 55*) and beyond. In May 2012, thanks to support from the Yale Center for Environmental Law & Policy, Epstein attended a conference at the University of Chicago Law School on "Climate Change Justice" where she learned about the moral, philosophical, and ethical implications of climate change and the international policy surrounding it. And during the summer of 2012 Epstein was at the California Attorney General's Office, working in the Natural Resources Section. "It was a great opportunity to see litigation first hand and to work with a group of really dedicated attorneys who are passionate about their work," Epstein says.

She credits YLS with allowing her to simultaneously pursue her passion in environmental law while exploring other areas of law as well.

"I have been able to concentrate on the areas I'm interested in—for example, climate change policy," she says, "but I haven't had to limit myself to that."



EXPERTISE PUT TO GOOD USE

MONIKA EHRLMAN '13 LLM

Prior to earning her law degree, Monika Ehrman '13 LLM worked as a petroleum engineer in the upstream, midstream, and pipeline sectors of the oil industry. After law school, she practiced oil and gas litigation and performed transactional work in-house and in private practice before becoming general counsel of a small, privately-held oil and gas company.

"After working with a variety of issues in the oil and gas industry, I realized the importance of having a solid background in environmental law," she says. "I often tell law students and young attorneys interested in energy to learn about environmental and water law issues. These areas are now especially critical for attorneys to understand and appreciate while working in the energy industry."

Ehrman's research focuses on the importance of oil and gas development (including shale oil and gas), while encouraging the evaluation and balancing of associated risks.

While a student at YLS during the 2012–2013 academic year, Ehrman began working for the Yale Center for Environmental Law & Policy (YCELP) to develop open-access college-level teaching materials on hydraulic fracturing of natural gas shales.

"The hydraulic fracturing technology used to exploit shale resources is a unique and integral part of the shale oil and gas development process," she says. "But like any resource technology, the associated risks and rewards should be examined and understood."

The teaching resources Ehrman is developing (which will include PowerPoint materials for class viewing, a short paper that provides a technical overview, and videos and other audio-visual materials) will be available to anyone with an interest in hydraulic fracturing.

This fall, Ehrman will join the faculty of the University of Oklahoma College of Law—one of the global leaders in natural resources research—as an Associate Professor of Energy Law and will teach Energy Law, Oil and Gas Law, and Natural Resources Law.

"AFTER WORKING WITH A VARIETY OF ISSUES IN THE OIL AND GAS INDUSTRY, I REALIZED THE IMPORTANCE OF HAVING A SOLID BACKGROUND IN ENVIRONMENTAL LAW." Monika Ehrman '13 LLM



This past year the Yale Environmental Law Association (YELA) co-sponsored events with a range of other student organizations and administrative offices including the American Constitution Society, the Federalist Society, Animal Legal Defense, the Black Law Students Association, the Career Development Office, the Yale Center for Environmental Law and Policy, the Native American Law Students Association, and the Orville H. Schell, Jr. Center for International Human Rights. In addition to bringing prominent speakers to the Law School, YELA hosted film screenings, career panels, and spearheaded environmental initiatives.

YELA also sponsored a reading group in environmental law this past year. The group met once a week to discuss pieces written by guests speaking at Yale on environmental law topics.

▼ (a sampling of) Yale Environmental Law Association Events, 2012–2013

Coffee Chat with Patagonia executives **Yvon Chouinard** and **Vincent Stanley** on

corporate accountability and environmental ethics

Local Food Policy and Social Entrepreneurship with **Jennifer McTiernan '15**, Co-Founder and former Executive Director of CitySeed

Energy Policy Coffee Chat with **Bruce Ho**, YCELP Fellow and former Sustainable Energy Fellow at the NRDC in Chicago

What is Animal Law? with experts **David Wolfson** (Partner at Millbank Tweed) and **Peter Petersan** (Deputy Director at Human Society U.S.)

Betting the Earth: How We Can Still Win the Biggest Gamble of All Time with UNC Charlotte Law School Professor **John Kunich** and Yale Law Professor **Doug Kysar**.

Conservation and Land Use Coffee Chat with Visiting Associate Professor **Stephanie Stern '99**

Environmentalism and the Free Market — A Conversation with Former Congressman **Bob Inglis** and Forestry Professor **Brad Gentry**

Energy in the 21st Century: Could Muir, Patton, and Gandhi Agree on a Program? Featuring **R. James Woolsey, Jr. '68**, Former CIA Director

Oil in the Jungle — A Talk with **Steven Donziger**, Legal Adviser to Plaintiffs in

the Lago Agrio Case

Third Annual New Directions in Environmental Law Conference

Reimagining the Insular: Thoughts on Islands, the Law, and the Loss of Difference with **Julian Aguon**, Petra Foundation Fellow and writer-activist-attorney from Guam

Coffee Chat with **Jed Purdy '01** following his talk entitled "The American Environmental Imagination"

Environmental Media—Coffee Chat with Trust Films Director about youth and climate change

Trust Films Screening: Law, Film, and the Children of Climate Change

New Haven Environmental Justice Network Coffee Chat with **Lynne Bonnet**, former director of New Haven's Environmental Justice Network

The Future of Fisheries — Panelists included **Peter Shelley** (Senior Counsel, Conservation Law Foundation), Professor **Katrina Wyman** (NYU Law), and fishing vessel captain **Chris Brown**

Environmental Careers Panel featuring YLS grads