

A COMMUNION OF SUBJECTS

**An innovative new course brought together students and faculty
from the Law School, Yale Divinity School,
and the School of Forestry & Environmental Studies**

By Mark Temelko

This spring, Linda Sheehan, executive director of the Earth Law Center, visited a unique new class at Yale, “A Communion of Subjects: Law, Environment, and Religion,” a collaborative effort of the Law School, the School of Forestry & Environmental Studies (F&ES), and the Yale Divinity School (YDS).

Sheehan, a lawyer with degrees in chemical engineering and public policy, is part of a growing movement of professionals who believe it’s necessary to question some of the assumptions that underlie environmental policies. In her role at the Earth Law Center, she focuses on education and advocacy for an “earth’s rights” framework to help inform law and policy about “the inherent rights of nature to exist, thrive, and evolve.”

To prepare for Sheehan’s visit, the students in “A Communion of Subjects” had spent a portion of the spring semester discussing her writing, conference presentations and speeches, and various publications about her work—just as they had for the other five visiting speakers who provided different approaches to the interdisciplinary challenges of their fields.

On a chilly evening in March, after an historically snowy winter that had many in New England talking about the *climate* in addition to the familiar complaints about the *weather*, Sheehan joined the class for an interview conducted by two students, Dena Adler ’17 JD-MEM, who is pursuing a joint degree at the Law School and F&ES, and Andrew Doss, a student at YDS.

In the interview, which was videotaped and is now part of a series available online, Sheehan discussed how an earth’s-rights framework builds on the models of other rights-based movements, particularly through helping develop a language that allows a community to change its perception of unexamined norms. She framed the problem of traditional discussions about environmental law with a succinct challenge: “Try to write a paper about the environment without using the term ‘natural resources.’”

The phrase, Sheehan explained, prioritizes one mode of thinking over another. “Michael M’Gonigle [’79 LL.M., ’83 JSD] at the University of Victoria coined this term that I like, the ‘adjective-noun problem,’” she said. “When you think about the adjective and the nouns that we use: sustainable development, green economy, natural resources, natural capital. In all of these terms, the noun is the focus. That’s the economic system that is controlling how we think and how we do policy and how we do law. All these other terms are the modifiers, the throwaways. And that’s what the natural world is—a throw-away—in this larger economic construct. We’re trying to change the norms, but we also have to change how we talk about it to start with.”

Reinvigorated Possibility

The idea for “A Communion of Subjects” grew out of the research and teaching of Douglas Kysar, the Joseph M. Field ’55 Professor of Law at Yale Law School. His book, *Regulating from Nowhere*, examines the traditional approaches to environmental law and regulation and finds a glaring flaw: the lack of a cogent and sustainable ethical foundation on which to build the familiar and accepted modes of decision making such as cost-benefit analysis.



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Kysar wanted to create an interdisciplinary course that provided equal value to ethical, environmental, and legal concerns in the search for solutions to the challenges of contemporary environmental law and policy.

He enlisted the help of two colleagues with joint appointments at F&ES and YDS, John Grim and Mary Evelyn Tucker. Grim and Tucker are pioneers in the intersection of religion and environmental studies. They founded and direct the Forum on Religion and Ecology and are series editors for the ten volumes from the original conferences (1997–2004) distributed by Harvard University Press.

Together, the three designed a course that examined the work, lives, and intellectual histories of six leading figures of law, environment, and religion. The title came from a quote by Thomas Berry, an influential scholar on religious and ecological history, who wrote, “The universe is a communion of subjects, not a collection of objects.”

The first half of the course functioned like a traditional seminar, as students—drawn equally from the three professional schools—read and debated the work of each figure. During the second half of the class, the students, working in teams, interviewed the speakers about their scholarship and practice, which was recorded as a video series and an audio podcast.

The speakers represented some of the most accomplished voices in their fields. James Anaya served as the United Nations special rapporteur on the rights of indigenous peoples from 2008 to 2014, and is currently a Regents Professor and the James J. Lenoir Professor of human rights law and policy at the University of Arizona James E. Rogers College of Law. Linda Sheehan, executive director of the Earth Law Center, has teaching appointments at the Vermont Law School and the California Institute of Integral Studies, and is a research affiliate with the Centre for Global Studies at the University of Victoria, British Columbia. Paul Waldau, a professor at Canisius College and director of its graduate program in Anthrozoology, is a leading figure in animal law who has held teaching appointments at Harvard Law School and Yale Law School. Jedediah Purdy '01 is the Robinson O. Everett Professor of Law at Duke Law School and a leading scholar of constitutional, environmental, and property law, as well as a best-selling author on the intersection of law and social and political thought. William K. Reilly is a long-standing leader in environmental policy who served as president of the World Wildlife Fund and the Conservation Foundation before serving as the administrator of the U.S. Environmental Protection Agency from 1989 to 1993. Thomas

Lovejoy is a pioneering conservation biologist who, among numerous accomplishments, coined the term “biodiversity,” founded the public television series *Nature*, and is currently a University Professor at George Mason University.

Each speaker’s work sparked interdisciplinary seminar sessions that explored novel and illuminating facets of problems that have long vexed traditional approaches limited to a singular discipline. The teams of students then had the chance to continue that exploration in their interviews with the speakers.



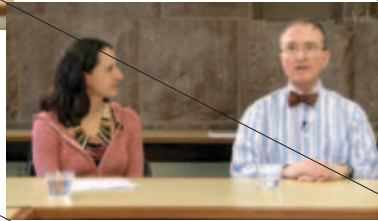
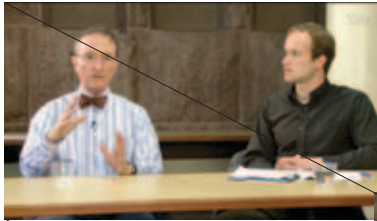
James Cramer (YDS) and Samara Brock (F&ES) in the podcast studio with James Anaya.

“My interest in the course came from a sense of frustration with the mainstream way in which environmental law and policy is debated, particularly in America but increasingly throughout the world,” explained Kysar in his introduction to the audio podcast. “We have dominant lenses of science and economics that evaluate the policy. And they generate answers: we actually know what’s wrong with the climate, for instance, and we know how to fix it. We should put a price on carbon. And you can get pretty uniform agreement when you talk to the relevant experts about that prescription. What we don’t seem to know is how to present the case with a sense of ethical urgency that reaches ordinary people using the concepts and values and expectations that order their lives and motivate action.”

Kysar, like Sheehan, explained the need to re-assess the assumptions of environmental policy. “In my field,” he said, “over and over again, I’ve heard economists describe climate

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(top) Alexis Weintraub (F&ES) and Matthew Ampleman '17 interview Thomas Lovejoy; (bottom) Raffael Fasel '15 LL.M (left) and Thomas Joseph Fitzgerald (YDS) interview Paul Waldau

(this page) Clara Rowe (F&ES) and William K. Reilly
(opposite) Jedediah Purdy '01 Ben Mylius '15 LLM



change as 'just another externality.' And that to me reflects a kind of exhaustion of the concepts that we're using. It suggests that that which is described as external, as outside, as exceptional, should actually be the main focus, the internal. It motivates me to seek alternatives frames, alternative languages, alternative cosmologies, and hopefully return to environmental law with a sense of reinvigorated possibility."

Clara Rowe, a student at F&ES, found that the seminars and the preparation for the interviews built bonds of mutual understanding between the disciplines. "While the interdisciplinarity did indeed allow us to see issues at new angles and reach conclusions that went beyond a unidisciplinary approach," she said, "I think the real beauty of this course was the sense of respect and understanding it fostered for different points of view." Rowe described the intense preparation for her interview with William K. Reilly, former head of the EPA, and the way it helped her understand the approaches of other disciplines. "A team of four of us prepared for more than a month," she explained. "We learned as much about each other as we did about the man whose life we were studying. We each wanted to ask different questions, structure our interview approach in different ways, and we each had very different opinions about what a particular piece of Bill's writing might mean in the broader context of his work. It was an incredible process beginning to end."

Hannah Malcolm, a student at YDS, was part of the group that interviewed James Anaya. Their conversation explored the rights of indigenous peoples, particularly in the context of human rights and environmental policies. "If one accepts the concept of human rights," Anaya explained, "it's not the case that some groups have more human rights than others. What is the case is that some groups have suffered particular kinds of violations in ways that others haven't. And those groups need a particular kind of attention, a particular kind of redress for what they've suffered."

Anaya discussed the ways in which concerns of environmental conservation groups can come into conflict with the rights of indigenous peoples. "The land base is that spatial ele-

ment of culture for indigenous peoples. And the environmental aspect is important to that as well. But it's not necessarily the case that indigenous peoples aspire to maintain the natural environment in a pristine state. Increasingly, we see development initiatives by them resulting in tensions with environmental groups."

Malcolm found that the discussion revealed some of the core difficulties of the issues that live at the intersection of these different disciplines. "The interdisciplinary approach was a strong reminder of the challenge faced when different academic languages have to communicate," she said. "This was one of the most important lessons learned in the class: that all the information and

passion in the world won't do much to solve a global problem like climate change if you can't (or won't) communicate in a language—and in stories—that others will understand."

A Geography of Thinking

As the students discussed the professional legacies of the speakers and the issues their work engaged, the course also encouraged the students to take into consideration the lived experiences that inform an individual's relationship to the environment.

Jedediah Purdy, speaking about the lasting influence of his childhood home in the mountains of West Virginia, explained that the foundation of his thinking about ethics, law, and policy are still shaped by the physical environment of his youth. "My experience of everything," he said, "is in some ways still marked by the topography of that place. Quite literally its topography. To me, the geography of thinking is the geography of a place that has both lowlands and highlands that are connected by ridges and slopes, so that you can traverse it on two very different spatial logics, depending on whether you're following streams or following lines of a ridge. And in the absence of that, thinking is very difficult for me, because there's only one way to get from one place to another."

Ben Mylius '15 LLM found his interview with Purdy offered invaluable insight into the scholar's writings. "Having the





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chance to speak with him in person, after having read so much of his work, was a fantastic opportunity to tease out the different threads of the ideas he presents in his writing, as well as to have the chance to seek his perspective on some of the ideas we’d developed in class,” Mylius said.

Thomas Lovejoy commented on the evolution of the ethics of conservation during his professional career. “When I started,” he said, “conservation was something you did because it was nice, and because it was right. But today it’s essential. We really have to manage the planet as a living planet, as a linked biological and physical system.” The underlying reasons for this, for Lovejoy, stem from a fundamental respect for what it means to be alive. “In terms of ethics, every living thing today has about a four-billion-year pedigree—part of an evolutionary line that goes back that far,” he said. “I think that demands respect. And a way of valuing other forms of life. Anything that we do that tries to create a tension between one species—our own—and another is misinformed. Basically we’re a social primate. We really like to engage with each other, which is part of our success, but also part of our Achilles heel. Because we tend to ignore a lot of the environment until suddenly it’s a problem.”

The World We Want to Live in

Kysar, Tucker, and Grim are discussing the logistics of offering this unique course again in the future. For now, the group who experienced this singular collection of perspectives and approaches are carrying their insights with them into their careers.

Reached by email in Juneau, Alaska, where she’s based for the summer with Earthjustice, Dena Adler said that the course was inventive and inspiring. “Law school gathers students with a myriad of passions to teach them a common skill set and way of analyzing a problem,” Adler said. “Conversely, ‘A Communion of Subjects’ drew together students from across the law, divinity, and forestry schools with divergent analytical frameworks, but a common interest in the environment. This class effectively flipped the traditional single discipline seminar on its head.”

In describing what set this course apart from other environmental law courses, Adler said it offered new approaches to familiar questions. “When asked, ‘What ought the law be?’ law students sometimes limit their imagination to what is cost-effective and administratively feasible,” she explained. “The interdisciplinary approach infused new life into this query, creating a space where it was appropriate to prod the cost-effective, administratively feasible solution and interrogate whether it was good enough—whether it embodied an ethic we supported or achieved the level of scientific results necessary to maintain the type of world that we want to live in.”

Adler found it invigorating to have in-depth discussions with someone working at the forefront of these interdisciplinary issues. “Interviewing Linda Sheehan inspired me,” Adler said. “She has an iron-clad grasp, no-nonsense command of her facts and the law—but also isn’t afraid to speak from her heart to explain why she thinks ‘rights of nature’ is an idea whose time has come. I found her passion contagious and was inspired by her courage to unapologetically share an unconventional view in a discipline often constrained by the status quo.” **Y**



Watch the video interviews at <http://ylaw.us/1KWv8Gs>.
Listen to the audio podcast at <http://ylaw.us/1KqoKJG>.