



## Climate Emergency Law and Policy

**Introduction: Welcome.** Thank you for being part of our project to achieve climate justice. The purpose of our endeavor between January 16 and May 9 is to create Hope and Courage. At present humanity faces the greatest threat to its survival in human history. If the earth heats to 1.5 degrees above preindustrial temperatures, the ensuing environmental threat will devastate human society. Every member of our group possesses an extraordinary power to protect earth and humanity. At the end of this collaboration we will all be equipped with an understanding of how to use the extraordinary power of the rule of law to protect humanity and Earth. Application of honest science to achieve the just application of the rule of law and protect a biodiverse earth is possible. We will develop the skills and the strategic mindset to overcome the present trajectory towards collapse of the ecosystems upon which food security and a humane global society depend. As a self-selected member of the Climate Emergency and Law Class, you are all positioned to be judges with the invaluable and presently rare capacity to justly administer climate emergency law. Those who are not law students will be empowered to make just climate policy a fundamental part of the profound transformation required if judges are to make courageous decisions to enforce climate rights.

**Concepts:** By the end of our collaboration, you should be familiar with the concepts of climate justice; climate anxiety; mitigation and adaptation; the 1.5 degree emergency boundary to global warming; atrocity law; judicial independence; a climate protection plan; handwrapping vs. implementation; aspirational vs. authentic values; the *sui generis* emergency; positive disruption; little guerillas vs the giants; the precautionary principle; intergenerational equity; public trust, polluter pays; loss and damage; carbon capture, equitable energy subsidies. At

the beginning and end of each session, I will identify what we are meant to have learned in that session.

**Preparation of welcome message:** Please prepare for my review a brief explanation of why you have joined this climate emergency law and policy class and a short description of your background. It will be a great pleasure for me to read and should be no more than 1 page. Please email to me before January 16.

**Strategy collaboration:** I will meet with each member of our class individually to discuss support of your future participation in climate issues and answer any questions you may have. I am available in person or by zoom.

**Credit requirements:** The course will have a final paper tentatively worth half your grade. A suggested topic is a Climate Protection Plan. Possible topics for a plan include judicial or legislative initiatives, grass-roots activism, financial sector reform, criminal prosecutions, reduction of military carbon footprint, representation of environmental defenders. The other half will consist of attendance, participation, and credit no credit homework. The length of the paper will vary based on how many credits you choose for the course. (expect 8-10 pages per credit).

Note: there might be some changes in the syllabus

1	Tue s Jan 16	<p><b>The Science Climate Emergency: Dr. Charles Fletcher (live) (see attached announcement). Dr. Fletcher's lecture will be in room ____- Reading for the first class :</b></p> <p>Dr. Fletcher's manuscript: “Emergency Earth: An Urgent Call to End the Age of Destruction and Forge a Just and Sustainable Future”<a href="#"><u>Fletcher Manuscript</u></a></p> <p>“Timely Judicial Recognition and Protection of Climate Rights”. <a href="#"><u>MW Judges Journal</u></a></p> <p>View Ted Talk recommended by Dr. Fletcher: <a href="#"><u>al gore utube</u></a></p> <p>Dr. Fletcher will deliver the following lecture:</p>
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2	Jan 23	<p><b>Climate Emergency Law</b></p> <p>Read district and circuit court opinions: <a href="#">Juliana v United States</a>, 339 F. Supp. 3d 1062 (D. Or. 2018) (Aiken, J) <a href="#">Juliana district court first opinion</a> 947 F.3d 1159 (9th Cir. 2020) (Staton, J dissenting) <a href="#">Juliana Ninth Circuit</a>; <a href="#">Juliana recent district court case</a>,</p> <p>mate-Lawsuit Dissent that Changed My Mind" <a href="#">atlantic article Juliana</a></p> <p>ederal judge in D.C. hit 'Reply All,' and now there's a formal question about his decorum" <a href="#">federal judge opposes climate rights education</a></p> <p><a href="#">/ Helco concurrence</a></p> <p><a href="#">Emergency Declaration</a></p>
3	Jan 30	<p><b>Judicial Application of The Rule of Law In a Democracy: Honorable Josephine Staton (in person); Hon. Sabrina McKenna, Associate Justice Hawaii Supreme Court (in person).</b></p> <p>Listen to Oral Argument in Ninth Circuit. <a href="#">Juliana v US</a>. <a href="https://www.youtube.com/watch?app=desktop&amp;v=DIQR_sqGt5k&amp;skip_registered_account_check=true">https://www.youtube.com/watch?app=desktop&amp;v=DIQR_sqGt5k&amp;skip_registered_account_check=true</a></p> <p>Read: Brown vs. Board of Education podcast, <a href="https://www.uscourts.gov/about-federal-courts/educational-resources/supreme-court-landmarks/brown-v-board-education-podcast">https://www.uscourts.gov/about-federal-courts/educational-resources/supreme-court-landmarks/brown-v-board-education-podcast</a></p>
4	Feb 6	<p><b>Emergency Atrocity Law: Internment of all Japanese people in the United States. Retired Professor Eric Yamamoto, Esq. and William Kaneko, Esq (in person) "Judicial Injustice and Judicial Remorse". Justice in the United States evolves.</b></p> <p>Read primary : Summary of dissent in Korematsu: <a href="https://www.thirteen.org/wnet/supremecourt/personality/landmark_korem">https://www.thirteen.org/wnet/supremecourt/personality/landmark_korem</a></p>

		<p><a href="atsu.html">atsu.html</a> . <a href="https://www.uscourts.gov/educational-resources/educational-activities/power-fiery-dissents-korematsu-v-us">https://www.uscourts.gov/educational-resources/educational-activities/power-fiery-dissents-korematsu-v-us</a></p> <p>Summary of dissent in Dred Scott v Sanford  <a href="https://www.thirteen.org/wnet/supremecourt/personality/landmark_dred.html">https://www.thirteen.org/wnet/supremecourt/personality/landmark_dred.html</a></p>
5	Feb 13	<p><b>Power of the Climate Emergency Rule of Law. Chapter 1. Climate Rights / Overcoming Climate Atrocity Law</b></p> <p><b>Professor Mary Wood (virtual)</b></p> <p><b>Read:</b>  Professor Wood climate article  <a href="https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1143&amp;context=ilj">https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1143&amp;context=ilj</a></p> <p>West Virginia vs EPA dissent <a href="West Va. v Epa">West Va. v Epa</a></p> <p>Juliana v United States, 947 F.3d 1159 (9th Cir. 2020)(Staton, J dissenting)  <a href="https://docs.google.com/document/d/1-JMPiYuYFS6D82A9yNULtvYX57HLEG1IGga8TKttdLk/edit">https://docs.google.com/document/d/1-JMPiYuYFS6D82A9yNULtvYX57HLEG1IGga8TKttdLk/edit</a></p> <p>AJI P., et al. v State of Washington (Chief Justice Gonsales dissent) <a href="https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/995648%20Public%20Order%20Denying%20Review%20100621.pdf">https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/995648%20Public%20Order%20Denying%20Review%20100621.pdf</a></p> <p><a href="#">MDW Helco concurrence</a></p> <p>Sunoco Supernova concurrence by Eddins, J. <a href="#">Justice Eddins Sunoco concurrence</a> ,</p> <p><a href="#">Held v Montana decision</a></p> <p><b>Review:</b>  Professor Wood  powerpoint: <a href="https://docs.google.com/presentation/d/1J2ocpdvyAS5UnpLAk4QwlaMjDqYlwYrd/edit#slide=id.p1">https://docs.google.com/presentation/d/1J2ocpdvyAS5UnpLAk4QwlaMjDqYlwYrd/edit#slide=id.p1</a>.</p>
6	Feb 20	<p><b>Power of the Climate Emergency Rule of Law. Chapter 2. Hope and Courage. The complaint/power of the story.</b></p> <p><b>Read:</b>  Juliana first amended complaint <a href="#">juliana first amended complaint</a>;  Juliana second amended complaint  <a href="https://docs.google.com/document/d/1pw7PMoGABGsEzPBLmsdp-u8o1A5x4WnTtMYdB8Bt9IM/edit">https://docs.google.com/document/d/1pw7PMoGABGsEzPBLmsdp-u8o1A5x4WnTtMYdB8Bt9IM/edit</a></p>

		<p>Judge Aiken opinion allowing motion to amend <a href="#">Juliana recent district court case</a>.</p> <p>The <a href="#">Held v Montana</a> complaint. <a href="#">Held v Montana complaint</a>  <a href="#">Held v Montana</a> decision <a href="#">Held decision</a></p> <p>The Navahine complaint <a href="#">complaint Navahine v Dpt of Transportation</a>, Environmental Court decision in Navahine. <a href="#">Crabtree, J. env. court decision</a>  Interview with <a href="#">Navahine</a> Plaintiffs. <a href="#">Interview with Navahine Plaintiffs</a></p> <p>The Supernova Sunoco complaint <a href="#">Sunoco first amended complaint</a>, The Supernova opinion of Judge Crabtree denying Exxon's motion to dismiss. <a href="#">Crabtree, J Order Denying Motion to Dismiss</a>  The Supernova Sunoco opinion of the Hawaii Supreme Court. <a href="#">Sunoco Majority opinion Justice Eddins Sunoco concurrence</a></p> <p><b>Watch:</b>  Navahine Plaintiffs discuss tragedy and hope. <a href="#">Hope from Hawaii's Youth Plaintiffs</a></p> <p>Interview with Held youth plaintiffs  <a href="https://vimeo.com/898368978">https://vimeo.com/898368978</a></p>
7	Feb 27	<p><b>Power of the Climate Emergency Rule of Law Chapter 3. Courage.</b> <a href="#">Julia Olson</a>, esq lead counsel for <a href="#">Juliana v United States</a>, <a href="#">Held v Montana</a> and <a href="#">Navahine vs Department of Transportation (virtual)</a></p> <p><b>Read</b>  <a href="#">Lorenzo's Answer</a></p> <p><b>Watch</b>  <a href="#">Juliana 60 minutes story</a></p> <p><a href="#">Navahine youth traumatized by attorneys representing state</a></p>
8	Mar ch 5	<p><a href="#">Mainland firm charging millions to defend state against keiki climate lawsuit</a></p>  <p><b>Power of the Climate Emergency Rule of Law Chapter 4. Climate Policy in the state of Hawaii. The <a href="#">Navahine</a> transportation case. Transportation climate justice for Hawaii and the United States. Transformational change at issue in Hawaii. Future</b></p>

		generations and mothers. <b>Leina ala Ley, esq. and the <u>Navahine Plaintiffs</u> (in person). Aimee Barnes, member of Board of Land and Natural Resources</b>
9	Mar ch 12	<b>Power of the Climate Emergency Rule of Law Chapter 5. Corporate Climate Justice. Peter Barnett, Esq. Client Earth. (virtual from London) Hon. Todd Eddins Associate Justice Hawaii Supreme Court (in person)</b>  <b>Read</b> <a href="#"><u>Sunoco concurrence, Eddins J. Justice Eddins Sunoco concurrence; MW Judges Journal</u></a>
1 0	Mar ch 19	<b>Spring Break. No class. Consider Your Climate Protection Plan. Possible topics for a plan, include judicial or legislative initiatives, grass-roots activism, financial sector reform, criminal prosecutions, reduction of military carbon footprint.</b>
1 1	Mar ch 26  <b>HO LID AY</b>  <b>Res che due d to April 12</b>	<b>Virtual class. Power of the Emergency Rule of Law Chapter 9. Application of Emergency Climate Law “Blue Sky Thinking”. Ecocide, Climate Justice definition of fiduciary duty, Nationalization of Fossil Fuel Industry; The United States Military and Climate Justice. Iraq, Afghanistan, Ukraine, Hawaii military-base operations (what is the carbon footprint?)</b>  <b>Read: International Cooperation Against All Odds, Part 5 history of <u>climate policy</u>;</b> <b>Science based judicial solutions <u>Law review, science based judicial decisionmaking</u></b>
1 2	April 2	<b>Power of the Emergency Rule of Law Chapter 8. The <u>Urgenda case</u>. Success and transformational change. Dennis van Berkel, Esq. The Urgenda Foundation (virtual from the Netherlands)</b>  <b>Read:</b> <a href="#"><u>Urgenda case</u></a>
1 3	April 9  <b>Vic She r resc hed uled to April 23</b>	  <b>Power of Climate Emergency Rule of Law Chapter 6. The power of the jury. <u>Sunoco-the Supernova Case</u>. Transformational change at issue in Hawaii. The might of the fossil fuel industry. Climate justice and punitive damages awards. <b>Vic Sher, esq (in person)</b></b>  <b>Read:</b> <a href="#"><u>Decision Denying Motion to Dismiss in Sunoco. Crabtree, J Order Denying Motion to Dismiss</u></a>

		<p><a href="#">Exxon opening brief</a>; <a href="#">Sunoco Plaintiffs reply</a>; <a href="#">Exxon Defendant's reply</a></p> <p><a href="#">The lawyer who became Dupont's worse nightmare</a></p> <p><a href="#">Watch the movie Dark Waters</a></p>
1 4	April 16	<p><b>Power of the Climate Emergency Rule of Law Chapter 10. Judicial Courage. The <u>Leghari</u> case. Application of Emergency Climate Law by the High Court of Lahore, Pakistan. <u>Justice Monsoor Ali Shah</u> (virtual from Pakistan)</b></p> <p><b>Read</b>  <a href="#">Leghari</a>  <a href="#">judges as water stewards (wilson, J)</a></p> <p><b>Take-home recap</b></p>
1 5	April 23	<p><b>Power of the Climate Emergency Rule of Law Chapter 11. Application of Environmental Law in India. <u>Chief Justice of India Dhananjaya Chandrachud</u> (virtual from India). Vic Sher in person</b></p>
1 6	April 30	<p><b>Power of the Climate Emergency Rule of Law Chapter 12. Mothers and Transformational change. <u>Debbie Milliken, Chase Livingston, Evan Weber –</u></b></p> <p><b>Reading:</b> <a href="#">Mothers Out Front: Mobilizing for a Liveable Climate   USA   UNFCCC</a>  <a href="https://www.newyorker.com/news/news-desk/the-moms-who-are-battling-climate-change">https://www.newyorker.com/news/news-desk/the-moms-who-are-battling-climate-change</a>  <a href="https://www.nytimes.com/2022/03/11/climate/climate-change-moms-mothers.html">https://www.nytimes.com/2022/03/11/climate/climate-change-moms-mothers.html</a></p>

**ELECTRONIC DEVICES:** Electronic devices are welcome in class to support learning. Please be mindful that they do not serve as a distraction to you (or those around you if we are all meeting together in a classroom).

**ATTENDANCE:** You are expected to attend all classes. “Timely and punctual attendance” is an ABA requirement. Much of the learning from this course comes from participating in the in-class simulations and exercises.

### **Course Policies & Zoom Guidelines**

**Using the internet and phones during class:** I will not be texting, using email, or browsing the web while I am teaching you, and I expect that you will not be doing those either, except for class purposes and very important or critical situations.

**Using chat:** I will not restrict private chats during class unless it becomes distracting.