



**Thompson Rivers University
Faculty of Law
Course Syllabus and Outline**

**Animals and the Law
LAWF 3780 (3,0,0)
Winter 2020
Professor Katie Sykes**

Where and when

Tuesdays and Thursdays, 11:30 am – 1 pm

OM 3772

Contact information

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Office hours

Wednesdays 2:30-4:30 pm and Fridays 9-11 am

OM 4775

Course description

Students analyze and engage with conceptual questions and legal and philosophical debates about the place of nonhuman animals in the legal system. Students learn the key legal doctrines, statutory regimes, case law, and industry guidelines that regulate human interaction with animals in Canada, in other countries and internationally, and practice using these legal tools in advocacy and scholarship. Students research, analyze and discuss topics, which may include: federal criminal law concerning animal cruelty and bestiality; provincial animal welfare law; federal and provincial law on the protection and management of wild animals; regulation and industry codes on animal agriculture and food production; regulation of the use of animals in entertainment and research; pets in family law; pets and human shelter (rental and condominium); breed-specific legislation; attempts at statutory reform in Canada; international law on animal protection; Canadian animal law in comparison to the law in other countries; and the legal aspects of Indigenous perspectives on human-animal interactions. Students develop skills in advocacy for legislative reform of animal protection law by using evidence and effective arguments in support of their proposals. Students research, plan, workshop and write a substantial legal research paper on a topic related to animals and the law.

This course satisfies the International Requirement. There is an option to satisfy the Upper Year Writing Requirement (see “Evaluation,” below).

Learning Outcomes

After taking the course, students will be able to:

- Analyze, explain and apply key legal provisions and doctrines concerning animals;
- Demonstrate understanding of the conceptual and philosophical debates about animals and the law;
- Demonstrate understanding of the challenges, limitations and opportunities of using law for animal protection;
- Propose legal reforms for animal protection and present arguments and evidence in support of their proposals;
- Demonstrate effective legal research skills;
- Write a well researched, effectively argued legal research paper;
- Effectively use legal tools and strategies for animal protection and advocacy.

Methodology

This is a seminar course. A high level of participation and discussion is expected. In the last two weeks of the course, students will deliver presentations and lead class discussion on their research paper topics.

Evaluation

There are two options: Option One, one for students who want to satisfy the Upper Year Writing Requirement (or would like to write a long research paper); and Option Two, for students who would prefer to submit a shorter paper plus an assignment focusing on public legal education and advocacy.

OPTION ONE (long paper option):

- Attendance and participation 10% (based in part on self-assessment – see below)
- Outline and bibliography for final paper 5%
- In-class presentation on final paper 10%
- Final research paper, 7,500 – 8,500 words including footnotes 75%

For students who choose option one, the paper will satisfy the Faculty of Law Upper Year Writing Requirement.

OPTION TWO (shorter paper plus public legal education / advocacy exercise option):

- Attendance and participation 10% (based in part on self-assessment – see below)
- Public legal education / advocacy exercise 20% (for more details, see “PLEA” channel on Mattermost)
- Outline and bibliography for final paper 5%
- In-class presentation on final paper 10%
- Final research paper, 3,500 – 4,000 words including footnotes 55%

Submitting Assignments. Please submit your assignments on Mattermost. Create a **private** channel, **add me**, and **name the channel “[Katie’s] assignments”** (replacing the name with your name and omitting the square brackets). **Please don’t forget to put YOUR name in the name of the channel** (if it’s just called “Assignments” I won’t know whose assignments they are). And don’t forget to add me – if you don’t, I won’t be able to see it. Use this private channel as a drop box for your assignments.

Participation Grade. This is a seminar-type class with a focus on discussion and debate of controversies and evolving ideas in animal law. Your contribution is important, even essential! 10% of your final grade will be based on a combination of your attendance and your constructive, informed contribution to in-class discussion. To assess participation, I will rely in part on my own observations, but since I may not keep track of everything perfectly I will also ask you to provide me with a self-assessment of your participation at the end of term. Please submit your self-assessment **on Friday, April 24 by 5 pm**. It should be a short paragraph addressing how good you think your participation was (excellent, good, ok, poor) and why. Some points that you may want to address (depending on what you think applies to you) are: how you contributed to a lively and educationally rich discussion in class; how you responded to your classmates’ contributions and supported their participation; how you improved over the course of the semester; what you think you could have done better; what you learned from your experience of participating and discussing in class.

Papers. Final papers are due on **Friday, April 24 by 5 pm**. More detailed instructions and grading guidelines are posted on Mattermost in the “Papers” channel.

Policies

Please read and be familiar with the relevant TRU Senate-approved policies, available at <https://www.tru.ca/policy.html>.

Grading. Grading is in accordance with the updated Policy on Grading Systems, available at https://www.tru.ca/_shared/assets/ED_3-5_Grading_Systems35364.pdf. If grades fall between two whole numbers, my policy is to round up for increments of 0.5 and above and round down for increments below 0.5 - *i.e.*, a grade of 74.5 is rounded up to 75, and a grade of 74.2 is rounded down to 74.

Academic Integrity. Academic integrity is centrally important in the work of faculty and students. Please review the Thompson Rivers University policy on Student Academic Integrity, in particular Art. VI (Forms of Academic Dishonesty) (<http://www.tru.ca/shared/assets/ed05-05657.pdf>). If you have any concerns or questions, or require clarification about any matters related to academic integrity, please do not hesitate to discuss them with me. Students should also be aware that admission to the practice of the law requires standards of integrity that are higher still than those expected of academics. A finding of academic misconduct, even if it does not result in suspension or expulsion from the Faculty of Law, may nevertheless be a bar to admission into articling or practice.

Respect and Courtesy. Please be courteous to all members of the class and have respect and consideration for the time, work and energy that everyone is investing in this enterprise. This goes for online discussions and e-mail as well as in the classroom. Avoid coming late to class, as it disrupts the process for everyone else, and that is unfair. Listen attentively to your colleagues' questions and comments, and participate actively and respectfully in class discussions.

Laptops. Laptops are welcome in this class, but please use them wisely. Stay off web sites that will prevent you and your neighbours from learning. When we have guest speakers, give them the respect guests deserve and pay attention to them instead of staring at your screens.

Accommodation. The Faculty of Law will provide reasonable accommodation to students on the basis of factors such as illness, disability, religious observances, family or personal emergencies or affliction, or other similar special needs, when such factors interfere with the ability of a student to attend or to complete assignments or examinations at regularly scheduled dates or in other circumstances. Students should feel free to consult me or the Associate Dean regarding such matters. Students facing more significant and long-term or recurring barriers should familiarize themselves with TRU's policy on [Academic Accommodations for Students with Disabilities](#) and confer with [Accessibility Services](#) as soon as possible.

Attendance. It is your responsibility to attend class. If you have to miss class it is your responsibility to make arrangements to catch up. Attendance is taken into account in grading.

Recording. You may record my lectures if you wish to. When we have a guest speaker or presentations by other members of the class, please do not record without their permission.

COURSE OUTLINE

How to find the readings:

- “Bisgould” refers to the course text, *Animals and the Law* by Lesli Bisgould
- You can access most of the other materials directly from links in the outline below
- Everything else – that is, anything that isn’t Bisgould and doesn’t have a hyperlink – should be on Mattermost in the “Readings” channel (let me know ASAP if it’s not!)
- **Please note that some of the course readings are disturbing.** Many of the cases and secondary materials discuss abuse and mistreatment of animals. Some of the factual situations intersect with other kinds of abuse, like family violence. If you need to skip a reading and/or sit out a discussion, that is completely fine – please just let me know if you can.

I may adjust the outline as appropriate in the course of the semester (e.g., to accommodate guest speakers’ schedules, allow for extended discussion of a topic, etc.).

Week	Date	Topic	Assignments / Readings
Week 1: Introduction	Tues Jan 14	Introduction to Animals and the Law	None
	Thurs Jan 16	Overview of areas of law that regulate the treatment of animals	<p>Bisgould Chapters 1 and 2</p> <p><i>Criminal Code</i> ss. 444–447.</p> <p>Prevention of Cruelty to Animals Act, RSBC 1996 c 372.</p> <p><i>R. v. Menard</i> (1978), 43 CCC (2d) 458 (Que CA).</p> <p>Wildlife Act, RSBC 1996 c 488</p> <p>Gary Francione, “The Abolition of Animal Exploitation” pages 1–61</p> <p>Katie Sykes, “Animal Rights” – excerpt from chapter in Alastair Lucas et al, eds, <i>Environmental Law and Policy</i> (4th ed) (forthcoming) – NB this is just a draft, so please don’t share!</p>
Week 2: Representing animals in the legal system	Tues Jan 21		<p>Reece v. Edmonton (City), 2011 ABCA 238</p> <p>Zoocheck Canada v. Alberta (Ministry of Agriculture and Forestry), 2019 ABCA 208</p> <p>Schnurr v. Canadian Tire, 2019 ONSC 5781</p> <p>Civil Code of Quebec s. 898.1</p> <p><i>Matter of Nonhuman Rights Project v. Lavery</i> concurring opinion of Judge Fahey in New York Court of Appeals decision denying leave to appeal (see also timeline of the case)</p>

			<p>Jessica Eisen, “Beyond Rights and Welfare: Democracy, Dialogue, and the Animal Welfare Act,” pages 469-516.</p> <p>Cass Sunstein, “Can Animals Sue?”</p>
	Thurs Jan 23	<p>Guest Lecture: Camille Labchuk, Executive Director of Animal Justice Canada (by videoconference)</p>	<p>Daniel Fish, “Camille Labchuk and the Rise of Animal Protection Law”</p>
Week 3: criminal, wildlife	Tues Jan 28	<p>S. 445.1: wilfully causing unnecessary suffering</p>	<p>Bisgould Chapter 3 (warning: some of the cases summarized in this chapter are very disturbing)</p> <p>R v Gerling, 2016 BCCA 72</p> <p>Peter Sankoff, “Mens Rea for Animal Cruelty Offences after R. v. Gerling: A Dog’s Breakfast” (2016) 26 Criminal Reports (7th) 267.</p> <p><i>R v Pacific Meat Co</i>, [1957] BCJ No 98.</p>
	Thurs Jan 30	<p>Punishing animal abusers</p> <p>Wildlife law and bear trouble</p>	<p>Justin Marceau & William Dewey, “Friends of Every Friendly Beast: Carceral Animal Law and the Funding of Prosecutors”</p> <p>Bisgould Chapter 8</p> <p>Species at Risk Act, SC 2002 c 29</p> <p>Wildlife Act (BC) s 79</p> <p>Association for the Protection of Fur Bearing Animals v. British Columbia (Minister of Environment and Climate Change Strategy), 2018 BCCA 240</p>
Week 4: provincial animal protection law	Tuesday Jan 4	<p>Overview of provincial laws</p>	<p>Bisgould Chapter 4</p> <p>Prevention of Cruelty to Animals Act (BC)</p> <p>R v Muhlbach, 2011 ABQB 9 (warning – disturbing)</p> <p>Bogaerts v. Attorney General of Ontario, 2019 ONSC 41</p> <p><i>Ontario (Attorney General) v. Bogaerts</i>, 2019 ONCA 876</p> <p>Bill 136, Provincial Animal Welfare Services Act 2019 (Ontario)</p>

	Thurs Feb 6	Specific animal protection problems	<i>R v Fawcett</i>, 2012 BCPC 421 (warning – disturbing) <i>Sled Dog Standards of Care Regulation</i> Vaughan Black, “Beastly Dead” Chris Heath, “18 Tigers, 17 Lions, 8 Bears, 3 Cougars, 2 Wolves, 1 Baboon, 1 Macaque, and 1 Man Dead in Ohio” <i>Controlled Alien Species Regulation</i> College of Veterinarians of British Columbia, Ethics and Standards, s 231 College of Veterinarians of British Columbia, Feline Partial Digit Amputation / Declawing (2018)
Week 5: the 2019 federal reforms	Tuesday Feb 11	Criminal – bestiality and fighting Cetacean captivity	Bisgould pp 87-96 (the end of Chapter 3, already read in Week 3 – but take another look) <i>R v DLW</i>, 2016 SCC 22 (warning: disturbing – sexual abuse of children and an animal) Bill C-84 Bill S-203 Katie Sykes, “The Whale, Inside: Ending Cetacean Captivity in Canada” Vancouver Aquarium Marine Science Centre v. Charbonneau , 2017 BCCA 395 The Whale Sanctuary Project
	Thursday Feb 13	Shark finning Cosmetic testing (the one that failed)	Eng v. Toronto (City) , 2012 ONSC 6818 Bill C-68 , s 32 Bisgould Chapter 7 EU, Ban on Cosmetic Testing Bill S-214 Deadline to confirm your topic and format for public legal education / advocacy assignment for students selecting Option Two.
Week 6: Reading Week	Tuesday Feb 18	Reading week – no classes	
	Thursday Feb 20		

Week 7: Food Part I	Tuesday Feb 25	Research paper guidance	<p>Mary Hemmings will join us to guide us through research resources on animals law.</p> <p>Review the paper instructions in the “Papers” channel on Mattermost</p>
	Thursday Feb 27		<p>Peter Sankoff, “Canada’s Experiment with Industry Self-Regulation in Agriculture: Radical Innovation or Means of Insulation?”</p> <p>David Wolfson & Mariann Sullivan, “Foxes in the Henhouse”</p> <p>Compassion in World Farming v Secretary of State for the Environment, Food and Rural Affairs (EWHC)</p> <p>Animal Justice Canada, “Alberta Should Regulate Farmed Animal Welfare Instead of Punishing Animal Advocates”</p>
Week 8: Food Part II	Tuesday March 3	Transportation and slaughter: the regulatory framework	<p>Bisgould Chapter 6</p> <p>Health of Animals Act, SC 1990 c 21</p> <p>Health of Animals Regulations, CRC c 296 (especially Part XII)</p> <p>Safe Food for Canadians Regulations SOR/2018-108</p> <p>Canadian Food Inspection Agency, “Humane stunning and slaughter of food animals and post-cut management”</p> <p>Maple Lodge Farms Ltd. v. Canadian Food Inspection Agency, 2017 FCA 45</p> <p>Canadian Horse Defense Coalition v Canada (Food Inspection Agency), 2019 FC 1559</p> <p>Vaughan Black, “Traffic Tickets on the Last Ride”</p>
	Thursday March 5	Transportation and continued: the Save movement & backlash (“ag gag”), religious slaughter Alternatives	<p>R. v. Kranjc, 2017 ONCJ 281</p> <p>Alberta, Bill 27, Trespass Statutes (Protecting Law-Abiding Property Owners) Amendment Act, 2019</p> <p>Ontario, Bill 156, Security from Trespass and Protecting Food Safety Act, 2019</p> <p>Anne Peters, “Religious Slaughter and Animal Welfare Revisited: CJEU, Liga van Moskeeën en islamitische Organisaties Provincie Antwerpen (2018)”</p>

			<p>Canadian Food Inspection Agency, Guidelines for ritual slaughter of food animals without pre-slaughter stunning</p> <p>Kelsey Piper, “Meatless meat is becoming mainstream — and it’s sparking a backlash”</p> <p>FoodDive, “Tracking the plant-based protein movement” (scroll down for latest updates)</p> <p>Public legal education / advocacy exercise due for students selecting Option Two</p>
Week 9: Pets	Tuesday March 10	Whose animal?	<p><i>Nakhuda v. Story Book Farm Primate Sanctuary</i>, 2013 ONSC 5761</p> <p>Baker v Harmina, 2018 NLCA 15</p> <p>Nicole Pallotta, “Alaska Legislature Becomes First to Require Consideration of Animals’ Interests in Custody Cases”</p> <p>The Guardian Pass Notes, “I’m keeping the dog! The rise in ‘pet-nups”</p> <p>Christopher F. Schuetze, “Debt Collector Seizes Family’s Prized Pug and Sells It on eBay”</p>
	Thursday March 12	<p>Dangerous dogs</p> <p>Special guest lecture by Rebeka Breder</p>	<p>Outline and bibliography of paper due</p> <p>Santics v. Vancouver (City) Animal Control Officer, 2019 BCCA 294</p>
Week 10: comparative and international perspectives	Tuesday March 17	Animals and comparative law	<p>Supreme Court of Israel, Foie Gras (2003)</p> <p>Cecelia the Chimpanzee, Province of Mendoza, Argentina (2016)</p> <p><i>Balakrishnan v. Union of India</i></p> <p><i>People for Animals v. State of Goa</i></p> <p>Amy Wilson, “Animal Law in South Africa: ‘Until the lions have their own lawyers, the law will continue to protect the hunter”</p> <p>Kristin Stilt, “Constitutional Innovation and Animal Protection in Egypt”</p>
	Thursday March 19	<p>Animals in international law</p> <p>Indigenous peoples, animals and the law</p> <p>Decolonization</p>	<p>Will Kymlicka & Sue Donaldson, “Animal Rights and Aboriginal Rights”</p> <p>Maneesha Deckha, “Postcolonial” in <i>Critical Terms for Animal Studies</i></p>

			Michael Bowman, “Animals, humans and the international legal order” in <i>Animal Welfare and International Environmental Law</i>
Week 11: presentations	Tuesday March 31	Student presentations of final papers	For these classes, the presenting students may ask you to read (short) materials before the presentation
	Thursday April 2	Student presentations	
Week 12: presentations	Tuesday April 7	Student presentations	
	Thursday April 9	Student presentations	