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## EDITOR'S NOTE

*Protest*

***To sin by silence, when we should protest,  
Makes cowards out of men.***  
*The human race has climbed on protest.  
Had no voice been raised  
Against injustice, ignorance, and lust,  
The inquisition yet would serve the law,  
And guillotines decide our least disputes.  
The few who dare, must speak and speak again  
To right the wrongs of many. Speech, thank God,  
No vested power in this great day and land  
Can gag or throttle. Press and voice may cry  
Loud disapproval of existing ills;  
May criticise oppression and condemn  
The lawlessness of wealth-protecting laws  
That let the children and childbearers toil  
To purchase ease for idle millionaires.*

*Therefore I do protest against the boast  
Of independence in this mighty land.  
Call no chain strong, which holds one rusted link.  
Call no land free, that holds one fettered slave.  
Until the manacled slim wrists of babes  
Are loosed to toss in childish sport and glee,  
Until the mother bears no burden, save  
The precious one beneath her heart, until  
God's soil is rescued from the clutch of greed  
And given back to labor, let no man  
Call this the land of freedom.*

~ Ella Wheeler Wilcox<sup>1</sup>

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<sup>1</sup> ELLA WHEELER WILCOX, *Protest*, in POEMS OF PROBLEMS 154, 154–55 (1914) (emphasis added).

Welcome, reader, to the first issue of the next fifty years of *Environmental Law*: the nation's oldest and most comprehensive student-edited environmental law review. We are so glad you are here. It has been an honor to serve as Editor in Chief during such an important and historic milestone in our journal's legacy of cutting-edge legal scholarship.<sup>2</sup> Indeed, what a time it has been, in general, to be a law student.

### I. AN ANTHEM AGAINST SILENCE

The poem above takes its place as the epigraph of this Editor's Note because of its timelessness. As an anthem for our own time, it is just as applicable today—with as much relevance and inspiring force<sup>3</sup>—as it was over a century ago. It is also well-suited to celebrate the past half-century of *Environmental Law* scholarship, which, at the time of its founding in 1970, was the first law review journal of its kind, filling the void—or rather, silence—in an area of law that has only grown in importance over the last fifty years.

The sphere of environmental law encompasses a multitude of competing interests. If you listen, you will hear from east to west, growing sounds of discontent and deep unrest. To be sure, while I have toiled these past three years behind books, tomes, and treatises, this nation has also labored, at times, collectively, with a great social reckoning. The nationwide protests following the murder of George Floyd have not just highlighted the pervasiveness of outrageous conduct against minorities but have made clear how deeply rooted systemic racism is in our nation and its myriad impacts on people of color—including on our environment and natural resources, and in who suffers most from environmental harm and climate change.

The connection between systemic racism and environmental injustice may not be as obvious as episodes of public police brutality. However, we must realize that every action taken by one segment of our society produces reactions, not only within that segment, but in others—spreading like ripples created when a stone is thrown into a pond, reaching and expanding into the whole of society. That is to say, environmental problems do not exist in a vacuum just as systemic racism does not only exist in laws, policies, and institutions.

There are numerous discrete threats from climate change that disproportionately impact communities of color and people with lower incomes. For example, according to a study published in the *Proceedings of the National Academy of Sciences* (PNAS), communities of color bear a

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<sup>2</sup> For a brief and insightful celebratory review of the past fifty years of *Environmental Law*, see Michael C. Blumm, *Environmental Law at 50: A Cutting-Edge Journal Examining the Central Issues of Our Time*, 50 ENV'T L. 1 (2020).

<sup>3</sup> To hear a reading of this timeless and timely poem by best-selling author, feminist, artist, and community leader, Amanda Palmer, visit *Amanda Palmer Reads "Protest" by Ella Wheeler Wilcox (1914)*, SOUNDCLOUD, <https://soundcloud.com/brainpicker/protest-poem-by-ella-wheeler-wilcox-1914-read-by-amanda-palmer> (last visited Mar. 15, 2021).

disproportionate burden from air pollution caused mainly by non-Hispanic White Americans' consumption habits.<sup>4</sup> This disparity is largely caused by ongoing racial segregation forged through historical practices like redlining, exclusive housing covenants, and zoning laws as well as ongoing practices like discriminatory hiring and mortgage lending which have, altogether, dispossessed communities of color of economic and political power.<sup>5</sup> Additionally, many natural resources such as shellfish and salmon are affected by ocean acidification, jeopardizing Indigenous tribes that rely most on those resources. In fact, one of the key threats to Native Americans is "increased food insecurity due to reduced availability of traditional foods, changing water availability, Arctic sea ice loss, permafrost thaw, and relocation from historic homelands."<sup>6</sup>

Yet, there is hope. The roots of institutional racism are finally being scrutinized with a razing eye.<sup>7</sup> Voices, young and old, have inspired and incited good trouble,<sup>8</sup> have railed against social constructs long overdue for change, and are leading this country—surely, albeit slowly<sup>9</sup>—to a land we can *truly*, without "gag or throttle," call *free* of the "manacles" of systemic oppression and prejudice standing in the way of a better, healthier, and more equitable tomorrow.

The magnitude and complexity of environmental injustice require thoughtful consideration and action for successful resolution. To fully upend systemic racism, we must confront the history and continued presence of institutional racism both in our environment and in our fight against the climate crisis. To that end, as we begin the next half-century, *Environmental Law* reaffirms its longstanding commitment to publishing works—or rather, anthems—that break the silence—however inconvenient—on the harms we are doing to this planet and its many diverse ecosystems. On the same hand, we also reaffirm our aim to harness the brilliance and prowess of legal minds to proffer solutions to remedy and repair "the damage we have done to our air, our land and our water."<sup>10</sup>

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<sup>4</sup> Christopher W. Tessum et al., *Inequity in Consumption of Goods and Services Adds to Racial-Ethnic Disparities in Air Pollution Exposure*, 116 PNAS 6001, 6001 (2019), available at <https://perma.cc/EDY3-RSEJ>.

<sup>5</sup> Terry Gross, *A 'Forgotten History' of How the U.S. Government Segregated America*, NPR (May 3, 2017), <https://perma.cc/UJM9-S6VF>.

<sup>6</sup> U.S. GLOBAL CHANGE RESEARCH PROGRAM (USGCRP), 2014 NATIONAL CLIMATE ASSESSMENT: INDIGENOUS PEOPLES, LANDS, AND RESOURCES (2014), available at <https://perma.cc/545L-U3C9> [hereinafter 2014 NATIONAL CLIMATE ASSESSMENT].

<sup>7</sup> Or, perhaps, this is merely an optimistic observation of my waning—not-quite-yet cynical—youth. One can hope.

<sup>8</sup> Rashawn Ray, *Five Things John Lewis Taught Us About Getting in "Good Trouble"*, BROOKINGS (July 23, 2020), <https://perma.cc/LH3A-43Y8>.

<sup>9</sup> In the words of the late Justice Ginsburg, who was as pioneering as she was audacious, "Real change, enduring change, happens one step at a time." See Joshua Barajas, *After RBG's Death, This Poet Urges Us to Follow in Her Footsteps*, PBS (Sept. 24, 2020), <https://perma.cc/966V-7YLG>.

<sup>10</sup> Letter from President Richard Nixon, to Lewis & Clark Law School, *Environmental Law* (1970), <https://perma.cc/ZX3X-VU72> (praising the editors for undertaking an effort to

## II. A TIME FOR CHANGE

*No, no, my friend. You are kind, and you mean well, but you can never understand these things as I do. You have never been oppressed.*

~ S. Alice Callahan<sup>11</sup>

I do not believe I would be out-of-turn by speaking on behalf of the Editors that have come before me, that it has been, in the deepest sense, a great privilege as well as a duty to have the opportunity to publish academic works of such high caliber and great importance as it relates to the health and well-being of this Earth, our home. As we look forward to the next fifty years, we must remember that life and reality are not things you can have for yourself unless you accord them to all others. In other words, it is the burden of the privileged to address inequities on behalf of the marginalized whenever, and wherever, we find them. Sometimes, they are closer to home than we realize.

With that said, it is appropriate that at this milestone of achievement in our legacy of trailblazing scholarship, we take a moment to reflect and take inventory on all that is worth keeping and, perhaps, all that is long overdue for change. For what we may now see as elemental truths may have been foreign, even if well-intentioned, notions just a few short decades ago. As it applies here, I would like to proudly direct your attention to the cover of this issue where you will notice our new logo: a crest representing the ideal balance between nature and sustainable environmental and energy policies.

If you have been a long-time reader of *Environmental Law*, then you are familiar with our decades-old logo: the sun beaver totem. The emblem made its first appearance in Volume 5, Issue 1 (1974). At the time, an editorial note introduced the emblem as “an interpretation of Northwest Indian art.”<sup>12</sup> Without the benefit of any further documentation, it is unclear whether *Environmental Law* was granted permission to adopt this totem as our logo as an *appreciative*, rather than an appropriative, gesture.<sup>13</sup> Out of an abundance of caution and respect toward the original Peoples of this land, our journal leadership decided a new logo was appropriate to better reflect the diversity of subject matter our law review covers and to reflect emerging sensitivities and respect for Native cultures. As best-selling author Ijeoma Oluo so aptly describes in her book, *So You Want to Talk About Race*, “Until we do live in a society that

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search for solutions to what he called the “great question of the Seventies, which is whether we shall surrender to our surroundings or whether we shall make our peace with nature and begin to make reparations for the damage we have done to our air, our land and our water”). See also Richard Nixon, *Letter*, 1 ENV’T L. 1 (1970) (same).

<sup>11</sup> S. ALICE CALLAHAN, WYNEMA: A CHILD OF THE FOREST 109 (1891).

<sup>12</sup> 5 ENV’T L., at iv (1974).

<sup>13</sup> To this end, I would like to personally thank Maggie Powers, a 2019–2021 member of *Environmental Law* who brought this issue to our attention and advocated for a logo redesign. Sometimes, the truth is inconvenient, but we must face it, nonetheless.

equally respects all cultures, any attempts of the dominant culture to 'borrow' from marginalized cultures will run the risk of being exploitative and insulting."<sup>14</sup> Of course, there is a difference between cultural appreciation and cultural appropriation. As Oluo writes: "Appreciation should benefit all cultures involved, and true appreciation does. But appropriation, more often than not, disproportionately benefits the dominant culture that is borrowing from marginalized cultures, and can even harm marginalized cultures."<sup>15</sup>

Finally, as we depart with old attachments, we contemplate new ones. One way that systemic racism can manifest is through the invisibility of Indigenous lands and erasure of Indigenous history. Thus, moving forward, *Environmental Law* will begin a new tradition by acknowledging the land on which we occupy at Lewis & Clark Law School at the beginning of each of our issues.

As we look forward to the next fifty years of leading scholarship in natural resources and environmental law, may we endeavor to continue this mighty and mobilizing anthem against silence.

### III. LAND ACKNOWLEDGMENT

*We humbly ask permission from all our relatives;  
Our elders, our families, our children,  
The winged and the insects,  
The four-legged, the swimmers  
And all the plant and animal nations, to speak.  
Our Mother has cried out to us.  
She is in pain.  
We are called to answer her cries.  
Msit No'Kmaq—All my relations!*

~ Indigenous prayer<sup>16</sup>

What we now call Portland, Oregon, and Multnomah County are the traditional lands of the Multnomah, Wasco, Cowlitz, Kathlamet, Clackamas, Bands of Chinook, Tualatin, Kalapuya, Molalla, and many other tribes who made their homes along the Columbia River. These Indigenous peoples signed the Willamette Valley Treaty of 1855 and were later forcibly removed from their homelands to the Grande Ronde Indian Reservation.

We acknowledge the ancestors and survivors of this Place and recognize that we are here because of systemic policies of genocide, relocation, and assimilation that still impact many Indigenous, Native American people today. We honor their legacy, their lives, and their

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<sup>14</sup> IJEOMA OLUO, SO YOU WANT TO TALK ABOUT RACE 151 (2018).

<sup>15</sup> *Id.* at 146.

<sup>16</sup> Reproduced in 2014 NATIONAL CLIMATE ASSESSMENT, *supra* note 6.

descendants who carry on Tribal traditions for present and future generations.

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*Editor in Chief*