



# The Long View

## What Does the Papal Encyclical, *Laudato Si'*, Say to Lawyers?

By Max Miller

On June 18, 2015 the Vatican made public the “Encyclical Letter *Laudato Si'* of the Holy Father Francis on Care for Our Common Home” (available at [http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html)). An encyclical is considered the highest level of teaching to the Bishops and members of the Catholic Church, and this is the first encyclical on the environment or climate in the history of the Church. However, this encyclical is addressed to a broader audience: “Faced as we are with global environmental deterioration, I wish to address every person living on this planet.” And, for several reasons, Pope Francis’ appears to be a persuasive voice to many non-Catholics.

“Faced as we are with global environmental deterioration, I wish to address every living person on this planet.”

The encyclical states clearly that climate change will affect everyone, while at the same time focusing on its particular impact on three populations: the poor, less-developed regions, and future generations. So, in what way does this 246 paragraph encyclical speak specifically to lawyers?

In paragraph 53, Pope Francis says that it is essential to establish a legal framework that can ensure the protection of ecosystems, so that power structures do not overpower freedom and justice. At paragraph 92, he quotes a Conference of Dominican Bishops: “Peace, justice and the preservation of creation are three absolutely interconnected themes, which cannot be separated and treated individually....”

In paragraph 93, he speaks about a need for limitations on property rights, quoting Pope John Paul II: “the Church does indeed defend the legitimate right to private property, but she also teaches no less clearly that there is always a social mortgage on all private property, in order that goods may serve the general purpose that God gave them.... [I]t is not in accord with God’s plan that this gift [private property] be used in such a way that its benefits favour only a few.” This discussion echoes recent discussions on the doctrine of public trust by University of Oregon’s Mary Woods and others.

In paragraph 129, Pope Francis zeros in on the need for legislation to protect the small local farmer from big agribusiness. “Civil authorities have the right and duty to adopt

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clear and firm measures in support of small procedures and differentiated production. To ensure economic freedom from which all can effectively benefit, restraints occasionally have to be imposed on those possessing greater resources and financial power.”

Pope Francis also discusses the need to enforce existing laws, and the world-wide impact of local failures to do so. At paragraph 142 he notes that “lack of respect for the law is becoming more common.... We know for example, that countries which have clear legislation about the protection of forests continue to keep silent as they watch laws repeatedly being broken.... [D]rug use in affluent societies creates a continual and growing demand for products imported from poorer regions, where behavior is corrupted, lives are destroyed, and the environment continues to deteriorate.”

At paragraph 159, Pope Francis also touches on the emerging legal discussion over the need for a guardian for future generations: “Intergenerational solidarity is not optional, but rather a basic question of justice, since the world we have received also belongs to those who will follow us.” (locally, in Oregon, this banner is being carried by Senior Advocates for Generational Equity).

Later, Pope Francis specifically calls out a need for enforceable international agreements. At paragraphs 173-177, he urges global regulatory norms; “it is essential to devise stronger and more efficient organized international institutions... empow-

ered to impose sanctions.” He cautions, though, that “individual states can no longer ignore their responsibility for planning, coordination, oversight, and enforcement within their respective borders.” So, lawyers need to be involved at both the informational and local levels.

Finally, Pope Francis appears to believe that laws, by themselves, are an inadequate tool for addressing climate change. At paragraph 211, he laments: “The existence of laws and regulations is insufficient in the long run to curb bad conduct, even when effective means of enforcement are present. If the laws are to bring about significant, long-lasting effects, the majority of the members of society must be adequately instructed to accept them.... Only by cultivating sound virtues will people be able to make a selfless ecological commitment.”

So, lawyers, although the Pope envisions an important role for us in the battle against climate change, he exhorts all people to rise to their moral obligation to behave as better environmental stewards of the Earth. Perhaps there is a moral leadership role for lawyers as well as a regulatory one.

*Max Miller is founding member of the Environmental and Natural Resources Practice Group at Tonkon Torp LLP in Portland. He is also an Executive Committee member of the Oregon State Bar Sustainable Future Section.*

**Perhaps there is a moral leadership role for lawyers as well as a regulatory one.**

## Head Over Heels for Bike Law

**When:** Wednesday, August 26, 2015 from 12-1:15 pm (email [teresapangburn@dwt.com](mailto:teresapangburn@dwt.com) to register)

In preparation for the Bicycle Transportation Alliance’s September Bike Commute Challenge and the 2016 Sustainable Future Section’s Law Office Award Competition focused on transportation, the Sustainable Future Section is hosting a 1-hour CLE focused on bike law. Topics will include an overview of rules of the road, insurance and liability issues, and some practical bike commuting tips for the office environment.

**Speaker:** Charley Gee practices personal injury law with a focus on bicycle and pedestrian law at Swanson, Thomas, Coon & Newton in Portland where, beyond representing injured bicyclists, he is a frequent contributor to OregonBikeLaw.com and presents bicycle law clinics to the public. He is a diehard all-season bicycle commuter.

### Details:

Date/Time	Wednesday, August 26, noon to 1:15 pm
Location	Wells Fargo Building, 24 <sup>th</sup> Floor, 1300 SW Fifth Avenue, Portland, OR
Call-in	Teleconferencing available
Cost	Free to Sustainable Future Section members, \$20 for non-Section members (cash or check to OSB at the door)
Lunch	Brown bag (bring your own)
CLE	1 general CLE credit pending

**RSVP:** Email Teresa Pangburn, [teresapangburn@dwt.com](mailto:teresapangburn@dwt.com) to register

## Save the Date!!

### Sustainable Future Section and Friends of Trees Tree Planting Event

Please save the date for a Tree planting event with Friends of Trees in the Mt. Tabor neighborhood of Portland on Saturday, **November 14, 2015** from 8:45am to 1:00pm. The Sustainable Future Section will be sending additional information and instructions for registration by email to its members soon, so please watch your inbox and plan on joining us for this exciting event!

# Thinking Globally on Global Climate Change: An Evangelical Reflection

By Paul Louis Metzger

**T**he extremely dry weather, wildfires and drought conditions on the West Coast led authorities in several states to caution, restrict and outright ban various fireworks displays this year. Whether or not these conditions result in part from global climate change, the situation does spark conversation. So, too, the topic of global climate change sometimes ignites volatile exchanges in my Evangelical Christian circles.

How can such reactions occur, when the majority of Americans, with scientific consensus, believe the climate is changing and that human actions bear a great share of the blame? Why are so many in my faith community unwilling or unable to see a link between human behavior and the deterioration of creation? What needs to be done to change Evangelical thinking in addition to moving the conversation forward from agreement among the majority of Americans to effecting political change?

I have hosted theology of culture conferences on such subjects as same sex marriage, religious pluralism, the culture wars, the Israel-Palestine conflict, racism, and gender, but no conference has created more tension and generated more push back than the one I hosted on climate change titled *"Boiling Point: a Conference on Global Climate Change."* As referenced above, the subject of creation care—especially global climate change—often raises the temperature among Evangelicals. From a theological perspective, I find many of the reactions surprising. After all, Evangelical Christians cherish the biblical view that the God we worship created this world; so, if we love the Creator, we should love the creation, as my friends at Restoring Eden say. Still, the

same Evangelical Christians may reference the Genesis account to claim that God gave us dominion over the creation. How easily we forget that our dominion is subject to God's reign. Thus, we cannot do anything we want with the creation, but only that which furthers its care and the care of our fellow humans, especially the poor.

I do not think the basis for my Evangelical brothers and sisters' pushback on the subject of climate change and human causal factors results from their engagement of scripture (even when some claim erroneously that concern for the creation is the result of new age thinking). Rather, I believe many of the suspicions result from one or more of the following: a distrust of various scientific studies and their bearing on life, their association of climate change with liberal politicians like Al Gore, concern over the import of this subject for business and the economy, and the lack of connection between creation care and their concern for vulnerable

populations. While already sparking intense debate and controversy, my hope is that Pope Francis's newly issued encyclical *"Laudato Si"* will cause many skeptical Evangelicals to reconsider their stance on climate change. In this document, officially directed to Catholic Bishops and church members, but more broadly addressed to all persons of good will on the planet ("our common home"), Pope Francis promotes a theology of life that connects concern over global climate change with concern for vulnerable human populations. His broad appeal to all people may be effective because the general public, including many Evangelicals, respects this pope more than his predecessor and most other contemporary religious leaders. Moreover, he was trained as a scientist and consults with scientists of various backgrounds on the Pontifical Academy of Sciences, including Stephen Hawking (still, not everyone sees his advisory list as positive); the Roman Catholic Church fosters constructive dialogue between faith

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and science to further the common good. Furthermore, the bishop of Rome takes strong conservative stances on positions conservative Evangelicals have long championed, including opposition to abortion. In short, this pope can help Evangelicals connect the dots. *Pope Francis thinks globally or holistically on global climate change; we Evangelicals need to do the same.*

The preceding discussion should not be taken to suggest that Evangelicals are without advocates in alignment with the Pope on this subject. There are many Evangelicals who appeal to the government, business sector and general public to make drastic changes in human behavior and societal initiatives for the sake of preserving and protecting the environment and reversing extreme temperature trends and stabilizing the climate. Climate scientist and Evangelical Christian Katharine Hayhoe is a leading international spokesperson who appeared recently in Oregon for the 2015 International Speakers Series. She recently wrote on the subject of the papal encyclical and pondered how Evangelicals would respond (see also her interview with Christine A. Scheller of the American Association for the Advancement of Science at “The High Calling” at Patheos). According to the Pew Research Center, 45% of Evangelicals believe that humans contribute to global climate change. Hayhoe desires for that number to increase dramatically, as do I. Still, there is reason to hope. In addition to her clear, steady and cogent voice, others within the movement are speaking out. Take for example the 2006 Evangelical Climate Initiative, a report in 2011 by the National Association of Evangelicals, and a letter drafted in 2013 by Evangelical scientists to Congress. Other noteworthy examples are the work of the Evangelical Environmental Network and Restoring Eden, which was noted earlier. Hayhoe applauds such initiatives; she highlights them as indications that others in the movement take seriously the temperature upheaval in the environment and the import of human behavior. Moreover, like Hayhoe, many see how such climate turmoil is having a climactic impact on the world’s most disenfranchised populations. Often the poor experience in far greater measure the negative impact of toxic waste and scarce water supplies, among other things.

In addition to disenfranchised populations presently, what will happen to future generations if we do not take serious action now? Current climate trends on the West Coast may very well illustrate a global phenomenon, which would suggest to many people in our region that life on this planet is not sustainable. While some might claim the only way forward is to leave this planet in *Interstellar* fashion, this is an unrealistic vision and not likely one that includes poor nations and people. My hope is that we will do everything possible to sustain the planet for the sake of all.

Such efforts will require targeted attempts at educating Evangelicals (the largest religious group in the U.S.), among others, on the subject of sustainability and the need for collective,

political resolve from those of different ideological backgrounds. Education in this sphere must include consideration of the social sciences, not simply physical sciences; it is not enough to show people facts; all too often, the increase of information increases tensions on the subject of climate change, as Hayhoe has noted in her writings. This being the case, it is vital to demonstrate connections between people’s deepest values and needed change in thinking and behavior concerning the environment in support of those values. Such education will also include global thinking on sustainability’s relation to sound laws and business practices. These laws and practices will appeal to a growing number of environmentally conscious citizens and consumers. They will also have a positive bearing

**“Pope Francis thinks globally or holistically on global climate change; we Evangelicals need to do the same.”**

on disenfranchised populations and future generations. Such educational initiatives require global or inclusive partnerships beyond one’s discipline in addition to global thinking. It will require the legal, business, scientific and religious communities coming together to cultivate and sustain strategic partnerships to combat global climate change. Let us seize the moment af-

forded us by the Pope’s advocacy, including his recent encyclical, and the work of climate scientists like the Evangelical Hayhoe. Change the thinking and collective will, and transform the climate for the betterment of all.

■ *Paul Louis Metzger, Ph.D., is Professor of Christian Theology & Theology of Culture and Director of The Institute for the Theology of Culture: New Wine, New Wineskins at Multnomah University, Portland, Oregon. The author of numerous books and articles, including the award-winning Consuming Jesus: Beyond Race and Class Divisions in a Consumer Church, he also writes regularly at his column, “Uncommon God, Common Good” at Patheos.*

## New Partners in Sustainability



The Sustainable Future Section would like to recognize the following new Partners in the Oregon State Bar Partners in Sustainability Program. These Oregon law offices have shown commitment to operating sustainably and provide valuable leadership to others as law offices throughout the State move toward office practices that conserve resources and reduce waste.

Law offices ready to become Partners can find information on the Program at: [www.osbsustainablefuturesection.org](http://www.osbsustainablefuturesection.org). Any questions regarding the Program may be directed to [osbsustainablefuture@gmail.com](mailto:osbsustainablefuture@gmail.com).

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## A Survey of Oregon Groups Taking a Grassroots Approach to Climate Change: Part Two

By Ann McQuesten

The following is the second in a series of brief profiles on grassroots organizations with a local presence that we are publishing in the Long View this year. Although we do not endorse any particular organization, we hope that this will be a useful resource for readers wishing to get involved in local organizations working in the area of climate change.

**Oregon Environmental Council** is a nonprofit organization founded in 1968 with the goal of preserving Oregon's natural resources. OEC's climate-related initiatives in 2015 included supporting HB 3470, which would impose a firm timeline for putting an action plan in place to guarantee Oregon achieves its existing limits on climate pollution, as well as the clean fuels program incentivizing a transition to lower-carbon transportation fuels such as ethanol, biodiesel, electricity, natural gas, biogas, and propane. In addition to its climate change initiatives, OEC advocates in the areas of clean water, toxic-free environments, and public policy change. <http://oeconline.org/>.

**Oregon League of Conservation Voters'** mission is to pass laws that protect Oregon's environmental legacy, elect pro-environment candidates to office, and hold all of Oregon's elected officials accountable for environmental concerns. In 2015 OLCV has lobbied the legislature in connection with the clean fuels program, a "coal to clean" bill, and carbon pricing. OLCV is a non-partisan organization, but by

endorsing pro-environment candidates and ballot measures regardless of political affiliation or sponsorship, its goal is to promote attention to climate change and other environmental issues through the legislative and political process. <http://www.olcv.org/>.

**Oregon Climate** was founded in 2013 based on inspiration from the Citizens' Climate Lobby. Oregon Climate supports grassroots organizing statewide, focusing on a "cap and dividend" structure that would place a fee on carbon production and distribute funds collected back to Oregonians as a regular dividend. Oregon Climate's vision is for Oregon to serve as a model for the United States and other countries to follow in implementing their own carbon pricing initiatives. <http://www.oregonclimate.org/>.

**Columbia Riverkeeper**, part of the international network of Riverkeepers aiming to keep the world's waters clean, aims to protect and restore the water quality of the Columbia River. Columbia Riverkeeper's work encompasses a wide variety of initiatives, including native species preservation, education, toxics reduction, and preventing coal, oil, and natural gas from travelling to and being exported from Northwest ports. In working to cut off transportation options for fossil fuels, Columbia Riverkeeper hopes to achieve the dual effects of protecting the Columbia River watershed and decreasing the availability and viability of these high-carbon fuel options. <http://columbiariverkeeper.org/>.

# The OSB Sustainable Future Section 2015 Sustainable Law Office Leadership Award: Compost Challenge!

**T**he Sustainable Future Section is pleased to announce that in 2015 it will recognize the Oregon law office that has made the most meaningful effort to implement food scrap composting.

Leadership does not always mean immediate success—if your office has attempted but been unable to implement composting, we encourage you to apply and tell your story.

This award has recognized offices that have exhibited leadership in the profession for firm sustainability initiatives, and offices that have implemented innovative practices to increase sustainability, including broad-based practices, and in the past few years, more specifically through innovation, and through implementing a paperless law firm. The award recognizes leadership which does not necessarily require success but rather striving to implement sustainability.

This year's award focuses on composting. Why compost? Food scraps take up space in landfills and release methane gas. In the commercial compost system, food scraps that are composted can become biogas, which provides electricity for local homes and businesses. Food scraps that are composted can also become fertilizer, adding nutrients to soil at local farms and gardens. According to the Portland Sustainability at Work Program, approximately 20% of commercial waste is organics and compostable foods and fibers account for approximately 33% of the weight for commercial waste.

## **Application for the 2015 Award**

Please address the following questions, but limit your response to two pages.

**1. Office has a compost program.** Please describe your composting program. Your response may address the following:

- Efforts taken by your office to begin its composting program.
- Any challenges your office faced and overcome (or not) in implementing and administering the composting program.
- Efforts to encourage other tenants or attorneys to participate.
- Education regarding composting provided by your office.
- If possible, quantify the amount of waste that has been diverted from landfills from your compost program and the cost savings resulting from composting.
- Efforts taken by your office to maintain the program.

## **2. Office does not have a compost program.**

Please describe the efforts your office has taken to be able to compost. Your response may address the following:

- Efforts your office has undertaken with regard to the building owner, property manager or landlord.
- Have you contacted your building's garbage and recycling company to see what options are available? If so, what result?
- Have you consulted with other tenants in your building to discuss a composting program for your building? If so, what result?

The Section will announce the Compost Challenge award recipient in October 2015 and present the award shortly thereafter.

Direct any questions and your application to the [OSBSustainableFuture@gmail.com](mailto:OSBSustainableFuture@gmail.com). The application must be submitted by 5 p.m. on August 28, 2015.

**NOTE:** The 2016 Law Office Leadership Award will be a Transportation Challenge where participant firms will measure transportation improvements in 2016 against a 2015 baseline. More information forthcoming.



# Oregon Bike Law: A Quick Reference Guide

By Charley Gee

With prime bike commuting weather in full swing and likely to last at least through early fall, practitioners from casual weekend riders, to avid bike commuters, to bike law specialists may wonder about the rules and regulations governing bikes on the road. This guide is intended to serve as a reference for the most commonly asked questions about bicycle laws in Oregon, to be used by Oregon attorneys in both their personal and professional pursuits.

## Bicycle Operation and Oregon Law

**Vehicle Designation:** A bicycle is a vehicle under Oregon law, and with that designation come all the rights and responsibilities applicable to motor vehicle operators (except those that by their very nature cannot apply or are specifically not applicable by the particular statute). ORS 814.400.

## Bicycle and Bicyclist Equipment Requirements

**Helmets:** Bicyclists and bicycle passengers under the age of 16 must wear a helmet while operating on a highway (meaning any public way, road, or street per ORS 801.305) or premises open to the public. The parent, legal guardian, or person with legal responsibility for a child under 16 can be cited for allowing the minor to ride without a helmet. ORS 814.485 and ORS 814.486.

**Lights:** When a bicycle is being operated in limited visibility conditions (defined as any time from sunset to sunrise or when conditions make persons or vehicles not clearly discernable from a distance of 1,000 feet away), bicycle lights are required. Bicycles must be equipped with a front white light visible from 500 feet and a rear red light or reflector visible from 600 feet. ORS 815.280 and ORS 801.325.

**Brakes:** A bicycle must be equipped with a brake that enables the operator to stop the bicycle within 15 feet from a speed of 10 miles per hour on dry, level, clean pavement. ORS 815.280 (2)(a).

## Bicycle Operation Requirements

**Riding to the Right:** If riding slower than the normal speed of traffic, a bicyclist must ride as close as practicable to the right curb or edge of the roadway unless they are passing another vehicle, preparing to turn left, avoiding hazardous conditions, or when operating next to one other bicycle in a way that traffic is not impeded (meaning that traffic cannot safely and lawfully go around the bicycle.). ORS 814.430 and *State v. Tiffin*,

202 Or App 199 (2005).

In cities a bicyclist can ride as far to the left as practicable on one way streets with the same requirements and exceptions as riding to the right. ORS 814.430(2)(d).

A bicyclist is not required to ride as far to the right as practicable if they are riding in a bicycle lane. ORS 814.430(2)(f).

**Bicycle Lanes:** If a bicyclist is riding on a street that has a bicycle lane, the bicyclist is required to use the bicycle lane unless they are passing another vehicle, preparing to execute a turn, avoiding a hazardous condition, or where the bicycle lane becomes a right turn lane. ORS 814.420.

**Sidewalks:** Bicyclists are allowed to operate on sidewalks except where prohibited by local ordinance. Bicyclists on sidewalks are subject to the same rights and responsibilities as pedestrians. ORS 814.410(2).

Electric assisted bicycles are prohibited from operation on all sidewalks. ORS 814.410(1)(e).

## Interactions with Other Highway Users

**Passing:** Bicyclists can pass on the left like other vehicles. Bicyclists can also pass vehicles on the right if the passage may be safely made under the existing circumstances. ORS 811.415(2) (b).

**Being Passed:** Bicyclists must always be passed safely. ORS 811.410(1)(a). If a vehicle passing a bicyclist is travelling over 35 miles per hour, the overtaking vehicle must pass the bicyclist at a distance that is sufficient to prevent contact with the bicyclist if the bicyclist were to fall over into the lane of traffic. ORS 811.065(1)(a).

**Sidewalks:** Motor vehicles must yield to bicyclists riding on the sidewalk. ORS 811.055. When a bicyclist is riding on the sidewalk and is approaching and entering into a crosswalk, or is

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crossing a driveway, curb cut, or pedestrian ramp, and a motor vehicle is approaching, the bicyclist must slow to the speed of an ordinary walk. ORS 814.410(1)(d).

A bicyclist must yield the right-of-way to all pedestrians on a sidewalk and must give an audible signal before passing them. ORS 814.410.

A bicyclist cannot leave the sidewalk and move into the path of a motor vehicle so close as to constitute an immediate hazard. ORS 814.410(1)(a).

**Crosswalks:** Bicyclists must stop and remain stopped for a pedestrian in a crosswalk. ORS 811.028.

**Bicycle Lanes:** Motor vehicle operators are required to yield the right-of-way to bicyclists in a bicycle lane. ORS 811.050. Motor vehicles are not allowed to operate on a bicycle lane except to cross over in order to park or turn. ORS 811.440.

Motor vehicles are prohibited from stopping and parking on bicycle lanes except when loading or unloading goods or passengers or when the motor vehicle is disabled. ORS 811.560.

**Dooring:** A motor vehicle operator or passenger is prohibited from opening a door in a way that interferes with traffic, including bicyclists, or is not reasonably safe. ORS 811.490.

**Transit buses:** A vehicle operator, including a bicyclist, must yield the right-of-way to a transit bus that is entering traffic when the bus has an illuminated flashing yield sign displayed. ORS 811.167.

**Signaling:** A bicyclist is required to signal their turns and stops. ORS 814.440.

A bicyclist must continuously signal their stops 100 feet ahead of the stop by extending their left hand and arm downward. ORS 814.440(1)(a) and ORS 811.395(3)(a).

A bicyclist must signal a left turn 100 feet ahead of the turn by extending their left hand and arm horizontally to the left. ORS 814.440(1)(b) and ORS 811.395(1)(a).

A bicyclist must signal their right turn 100 feet ahead of the turn by either extending their left hand and arm upward on the left side or by extending their right hand and arm horizontally. ORS 814.440(1)(b) and ORS 811.395(2)(a).

If stopped and intending to turn a bicyclist must give the appropriate turn signal while stopped before executing the turn. ORS 811.440(1)(c).

A bicyclist is not required to fulfill the signal requirements if they cannot give the appropriate continuous signal and operate or control their bicycle safely. ORS 814.440(2).

*Charley Gee practices personal injury law with a focus on bicycle and pedestrian law at Swanson, Thomas, Coon & Newton in Portland where, beyond representing injured bicyclists, he is a frequent contributor to OregonBikeLaw.com and presents bicycle law clinics to the public. He is a diehard all-season bicycle commuter.*

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