



Center for Earth Jurisprudence
Re-Envisioning Law and Governance from an Earth-Centered Perspective

Groundswell

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Imagine: Law for the Planet

What major shift of consciousness, what social transformation has not been born of frustration and anger – even, at times, despair? What new movement has not sunk roots in the soil of wild, mighty hope? This is where we, at the Center for Earth Jurisprudence (CEJ), stand today. As a newly emerging field of law, Earth jurisprudence is working toward a groundswell, a surge in consciousness that will fold an acknowledgement of the rights and interdependence of nature and the inhabitants of Earth into decision-making at all levels – personal, governmental, global.

A joint initiative of St. Thomas and Barry universities' law schools, the CEJ is the first – so far, only – such organization in the United States to work actively toward such a sea change in legal awareness. Such ideas have a long history, however; they permeate indigenous cultures, the deep ecology movement and world spiritual traditions. We take as a starting point some of the ideas put forth by Christopher Stone in his thought-provoking 1972 article "Should Trees Have Standing?"¹, as well as the basic principles of Earth jurisprudence outlined by Father Thomas Berry in a 2001 paper titled "The Origin, Differentiation and Role of Rights."²

"Our current laws and governance are not adequate to protect the viability of the larger Earth community," says CEJ director Sister Pat Siemen. "The CEJ began in order to address the intrinsic rights of nature to exist, to have its own place and to fulfill its role within the interconnected community of life. The CEJ's mission is to re-envision law and governance from an Earth-centered

perspective in order to sustain and protect the well-being and viability of the integral whole. We need to develop a new consciousness that values the reciprocity and interdependence of humans with the remainder of the natural world."

We are not alone. Thinkers from a spectrum of disciplines are putting their minds to the task (see over). A constellation of tiny grassroots organizations all over the globe is working toward parallel change. Together, we are devoting our energies to helping usher in fundamental change that would accord legal rights to beings other than humans as well as to nature itself – a shift that would have far-reaching implications for procedural and substantive rules globally. Such change is not as far-fetched as cynics might assume: For instance, Ecuador has just revised its constitution to include, *inter alia*, a chapter of rights for nature (see over).

The eyes of the future are looking back at us and they are praying for us to see beyond our own time.

Terry Tempest Williams

How did we get here? Many of us at the CEJ have personal histories of working in social and environmental advocacy and law. We have great respect for environmental lawyers and activists who, since the early 1970s, have been trying to stop the savaging of the natural world and all the beings dependent on it. And yet, after four decades of implementing environmental law, has nature's balance sheet improved? With humanity as the reckless teenager at the wheel and countless species as our

swathes of rainforest are felled daily, mountain tops are dynamited for their coal, extinctions speed on at a pace unparalleled since a meteor snuffed out the dinosaurs, the delicate layer that keeps oxygen and life on Earth is eroding, and – we're all too familiar with the desperate litany of threats.

Clearly a broader remedy is required. Clearly future generations – of all species – have the right to demand that we do better. So while environmental lawyers attempt to staunch the bleeding, to paraphrase lawyer and activist Andrew Kimbrell, the Center for Earth Jurisprudence is tackling the issue of broadening perceptions of rights accruing to Earth and Earth's inhabitants, and duties owed them.

How? Our mission is to provoke thought, and then to inspire change. To do so we are working to elucidate the principles of Earth jurisprudence and develop relevant curriculum in order to introduce the next generations of decision-makers to these through classes offered at Barry and St. Thomas law faculties. We will continue to carry out research, to cooperate with experts and to publish our findings. We will host conferences and interdisciplinary events designed to give you concepts to tease out in your mind. We will invite you to put your shoulder to the wheel by alerting you to insightful articles and by opening courses, such as the upcoming class about business law and Earth jurisprudence (see box, over), to practicing lawyers for audit. We all know who lies in the details, and we will seek your input in exploring the challenges of incorporating Earth jurisprudence into your field of law or policy area.

¹ Christopher Stone, "Should Trees Have Standing? – Toward



Extraordinary Ecuador

It may not immediately occur to you to think of the people of Ecuador as explorers boldly advancing into unmarked legal territory. Consider this, however: On September 28, 2008, by overwhelming majority, they approved a new Constitution that is the first in the world to recognize legally enforceable rights of nature. Ecuador's constitution recognizes that ecosystems possess the inalienable and fundamental right to exist and flourish, and that people possess the legal authority to enforce those rights on behalf of ecosystems, as well as the requirement that the government remedy violations of ecosystem rights.

An impetus for such daring action is the widespread discontent among Ecuador's population with multinational corporations' involvement in their country's natural resources and the destruction these companies leave behind. Another crucial factor is that a significant portion of Ecuador's population is indigenous; many feel a close

connection to nature, and a growing resentment of the central government's "development" of natural resources. Accordingly, over the past year, the Community Environmental Legal Defense Fund (CELDF), using its work on forward-looking ordinances adopted by U.S. municipalities, has assisted the delegates of Ecuador's Constitutional Assembly in drafting articles codifying the rights of nature. The adoption of this constitution is Earth jurisprudence in the making, setting a crucial precedent.

While the Constitution is a significant step, the legal consequences in practice of Ecuador's Constitutional inclusion of the rights of nature are, at this stage, uncertain. Of concern are provisions that bestow sweeping powers on the nation's president and the fact that provisions requiring the prior informed consent of communities for projects affecting them are absent. In practice, how the constitutional chapter of rights for nature withstands pressure from powerful political and

economic interests - particularly from multinational mining and oil companies - is unclear.

What is certain is that Ecuador's recognition of rights of nature will resonate globally, and most immediately for Ecuador's involvement with a variety of multinational corporations. Developing countries, similarly disillusioned with multinationals' approach to resource extraction that throws ecosystems and traditional lifestyles into disarray while leaving little benefit to the nation, might be inspired by Ecuador's crucial precedent. As associate director of the CELDF Mari Margil says, "With this vote, the people of Ecuador are leading the way for countries around the world to change fundamentally how we protect nature."

For more information regarding Ecuador's Constitution and the text of the constitutional articles, visit the Community Environmental Legal Defense Fund at www.celdf.org.

Wild Times: UKELA Conference

Earth jurisprudence seeks to influence global legal systems. Fittingly, lawyers and scholars from all over the globe, including CEJ director Sister Pat Siemen and CEJ legal director Mary Munson, got involved at a recent UKELA conference. Hailing from, among others, New Zealand, Spain, Florida, Kenya and Ireland, experts came to discuss a draft report from the Earth Jurisprudence Resource Center about evidence of Earth jurisprudence in specific rules and caselaw of diverse legal systems, including India, the European Union and Ethiopia. A summary is available at www.ukela.org. Currently a work in progress, the final version of "Wild Law: Ideas into Action" will be available at



During the **Precautionary Principle Academy**, three nationally recognized leaders, Carolyn Raffensperger, Ted Schlettler and Joe Guth join forces with local Miami and Orlando experts to discuss the Precautionary Principle and its application. CLE credit has been applied for. In Miami: Friday, February 6, 2009; in Orlando: Tuesday, February 10. Registration for CLE credit: \$80; e-mail cej.reg@gmail.com for more.

CEJ legal director Mary Munson joins forces with St. Thomas Law Faculty Professor Lydie Pierre-Louis to offer "**Business Law and Earth Jurisprudence**," a course that explores expanding the realm of corporate accountability. Classes are available for audit by interested attorneys and begin January 6 at St. Thomas University; Tuesday and Thursdays, 3:45 - 5:00 p.m. Call 305-628-2329 to register.

The PACE Environmental Law Review published an article by Judith E. Koons, associate professor of law at Barry University School of Law and CEJ governance committee chair, titled "**Earth Jurisprudence: The Moral Value of Nature**," 25 Pace Envtl. L. Rev. 263 (2008). In it Koons explores the moral status of nature by examining issues such as global warming, genetic modification and the practical consequences of monocultures against the backdrop of four moral questions: what is good?; what is fitting?; what is true?; and what is right?