

# ambiente

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*cultivated reflections  
on sustainable  
development*



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regular

the law  
abiding  
citizen

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# The Future of Environmental Law? Earth Jurisprudence, Wild Law and the Rights of Nature

Our society, like many that have collapsed, is currently living beyond its ecological means.<sup>1</sup> Environmental degradation, unsustainable resource use and climate change are being driven by our insatiable desire for growth, putting the very ecosystems we rely on for our continued existence at great risk.<sup>2</sup> Yet international negotiation processes that can address this situation continue to move at a glacial pace.

At Copenhagen in 2009,<sup>3</sup> young people wandered around wearing t-shirts saying, 'You have been negotiating all my life. You can't tell me that you need more time.'<sup>4</sup> Outside the venue, many thousands of people gathered in protest: their rally cry was 'system change, not climate change.'<sup>5</sup> Such calls for a paradigm shift in the way we interact with our environment have grown stronger.

This 'bleak outlook calls for bold thinking and determined action',<sup>6</sup> and the UN High Level Panel on Global Sustainability says: 'We need to change dramatically, beginning with how we think about our relationship to each other, to future generations, and to the eco-systems that support us.'<sup>7</sup>

Our problems cannot be fixed by the same frameworks and perspectives that caused them. International legal efforts to fix environmental issues focus 'not on the root causes of environmental exploitation—but 'market fixes' to the same corporate-led economic model and 'endless-more' value system that have driven us to the cliff's edge.'<sup>8</sup> In response, radical ideas have developed regarding how we should regulate human behaviour.<sup>9</sup>

Earth Jurisprudence (EJ), or Wild Law, is an emerging legal theory that draws on theories of law, jurisprudence and governance, as well as spirituality, politics, sociology and ancient wisdom, to offer a path toward a sustainable future.

EJ argues that the core failure of modern human governance systems is that they regulate human behaviour based on the fallacy that we are separate from nature and can operate outside the boundaries imposed by natural systems. Instead, the EJ approach is to set our laws within these boundaries; what author Cormac Cullinan calls the 'Great Jurisprudence.'

The Great Jurisprudence 'is what it is'; the nature of the world, the 'fundamental laws and principles of the universe',<sup>10</sup> the principles of ecology. The Earth is a self-regulating system that has

existed, developed and flourished for millennia, and provides us with environmental boundaries and rules within which to set human laws. The Earth system is the primary source of law which sets human law in a context wider than humanity.

EJ entails recognition that:<sup>11</sup>

- » all beings play a role in the interconnected and interdependent Earth system, and as such all subjects of the Earth system have an inherent right to play their role;
- » rights stem from the nature of the universe, from the nature of existence itself, rather than from human legal systems;
- » human conduct must be restrained to prevent impinging on the roles of other beings; and
- » human governance arrangements should be based on what is best for the whole Earth system.

These ideas seem initially unintuitive, given our anthropocentrism, our 'autism in relation to nature' and our 'cultural amnesia vis-à-vis tens of thousands of years of our tribal histories.'<sup>12</sup> However an ecocentric approach to governance is intuitive to many indigenous cultures in the world, and Bolivia and Ecuador have moved to implement the EJ approach to environmental law with strong indigenous support.<sup>13</sup>

While such a huge shift in perception and regulation may seem insurmountable, there are already signs that citizens of the world are ready for such a change. In 2008, 30,000 people from 100 countries met in Bolivia for the World People's Conference on Climate

Change and the Rights of Mother Earth and adopted the Universal Declaration of the Rights of Mother Earth.

This is an exciting start, but the environmental challenges we face and the shift needed in our perspective will require us to do everything possible, and the impossible. In the context of an ailing planet and a failing system of human governance EJ could well be an idea whose time has come.

## REFERENCES

- 1 Diamond, J., *Collapse: How Societies Choose to Fail or Succeed* (Viking Press, New York 2005).
- 2 See UN Environment Program, *Global Environment Outlook (4th edn, UNEP 2007)* and IPCC, *Climate Change 2007: Synthesis Report* (IPCC 2007).
- 3 UN Climate Change Conference (7-18 December, Denmark 2009).
- 4 Ripper, V., 'Facing the ghosts of Copenhagen in Cancun: The climate talks in Mexico are haunted by past failures' *Now Magazine* (Toronto, 10 December 2010).
- 5 See '100,000 march for System Change not climate change in Copenhagen with mass arrests' *Indymedia* (13 December 2009), <<http://www.indymedia.org/post/2009/12/932387.shtml>>, accessed 19/10/2011.
- 6 Moncel, R. et al., 'Building the Climate Change Regime: Survey and Analysis of Approaches' (WRI and UNEP 2011).
- 7 UN Secretary-General's High-level Panel on Global Sustainability, *Resilient People, Resilient Planet: A future worth choosing* (2012) 3.
- 8 Galeano, E. et al, 'Does Nature Have Rights?' *Transforming Grassroots Organizing to Protect People and the Planet* (The Council of Canadians 2011) 1.
- 9 Radical in the true sense, i.e. getting to the root of the problem.
- 10 Cullinan, C., *Wild law: A Manifesto for Earth Justice* (2nd edn, Chelsea Green Publishing, Vermont 2011) 78.
- 11, 12 *ibid*
- 13 Mellino, C., 'Bolivia and Ecuador Grant Equal Rights to Nature: Is "Wild Law" a Climate Solution?' *Climate Progress* (21/11/2011).