Earth Jurisprudence - Earth Law

Earth Jurisprudence or Earth Law recognizes that Earth is the source of laws which govern life. This requires our human community to comply with these laws, for the well-being of the whole Earth Community and future generations. This is how indigenous peoples from across our planet have lived for millennia.

Earth Jurisprudence or Earth law recognizes Earth as the primary source of law which sets human law in a context which is wider than humanity. This is to say that human law should be derived from the laws which govern life - it is secondary to Earth law. Earth Law acknowledges that the good of the whole takes precedence over the good of the individual elements. Thus the way we govern ourselves needs to embody an ethical code of practice which requires us to live according to Nature's laws, for the well-being of the whole Earth Community and future generations of all species.

Origin of Earth Jurisprudence

Earth Jurisprudence is the term first proposed by cultural historian Thomas Berry to name this philosophy of governance and law which recognizes that Earth, not human interest, is primary. It acknowledges that humans are born into an ordered and lawful Universe, to whose laws we need to comply if we are to be a benign presence on Earth.

Thomas Berry called for a transformation of human behavior from a destructive to a mutually enhancing presence on Earth, and a re-alignment from human-centered to Earth-centered governance. Thomas reminded us of our humble place on Earth.

Earth Community is not a collection of objects but a communion of subjects. Thomas Berry, The Great Work 1999

Our planet Earth in its present mode of florescence is being devastated. This devastation is being fostered and protected by legal, political and economic establishments that exalt the human community while offering no protection to the non-human modes of being. There is an urgent need for a Jurisprudence (system of governance) which recognizes that the well-being of the integral world community is primary, and that human well-being is derivative - an Earth Jurisprudence. Thomas Berry

The many interrelated crises, which we are living through now - from mass species extinction to climate change and social and economic inequity - are the result of an alarming breach in human principles of governance over the last few centuries, where law has been used to legitimize social and ecological destruction. Short-term human interests, fuelled by an insatiable drive to accumulate money and power, have been enshrined in law in total disregard for the well-being of the larger Earth Community. This is reflected by the fact that in 1886 corporations were granted the same rights as individuals, without reciprocal responsibilities. However, the rights of other Living Beings have not been recognized.

Earth Jurisprudence provides the foundation for restoring a mutually enhancing relationship between humanity and Nature. It calls on humans to fulfill their responsibilities to the wider Earth Community - to maintain the health of the Earth as a whole and all the different species living on Earth. As Thomas Berry pointed out, Nature herself and indigenous peoples who live according to their traditional systems of ecological governance, are sources of inspiration. Earth Jurisprudence gives a name to the philosophy which is embodied in indigenous customs and norms around the world which has been universally practiced over centuries as a way of life. This includes the ancestral traditions of Europe, such as the Greeks and the Celts.

However, the challenge we face now is how we deal with the globally dominant industrial belief in endless economic growth, with all its lethal consequences for the social and ecological integrity of the Earth.

Source: The Gaia Foundation

http://www.gaiafoundation.org/earth-centred-law
Within this context, Thomas Berry drafted ‘Ten Principles of Earth Jurisprudence’, expressed in terms of rights, which he believed should be recognized in national constitutions and courts of law. The need to recognize rights emerges when there is a violation. Human Rights is a response to the violation of people, and children's rights to the violation of children. Now the scale of human violation of Nature is such that a movement is rapidly emerging to defend the Rights of Nature and all her species - to be, to habitat and to continue to participate in the evolutionary process.

In 2009, Gaia and Schumacher College held an Earth Jurisprudence Retreat for practitioners working with communities to revive Earth Jurisprudence, to distil shared principles and practices and co-evolve strategies for the future. After much debate, participants agreed to use ‘Earth Law’ as well as Earth Jurisprudence to increase accessibility to the approach, and reflect that Earth is the primary source of law.

**Earth Law requires a shift in human consciousness**

~ *Earth is the primary source of law*

We humans in industrialized societies have forgotten that we are born into an ordered and lawful Universe. Our Earth is a Living Being with an amazing capacity to self-regulate and maintain the conditions for life consistently over time. Earth is approximately 4.6 billion years old, while we humans are a mere flicker in the evolution of Earth, only appearing 1 million years ago. This means that we depend on all the evolutionary processes that have come before us.

From the lawfulness of our Earth we understand that all life is sacred, meaning that the Earth has an intrinsic right to be and to exist. Every element of Earth has a role to play in contributing to the health and integrity of the whole Earth Community. No one species has the right to decide to exterminate other species if they are not ‘useful’ to them.

Earth Law recognizes that human governance systems must be derived from and comply with the laws of Earth. It recognizes that we have a moral responsibility towards our Earth and all forms of life on Earth. Our correct relationship with Earth is essential for the integrity of the web of life - including our own lives.

The Earth's laws are non-negotiable. Breaching Earth's laws to self-regulate and enhance diversity will lead to devastating consequences, as we see from the multiple crises we now face globally - climate change, sixth mass extinction of species, ecosystem collapse, human inequity and more.

*If you violate the Earth's laws you are your own prosecuting attorney, judge, jury, and hangman.* Luther Burbank, botanist

~ *Humans are part of a wider Earth Community*

We humans are part of the web of life - the wider Earth Community of trees, rivers, animals, rocks and all beings including those not yet born. Earth is the source of life for all beings. Humans are dependent on Earth for our survival, culture, food, wellbeing, livelihoods and governance systems, as are all other living creatures with whom we share our planet. Our role is to participate in a mutually enhancing relationship with Earth and her communities.

However, those of us in the modern industrial world have become increasingly disconnected from this reality, as Einstein laments:

> A human being is part of a whole, called by us 'Universe'; a part limited in time and space. We now experience ourselves, our thoughts and feelings, as something separated from the rest - a kind of optical delusion of our consciousness. This delusion is a kind of prison for us, restricting us to our personal desires and to affections for a few persons nearest to us. Our task must be to free ourselves from this prison by widening our circle of understanding and compassion to embrace all living creatures and the whole of Nature in her beauty. Albert Einstein

As Einstein indicates, once we are able to reconnect to this reality - the web of life of which we are an inextricable part - we will feel the consequences of our actions should we violate any aspect of life.

Indigenous societies have evolved complex cultural practices to keep connected to this reality. Rites of passage throughout life, seasonal rituals, customs and norms all reinforce the need to comply with the laws of the Earth, and to be alert to the consequences of destabilizing our source of life.
~ Earth Law is a way of life

*Earth Jurisprudence is a living culture and puts life into otherwise dry concepts.*

Thiong’o Ng’ang’a, Earth Law advocate, Kenya

Earth Jurisprudence or Earth Law is not written law but it is fundamentally a way of life.

By 'widening our circle of compassion' to embrace the complex web of life - which gives us life - our perspective changes. We understand that any act which violates life, violates ourselves. This gives us the incentive to learn the laws which govern life, to become 'eco-literates'.

Indigenous peoples demonstrate how it is possible to live Earth Law. As they say, the 'laws of life are written in the heart' when, from a young age, we live and learn how we are part of a bigger whole. This is how we learn to feel that the violation of Earth, "our Mother", or any of her children, is a violation of ourselves too.

*The sacred territory of the Sierra Nevada since time immemorial has been the foundation of our culture. It contains the laws and the symbols that determine our way of thinking and our identity. We should all comply with these norms and laws to safeguard the Universe.*

*The idea of ancestral custodians of the territory is based on knowledge about everything that lives in the territory. In other words, Nature teaches us how to live in harmony. Nature is an open book where we learn about her stories and past, and this is what our children and future generations will learn.*

*That same knowledge allows us to remember the role of our ancestors. The real meaning of each individual's life and their mission as a human responsible for caring for the planet is threatened when the sense of responsibility is abandoned.*

Mama Jacinto, Kogi Indian of the Sierra Nevada de Santa Marta, Columbia

As the Kogi indigenous people say - once we lose or abandon the sense of responsibility for ourselves and the larger Earth Community of which we are a part, the integrity of life becomes threatened. Indigenous communities around the planet have developed lore and customs which embody the laws of the Earth. This has enabled them to live in the same territory for thousands of years, enhancing rather than undermining their ecosystems. Those who have not followed this pattern have disappeared. The impact of the industrial world on our life support system has literally unraveled the web of life in just 200 years. We are learning that the laws of life are in fact non-negotiable.

This is why Thomas Berry stressed that the most urgent work for the industrial world is to learn from indigenous peoples and Nature herself, as sources of inspiration for transforming the way we conduct our lives and understand law.
Earth Law Principles

http://www.gaiafoundation.org/earth-law-principles

While specific Earth Laws are contextual, there are common principles which underlie the health and wellbeing of the whole Earth Community. These principles help to re-member - that is, restore the memory we have lost - and serve as a code of ethics or 'moral compass' to guide our personal, professional and collective practices.

To return to a mutually enhancing presence on Earth, these principles need to be embedded in all aspects of our lives and in the institutions we have developed - law, education, health, economy and religion.

*It is our responsibility to make these principles the foundation of the new legal system all over the world. The time has come when human laws and Earth laws must be brought together.* Thomas Berry, Rights of the Earth, 2002

The following principles are some of the core ones distilled from the practice of indigenous communities and discussions with allies over the past 20 years, including an international retreat for practitioners of the Global Alliance of Community Ecological Governance (CEG) in 2009.

**Wholeness** - Earth is a Living Being, a single community webbed together through interdependent relationships. No Living Being nourishes itself. The well-being of each member of the Earth Community is dependent on the well-being of Earth. This requires that we act in the interest of the whole, and of future generations, over the interests of the individual.

**Lawfulness** - The Earth is part of the Universe, which is ordered and lawful. All life is governed by these laws. We humans need to comply with these laws for our own wellbeing and for the wellbeing of the whole. Our Earth is the source of life for all, the *a priori* source of law. Human law is therefore secondary and derivative. Humans must seek to discover, not make, Earth Jurisprudence/Earth Law. According to indigenous and local communities, who have lived intimately with Earth for millennia, two essential principles are: all life is sacred with inherent value, and that Earth has her thresholds and limits. If we create imbalance then we cause disorder in the Earth's dynamic equilibrium and illness of various kinds will spread. Earth Law requires us to restore the balance of Earth’s system.

**Duty of Care** - Earth Law is not written law but living law. It is a way of life, guided by moral responsibilities. We have a duty of care to all members of the Earth Community, and a duty to contribute to the integrity and well-being of the whole Earth Community and future generations of all species.

**Rights of Earth** - Earth is a Living Being with intrinsic value. 'Every component of the Earth community has three inherent rights: the right to be, the right to habitat, and the right to fulfill its role in the ever-renewing processes of the Earth community.' (Thomas Berry) Human rights come with responsibilities. One of these is not to deprive the rights of other members of the Earth Community.

**Mutual Enhancement** - Relationships within the Earth Community are reciprocal - a cycle of giving and receiving. For example, plants and trees give out oxygen for all members of the Earth Community to breathe, who in return give out carbon dioxide for plants and trees to take in. Flowers provide nectar for bees to make honey who in turn distribute pollen to assist the flower’s reproduction. Our essential role in life is to participate and contribute to the health and resilience of the Earth Community. That which does not enhance the whole will ultimately not enhance ourselves either.

**Resilience** - The ability to grow, evolve and adapt to change and disturbance, without losing inner coherence, is an inherent quality of all healthy living systems. By practicing Earth Law we strengthen our resilience because we are complying with the laws that maintain life’s health and vitality. We have a duty to ensure that we do not deprive other species of their own resilience in the process. Further, to ensure that we contribute to the resilience of the Earth Community, of which we are an integral part. In order to read the laws of the Earth we need to become eco-literate. This means becoming literate in the language of the Earth - which requires us to spend time learning from Nature. It also requires us to engage our imagination and out other ways of knowing - feeling, sensing and intuition, as well as the mind. This is how we are able to read our own resilience and that of our wider Earth Community.
Rights and Responsibilities of the Earth Community

http://www.gaiafoundation.org/rights-and-responsibilities-earth-community

All members of the Earth Community have rights as well as responsibilities for a healthy and resilient Earth.

As Thomas Berry explains, every being in the Earth Community has three rights: the right to be, the right to habitat, and the right to fulfill its role in the ever-renewing processes of the Earth community.

However, in current legal systems our living Earth is perceived as an object without rights. Yet fictitious entities, such as corporations, are granted rights similar to those of humans without reciprocal and enforceable responsibilities and accountability. As a result, destruction of our Earth continues, and without redress.

Our primary responsibility should be to stop depriving other members of the Earth Community of their rights.

In human history the need for rights has emerged when they are infringed. For example, it was when genetic engineering industry threatened to privatize seed through patents, which threatened the ancient practices of indigenous communities and farmers to save and exchange seed that the movement for indigenous farmer’s rights began. The same now with the Rights of Nature. Nature - species, ecosystems, air, water, every aspect of life - is being threatened today by destruction, extinction and privatization. No wonder why there is a welling up of concern from some members of the human community calling for sanity and justice.

Just as with indigenous peoples’ rights, or any other group rights, what is required is for us to recognize, rather than grant, the inherent Rights of Nature. This has now become urgently necessary to stop injustices to all members of the Earth Community and of future generations. We have abused the inherent laws of Earth and we are now at a critical tipping point of ecological and social crises. Recognizing Nature’s inherent rights in human law as legally binding is essential to change the way we think of and respect Earth as a subject with rights, and not an object without rights.

Some may argue that recognizing the Rights of Nature is controversial. For example, how can we represent the rights of Nature? How would we resolve potential conflict with human rights?

Regarding the nature of Rights, Thomas Berry explains that:

- 1. All rights are role-specific or species-specific, and limited. Rivers have river rights. Birds have bird rights. Insects have insect rights. Humans have human rights. Difference in rights is qualitative, not quantitative. The rights of an insect would be of no value to a tree or a fish.

- 2. Human rights do not cancel out the rights of other modes of being to exist in their natural state. Human property rights are not absolute.

Thomas Berry, Evening Thoughts

In practice, recognizing Rights of Nature is not difficult. There are institutional bodies and processes, such as Guardians for the Earth in Bolivia, and Ombudsman for Future Generations. Many countries recognize locus standi/standing for the public to issue legal proceedings in the public interest (e.g. UNECE Aarhus Convention) - which could be expansively interpreted as including Nature, and even directly on behalf of Nature (e.g. Ecuadorian Constitution and local ordinances in the U.S.

The proposed crime of Ecocide, by UK barrister Polly Higgins, is another urgently needed tool to enforce the inherent Rights of Earth and of future generations, and hold directors and CEOs of companies accountable for mass destruction of ecosystems, such as Tar Sands development in Canada. See Earth Law Precedents for more information. These tools can amplify the voice of Nature in decision-making.

In resolving potential tension between human rights and the rights of ecosystems, the principle of mutually enhancing relations would prevail, in order to benefit the whole Earth Community and future generations.

Thomas Berry calls for the recognition of the rights of Earth
Ten Principles of Jurisprudence
From *Evening Thoughts* by Thomas Berry

1. Rights originate where existence originates. That which determines existence determines rights.

2. Since it has no further context of existence in the phenomenal order, the universe is self-referent in its being and self-normative in its activities. It is also the primary referent in the being and the activities of all derivative modes of being.

3. The universe is composed of subjects to be communed with, not objects to be used. As a subject, each component of the universe is capable of having rights.

4. The natural world on the planet Earth gets its rights from the same source that humans get their rights: from the universe that brought them into being.

5. Every component of the Earth community has three rights: the right to be, the right to habitat, and the right to fulfill its role in the ever-renewing processes of the Earth community.

6. All rights are role-specific or species-specific, and limited. Rivers have river rights. Birds have bird rights. Insects have insect rights. Humans have human rights. Difference in rights is qualitative, not quantitative. The rights of an insect would be of no value to a tree or a fish.

7. Human rights do not cancel out the rights of other modes of being to exist in their natural state. Human property rights are not absolute. Property rights are simply a special relationship between a particular human 'owner' and a particular piece of 'property,' so that both might fulfill their roles in the great community of existence.

8. Since species exist only in the form of individuals, rights refer to individuals, not simply in a general way to species.

9. These rights as presented here are based on the intrinsic relations that the various components of Earth have to each other. The planet Earth is a single community bound together with interdependent relationships. No living being nourishes itself. Each component of the Earth community is immediately or mediately dependent on every other member of the community for the nourishment and assistance it needs for its own survival. This mutual nourishment, which includes the predator-prey relationship, is integral with the role that each component of the Earth has within the comprehensive community of existence.

10. In a special manner, humans have not only a need for but also a right of access to the natural world to provide for the physical needs of humans and the wonder needed by human intelligence, the beauty needed by human imagination, and the intimacy needed by human emotions for personal fulfillment.

(Source: Appendix 2 in Evening Thoughts, pp. 149-50. A few words have been omitted to coincide with the List of Rights originally presented by Thomas at the conference on Earth Jurisprudence hosted by the Gaia Foundation at Airlee House, Washington in 2000.)