

Second Draft Homily at SMX August 18/19 Advocacy for Earth and Her Inherent Rights

What did you do when the earth was unravelling?

Our time is one where humanity's inhumanity is visible everywhere evidenced by the callous dehumanising Government policies of those who come under the protection of International Human Rights Law to these shores to seek asylum and the devastation here in Queensland of woody vegetation where one million hectares have been cleared between 2012-13 and 2015-16. This State accounted for between 50% and 65% of the total loss of native forest across Australia over the past 4 decades. (<https://www.theguardian.com/australia-news/2018/apr/24/queensland-poised-to-pass-tougher-land-clearing-laws-as-early-as-next-week>)

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Recently, at my home, the Archer Community, we planted 360 trees with the help of 33 volunteers in response to this **on going ecocide**.



Pope Francis in *Laudato Si* speaks of a single community of Earth Life: 'We are faced not with two separate crises, one environmental and the other social, but rather with one complex crisis which is both social and environmental. Strategies for a solution depend on an integrated approach to combating poverty, restoring dignity to the excluded, and at the same time protecting nature.' (Laudato Si #141) So in **human-earth relationships** that the **Earth is primary, humans are derivative**. Humans are for the perfection of the Earth rather than the Earth being here for the perfection of humans. Humans are an integral part of the universe's community of life. Western traditions, says Thomas Berry, have been transfixed with the **glory and rights of the human** and passed over the relationship **between earth and the human**. We have the Universal Declaration of Human Rights but not a Universal Declaration of Mother Earth. Berry summarises the current situation: the glory of the human has become the desolation of the Earth and now the desolation of the Earth is becoming the destiny of the human. From here on, the primary judgment of all human institutions, professions, programs and activities will be determined by the extent to which they inhibit, ignore, or foster a **mutually-enhancing human-earth relationship**. The Earth is a resource, a backdrop for the human drama. We **humans take** but **not in a reciprocal mutually-enhancing way**. He identifies **4 major areas** that have authority over the human project: **the political-social order, the educational order, the economic and the religious order**. I would like to briefly reflect on the **political-social order**.

Mari Margil, associate director of the US-based Community Environmental Legal Defense Fund, asks the question: **'Who speaks for the trees?'** In a newspaper interview with *The Guardian* she spoke of 25 Columbian children who brought a lawsuit to end deforestation in the Amazon and the courts finally declared that the Amazon a 'subject of rights'. Who speaks for the Trees? Columbian children? Who speaks for the rights of the Queensland trees and woody vegetation? (<https://www.theguardian.com/profile/mari-margil>)

An idea that has had currency of late, is that only humans have rights. This seems absurd and self-destructive as every being has rights. Rights come from existence. 'Rights' is simply the giving to every thing its due. **Every being has three rights: the right to be, the right to habitat and the right to fulfil its role in the great community of existence.** 'Rights' is an analogous term. 'A tree' doesn't have human rights because human rights would be no good for a tree. A tree needs 'tree rights'. Birds need bird rights. Law and rights need to recognize what the diversity within the continuity. It is not that the humans have more or less rights. - humans don't have more rights than plants do, they have different rights. (<https://www.youtube.com/watch?v=pWdo2vpr-Rs>)

Today, **environmental laws** regulate the human use and destruction of nature. They legalise [fracking, drilling](#), and even [dynamiting the tops off mountains to mine coal](#). The consequences are proving catastrophic: the [die-off crisis of the Barrier Reef](#), accelerating species extinction, climate change. **But does environmental law give equal voice to nature at the table where life and death decisions are made?** Our anthropocentric legal system ensures the earth's voice is muffled under 'environmental law' as earth is viewed as 'property' unable to possess rights. **The natural environment is seen as a resource necessary for commerce not as an eco-system that needs to be protected in its own right.** One can make a comparison between how we treat nature and the way we once treated slaves as things to be used until they were no longer useful. **So slaves and nature are considered to be right-less.** Surely ecosystems have inalienable and fundamental rights to exist and flourish. The corporation is a 'legal person' under the law and so has inalienable rights. They use their rights against communities and the environment to push their agenda. These rights allow them to lobby government to build polluting non-renewable industries without have to clean up the mess they leave. The natural world, like slaves, has no such rights. So if the environment is destroyed on your property, damages are awarded to you not the eco-system that is being destroyed. Like the slave owner who received monetary damages if someone beat his slave. The slave received nothing because the damage occurred to the slave owners property. (<https://www.theguardian.com/commentisfree/2018/may/23/laws-slaves-nature-humans-rights-environment-amazon>)

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Things are changing. Alberto Acosta addressing the Ecuador constituent assembly in 2008, said **'Nature is a slave.'** That year Ecuador enshrined the **rights of nature** – Pachamana – in its constitution the first country to do so. New Zealand recently recognized the rights of the Whanganui River as having the legal rights as do humans. Two guardians will be appointed to act on behalf of the Whanganui River, one from the crown and one from the

Whanganui iwi. (<https://www.theguardian.com/world/2017/mar/16/new-zealand-river-granted-same-legal-rights-as-human-being>)

This year is the 70th Anniversary of the Universal Declaration of Human Rights and the 'Rights of Mother Earth Alliance' this month officially asked the UN to adopt a 'Declaration of Rights of Mother Earth'. They are looking to have one million signatures by the end of August. (<http://care2.com/go/z/nature>) Part of the Preamble was our first reading.

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Advocacy with and for the Earth is surely the way forward. Michelle Maloney, a Brisbane based Earth Rights lawyer, in association with the Australian Earth Laws Alliance (<https://www.earthlaws.org.au>) is seeking your support and is scheduled to speak here at SMX. However I would like to share a little of my work over 5 years with Edmund Rice International (ERI) in Geneva and my engagement with the Human Rights Council (HRC) which in 2018 includes Australia. ERI are looking to bring the concern of communities about earth and human rights to HRC. They can do this through submissions through a mechanism known as the Universal Periodic Review (UPR). The 192 nations that are members of the UN have to submit to a human rights review every 4.5 years and Australia had its 'human rights' review on November 10, 2015. So next year submissions will be called from the Australian community on Australia's rights record. Communities have the opportunity to state their views on Australia's current rights record and the government has to respond and give reason for its performance. I was in Room 20 of the HRC in Geneva 2015 and heard Australia's political representatives defend human rights in this country. The rights of nature were not addressed. It was not considered a significant rights issue for Australia even though it was raised by a number of NGOs in submissions.

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it's 3:23 in the morning
and I'm awake
because my great great grandchildren
won't let me sleep
my great great grandchildren
ask me in dreams
what did you do while the planet was plundered?
what did you do when the earth was unraveling?
surely you did something
when the seasons started failing?
as the mammals, reptiles, birds were all dying?
did you fill the streets with protest
when democracy was stolen?
What did you do
once
you
knew?

(Drew Dillinger *Hieroglyphic Stairway*)

The Earth has always spoken says Vandana Shiva an India earth activist. Now she is roaring. When she brings us storms she's roaring. When she brings a fire she is saying wake up. This is not climate as usual...She is speaking so we need to have the capacity to listen to her voice, which used to be gentler. Surely now is the time to listen to her and to learn the patterns of the Earth and how she speaks. (Vanda Shiva, February, 2015 (www.EarthJurist.org))

PH August 3. 2018