

Exploring Principles of Earth Jurisprudence Syllabus

St. Thomas and Barry Universities Law Schools
January 10 – April 24, 2008 (13 weeks)

Seminar: Exploring Principles of Earth Jurisprudence (2 credits)

In this course students will identify legal principles of a new “Earth-based” jurisprudence. Cormac Cullinan in *Wild Law* proposes there is a “Great Jurisprudence” established by how Earth functions to sustain life. Modern jurisprudence, in contrast, emphasizes the “positive law”—laws are simply what humans decide in advancing their personal, ideological and moral interests. This seminar allows students to step beyond the positive law to question how law may serve the well-being of Earth as a whole. The course includes study of the cosmological, ecological and social contexts for an Earth-based jurisprudence, emerging concepts of Wild Law, principles of an ecological worldview, the 1982 UN Charter for Nature, the Earth Charter, legal concepts of indigenous people, standing issues for non-humans, and emerging legal and equitable remedies. Intentional time in the natural world and weekly journal entries are a course requirement. Each student will write a research paper that ties together a theory and application of Earth Jurisprudence with a personal experience of nature.

Class: Thursdays, 10: 20 – 12:00 (noon); LSL-LSR

Office Hours: Wednesdays, 10:00 am to 2:00 pm. Other time by appointment; office phone: 305-623-2389.

Required Course Material:

Berry, Thomas. *The Great Work: Our Way into the Future*. Bell Tower, 1999.
Cullinan, Cormac. *Wild Law: A Manifesto for Earth Justice*. Green Books, 2002.
Stone, Christopher D. *Should Trees Have Standing? And Other Essays on Law, Morals and the Environment*, Oceana Publications, 25th Anniversary Edition, 1996.
United Nations, *World Charter for Nature*, 1982,
<http://www.un.org/documents/ga/res/37/a37r007.htm>.
Earth Charter, at www.earthcharter.org
And all course material as included in the Syllabus and available on Course Reserves.

Additional Resources: (On Course Reserves)

Berry, Thomas. *Evening Thoughts*. Sierra Club Books, 2006.
Berry, Thomas. *The Dream of the Earth*. Sierra Club, 1989.
Brown, Brian E. *Religion, Law, and the Land: Native Americans and the Judicial Interpretation of Sacred Land*. Greenwood Press, 1999.
Dimento, Joseph. *The Global Environment and International Law*. University of Texas Press, 2003.
Greene, Herman. “Thomas Berry’s Great Work” at
<http://ecoziocstudies.org/ThomasBerryGreatWork.pdf>
Leopold, Aldo. *A Sand County Almanac: And Sketches Here and There*. Oxford University Press, 1987 (1949).
Murphy, Jeffrie G. and Coleman, Jules L. *Philosophy of Law: An Introduction to Jurisprudence*, Westview Press, 1990.
Nash, Roderick Frazier. *The Rights of Nature*. University of Wisconsin Press, 1989.
Ortega, Roque Roldan. *Indigenous Peoples of Columbia and the Law*.

- Reichel-Dolmatoff, Gerardo. *The Forest Within: The World-view of the Tukano Amazonian Indians*, Themis Books, 1996.
- Raffensperger, Carolyn and Joel Tickner, *Protecting Public Health & the Environment: Implementing the Precautionary Principle*. Island Press, 2003.
- Shiva, Vandana. *Water Wars: Privatization, Pollution and Profit*, South End Press, 2002.
- Shiva, Vandana. *Biopiracy: The Plunder of Nature and Knowledge*. South End Press, 1997.
- Sunstein, Cass, "Standing for Animals, Public Law and Legal Theory, Working Paper No.6, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=196212

Evaluation and Grading:

Approximately two thirds of your grade will be based on your final research paper and its presentation. The additional third of your grade will be based on your class participation, leading one of the class discussions, submission of weekly discussion points and a one-page journal reflection, that records your reflections on time spent in nature each week. There will be no final exam.

Each week students will prepare and submit electronically, in typed format, two written assignments. Students will submit ten (10) key concept points from each of the assigned readings. Students will also spend time in and with nature each week and submit a weekly reflection that describes their observations or feelings about this experience. At the beginning of the semester, students will sign up to be a class discussion leader for part of a class, once during the semester. Students should generally elect to be a discussion leader in an area of his or her particular interest and possible seminar paper topic. As a discussion leader, students are expected to inform, raise questions, thoughtfully "respond" to the issues raised by the readings, and moderate class discussion for approximately 15-20 minutes of the class. I will provide a presentation for part of each class. There will not be discussion leaders during guest presenter classes.

Research Paper:

Seventy (70) percent of the final grade will be based on a research paper that addresses a selected legal theory or case law and application of Earth jurisprudence that intrigues you and furthers the development of the emerging field of Earth jurisprudence. The paper must include critical legal research, citations and analysis, as well as your own conclusions. References from *Wikipedia* are not allowed to be cited. A required section is inclusion of how the time you spent in the natural world influenced the development of your research, analysis and conclusion.

The topic for your paper shall be selected by you and approved by me. The paper should be **20-25 pages in length, including footnotes**, and must be typed using *12-point* font, *doubled-spaced*, with one-inch margins on standard letter-sized paper. Footnotes should be *single-spaced*, *10-point* font, and located on the same page as the referenced text. An initial list of proposed (but not limited to) topics will be available for student review by the second class.

Paper topics must be chosen and approved by me no later than February 14, 2008.

An outline of the paper is due March 13. The outline must be in paragraph form, containing at least one paragraph for each section of the paper, i.e., Introduction, Part I, Part II, etc., Conclusion. The paragraph(s) for each section should explain the purpose of each section, including what that section of the paper will cover and list all legal sources (cases, books, law review articles, etc.) to be relied upon in that section. The outline must demonstrate that you are ready to begin writing the final paper. In essence, this is a rough draft of your paper in outline/paragraph form with all sources to be relied upon notated.

The final paper is due in both electronic and printed format at the beginning of the last class on April 24. The Center for Earth Jurisprudence is seeking to place the top three

student papers on its publications section of its website at www.earthjuris.org by mid-June, 2008. If selected the author will need to be willing to do further editing of the paper as needed.

Each student will make a modified presentation of the core concepts of his or her research paper to the class in the last quarter of the semester. Students will sign up for their presentation schedule. The presentation will be no longer than 15 minutes in length, *which includes set-up time*. If you choose to use power point or other “high-tech” presentational approach, you must anticipate possible equipment problems and be prepared to give the presentation in an alternative manner. Due to the time limitation, do not attempt to cover your entire paper. Rather, choose the most interesting aspect(s) to present to your colleagues and be prepared to engage the class in discussion and feedback. Approximately 10 % of the final grade will be based on the quality of your class presentation of your paper.

The beginning of each class will provide an opportunity to intentionally connect ourselves to the natural world and remind ourselves that we are all members of the single Earth community. Either I, or the student discussion leaders, will provide this reflective, experiential learning moment.

Class Schedule (Readings from various sources will be assigned each week.)

Class No.	Date	Topics	Readings	Comments
1	Jan 10	Introduction to Earth Jurisprudence and seminar requirements	<p>Herman Greene, “<i>What is Earth Jurisprudence</i>” article at http://www.earthjuris.org/viewpoint/documents/whatisej.htm</p> <p>T. Berry, <i>Evening Thoughts</i>, “Ten Principles for Jurisprudence Revision” p149-50.</p> <p>Introduce World Charter for Nature; The Earth Charter, available at http://www.un.org/documents/ga/res/37/a37r007.htm; and The Earth Charter, available at http://www.earthcharter.org/files/charter/charter.pdf</p> <p>All posted on Course Reserves</p>	Earth Jurisprudence concerns learning the law of the “land” and applying that to human affairs. Humans need to be responsible participants in the larger community of life. This class lays the foundation for a new way of understanding law and governance.
2	Jan. 17	<p>The dynamic order of the universe and our Earth as the foundation for a new jurisprudence that reflects the source of law and governance</p> <p>Review possible research paper</p>	<p>Mike Bell, “<i>Earth Jurisprudence</i>” article at http://www.rainforestinfo.org.au/depeco/earth%20jurisprudence/Earth%20Justice.htm</p> <p>Aldo Leopold, “<i>A Land Ethic</i>” from <i>Sand Country Almanac</i>. (Handout available.)</p> <p>Swimme And Berry, <i>The Universe Story</i>, “The Story” pp 7-15, and “Cosmogenesis” pp 51-78; T.</p>	<p>Mike Bell’s article provides an earlier look at the emerging field of Earth Jurisprudence.</p> <p>Aldo Leopold’s <i>A Sand County Almanac</i> is a classic and provides a good starting point for considering Earth Jurisprudence.</p> <p>Earth Jurisprudence’s origins, belong within the story of the emerging Universe and provides a cosmological grounding of law.</p>

		topics		
3	Jan 24	Examine Berry's critique of education and law. Explore two international documents that convey an Earth jurisprudence approach.	Berry, <i>The Great Work</i> , The University, p 72 – 86; United Nations World Charter For Nature , available at http://www.un.org/documents/ga/res/37/a37r007.htm ; and The Earth Charter , available at http://www.earthcharter.org/files/charter/charter.pdf .	The role of the University/education in rethinking law; exploration of two international documents highlighting Earth jurisprudence concepts and the need for international laws to support a new jurisprudence
3	Jan 31	The Situation: Human Law & the Law of Nature come together	Cullinan, <i>Wild Law</i> , p 9 – 124; Houck, <i>Can We Save New Orleans</i> , 19 Tulane Env't'l L. J. 2-68 (2006), http://www.law.tulane.edu/Houck_CanWeSaveNewOrleans.pdf#search=%22tulane%20environmental%20law%20journal%20houck%20new%20orleans%22	Introducing an Earth-centered critique of law and the role nature plays in shaping laws. The Houck article shows the shortcomings of environmental regulation and engineering intended to “fix” or control natural processes. New Orleans is a good place to look at how environment and human issues interrelate. Katrina and New Orleans may impact American thinking on human ecology.
4	Feb 7	Toward Legal Rights for Natural Objects.	C Stone, <i>Should Trees Have Standing?</i> “Toward Legal Rights for Natural Objects,” pp 1-48 and “The Nonperson in Law”, p 49 – 64. J Guth, “Transforming American Law to Promote Preservation of the Earth” at http://www.sehn.org/lawpdf/Transforming%20American%20Law.pdf	Introduce concepts of standing and role of common law in creating or limiting access to legal remedies.

5	Feb 14	<p>Issues for Planet at Peril</p> <p>Global warming and vulnerable communities; Native perspective.</p> <p>Research topic approved.</p>	<p>A Kimbrell. <i>“Halting the Global Meltdown: Can Environmental Law Play a Role?”</i> at http://www.earthjuris.org/viewpoint/documents/Kimbrell_GAIA_presentation_global%20warming%20article.pdf</p> <p>W LaDuke, <i>Voices from White Earth Gaa-waabaabiganikaag</i> at http://www.schumachersociety.org/publications/laduke_93.html</p> <p>D Goldberg, <i>“Inuit Human Rights and Climate Change”</i>, at http://www.earthjustice.org/news/press/005/inuit-human-rights-petition-filed-over-climate-change.html</p>	Engage students in examining some critical issues impacting ecological security..
6	Feb 21	<p>Christian perspectives on legal protection of the natural world and the commons</p>	<p>G. Schaab, <i>“Beyond Dominion and Stewardship: The Environment through the Lenses of Christian Theology”</i>.</p> <p>Catholic Bishops of the Philippines, <i>“What Is Happening to Our Beautiful Land?”</i></p> <p>On Course Reserve; Pope John Paul II and Patriarch Bartholomew I of Constantinople, <i>“2002 Declaration on the Environment”</i> at http://conservation.catholic.org/declaration.htm</p>	Religion plays influencing role in how humans relate to the natural world and understand the role of law. Christianity has unique burdens and gifts to bring to this.
No Class	Mar 6	Spring Break		
8	Mar 13	<p>Exploring Legal Remedies for a new jurisprudence</p> <p>Outline for Research Paper due</p>	<p>M Christina Woods, <i>“Nature’s Trust”</i>; at http://www.earthjuris.org/viewpoint/documents/naturestrust2.pdf</p> <p>C. Stone, <i>Should Trees Have Standing</i>, p 65 – 118;</p>	Explore the public trust doctrine; guardianship; role of common law; public nuisance; negligence; strict liability
9	Mar 20	<p>Wild Law</p> <p>Uncertain Commitment to the Environment</p>	<p>C. Cullinan, <i>Wild Law</i>, <i>“ Why Law and Jurisprudence Matter,”</i> pp. 57-66; <i>“The Conceit of Law,”</i> pp 66-82; <i>“Earth Governance,</i> pp 83-125; C Cullinan, <i>“Spreading Earth Jurisprudence,”</i> pp 1-20 UKELA & ELF address, November 2006. Posted in Course Reserves.</p>	Exploring Cullinan’s conceptual assumptions. How can EJ concepts get applied to current situations?

10	Mar. 27 Begin student presentations	Rights and Responsibilities	Bosselmann, "Human Rights and the Environment: Redefining Fundamental Principles?" Posted in Course Reserves	Is it a human right to a healthy environment or an ecological human right that impacts human behavior?
11	April 3 Envisioning an Earth Jurisprudence Student presentations	The Precautionary Principle and Reforming American Law	Montague, "The Precautionary Principle in a Nutshell," available at http://www.precaution.org/lib/pp_def.htm ; Myers, "The Precautionary Principle Puts Values First"; and Schettler, Barrett, and Raffensperger, "The Precautionary Principle: Protecting Public Health and the Environment." Posted in Course Reserves.	An example of a new concept that limits harm and shifts the burden of proof. It is being adopted internationally.
12	Apr. 10 Envisioning an Earth Jurisprudence Student presentations	The Commons and the Common Good	Raffensperger "Ten Tenets: The Law of the Commons of the Natural World," available at http://www.precaution.org/lib/06/prn_commons_law_tenets.060323.htm P Barnes, <i>Capitalism 3.0</i> , p 65-117. Available in Course Reserves	Addressing complex issue of protecting the "commons". Can trusteeships and guardianships provide some legal protections? Is giving someone "property rights" over the commons the best approach?
13	Apr. 17 Envisioning an Earth Jurisprudence Student presentations	Nature/Earth Charters Re-envisioning law and governance	Revisit United Nations World Charter For Nature, available at http://www.un.org/documents/ga/res/37/a37r007.htm ; and The Earth Charter, available at http://www.earthcharter.org/files/chartar/charter.pdf , T Linzey, "Tamaqua Law Is First In Nation to Recognize Rights of Nature," at http://www.celdf.org/PressReleases/TamaquaLawRecognizesRightsofNature/tabid/367/Default.aspx	These resources may provide a template for further constitutional, statutory and positive law. How do we go into the future protecting bio-diversity and Earth democracy?
14	Envisioning a new Jurisprudence	Papers due ~ both written and electronic versions	Schlickiesen, "Protecting Biodiversity for Future Generations: A Proposed Constitutional Amendment;" available at http://www.defenders.org/bio-co05.html . Vandana Shiva, "Principles of Earth Democracy." Posted in Course Reserves.	This is a way of bringing EJ home. The students know changing the constitution is serious business and so this will allow them to focus on the implications of Earth Jurisprudence.