

Legal Rights for Nature

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In [Tamaqua, Pennsylvania](#), a former coal town, agribusinesses were spreading sewage sludge on fields, and a mining company was dumping coal ash and river dredge into an empty strip mine. Three [Superfund sites](#) are also nearby.



Cathy Miorelli, a school nurse and mother of young children, grew concerned about the health implications of this waste, as she worked on a study documenting an elevated cancer rate in the area. That inspired her to run for a position on the borough council. She won, and in 2006, [helped Tamaqua](#) pass one of the first laws granting ecosystems rights.

Legal rights for nature is an idea that has been around for at least 35 years, and since Tamaqua's action, other municipalities in Pennsylvania have passed similar ordinances, partly in an effort to change the way humanity treats nature. Now [Ecuador](#) is considering the adoption of such a law nationally. These laws grant ecosystems "standing," a legal term that means people can sue on their behalf if their right to exist is threatened.

The ordinances in Pennsylvania grew out of local governments' attempts to control corporate activity in their jurisdictions. In 1995, the [Community Environmental Legal Defense Fund](#) (CELDF), a public interest law firm, began working in the state on behalf of local communities that were trying to stop certain activities -- such as factory farms, incinerators, quarries, and Wal-Mart stores -- from coming into their towns because they feared negative environmental and economic impacts.

Most communities began by passing ordinances banning the specific proposed activity. Given that state power trumps local, this strategy often proved ineffective, because the state had already permitted these activities. In addition, corporations today have won a wide range of constitutional rights and protections, including those afforded to people and granted in the 1st, 5th, and 14th amendments, said Mari Margil, associate director of CELDF. These rights allow corporations to override community laws, she said.

In response, CELDF counseled towns to write laws restricting corporations' rights within their

jurisdictions. Still, state law supersedes these ordinances as well.

Because these corporate activities often cause air or water pollution or other environmental impact, legal strategists suggested granting ecosystems legally enforceable rights in the community. “It strengthens the hand of the community,” said Margil.

Ecosystem rights might seem radical in our society, where nature is treated as property. But activists at CEDLF say it is a continuation of the civil rights struggle that, in the United States, has included blacks and women.

For some, it is a significant leap to move from rights for people to rights for nature. Humans separated themselves philosophically from nature with an Enlightenment idea called the “Great Chain of Being,” a hierarchy ranking God at the top, then angels, then people, then various mammals, birds, amphibians, reptiles, fish, insects, and macrobiotic life. This ideology was handy for rationalizing human exploitation of nature and is at the root of our current law.

But Margil pointed out that as recently as 150 years ago, blacks and women were also considered property. “There are always the people who will say something is radical,” she said. “But was it really radical to say that women should be rights-bearing people, or that African Americans should be? I don’t think that’s radical at all. It’s an expansion of rights, and I think this is very much in that vein.”

The campaign can be slow going. For example, in East Brunswick, the Pennsylvania attorney general is suing to overturn that township’s local ordinance that prohibits the use of sewage sludge. The state passed a law in 2005 that compels the attorney general to review complaints about local ordinances brought to its office. If the local ordinance is found to have restrictions greater than state law, the office must proceed with a negotiation or suit.

But Miorelli believes certain federal laws override this state-and-local struggle. “The federal government tells me that I have a right to clean air, clean land, and clean water,” she said. “What’s more important than human life? No amount of money.”

Miorelli said that her town needs other municipalities to adopt similar ordinances to win legal strength. In addition, Tamaqua’s water source and reservoir sit in other townships, so she has been working to convince her neighbors to pass similar legislation.

“In Tamaqua we’ve opened the door for other communities,” said Miorelli. “I think we’ve shown that we, the people, can stand up to these big corporations and do the right thing and not be afraid.”

Ecuador has played host to major environmental offenses -- such as Texaco’s almost three decades of dumping toxic waste into waterways that sustain indigenous people – and, as a result, is primed to adopt such legislation. In a political reorganization designed to correct inequality and exclusion in government, the country is currently redrafting its constitution, which contains language granting nature rights.

These proposed laws seek to limit the economic activity of corporations and the state in favor of the common good, saying that no human activity will be allowed to endanger the regenerative processes of nature.

The [Pachamama Alliance](#), a U.S.-based NGO that works with native Ecuadorans on protecting indigenous rights, suggested the language, which gained support from the indigenous and environmental movements, artists, media figures, and political sectors.

Attorney Mario Melo is advocacy coordinator at Pachamama and handled the legal aspects of the proposal. “The idea to recognize that nature isn't a ‘something’ but a ‘somebody’ who should have rights appealed to me because it picks up deep spiritual traditions that are still alive in Latin America and many other places in the world.” He continued, “It’s such a simple idea that has enormous ethical, legal, and political implications.... I saw in the rights of nature an opportunity to demolish old-fashioned systems that have taken the world to the brink of environmental disaster.”

Melo is not surprised that Ecuador is poised to be the first country to pass such legislation. He said it draws deeply from the well of its diverse cultures and ancestral traditions. “The indigenous peoples have been the main actors in the most important political moments of the two last decades,” he said. “For this reason, this innovative proposal that, while picking up ancient traditions faces the main problem of modernity, the environmental crisis, had to be well received by many national sectors.”

The new constitution has yet to be ratified, but Melo is optimistic.

Although the movement is still grassroots, it is critically important, said Margil, pointing to fishery and ecosystem collapses, global warming, and the energy crisis. In spite of many countries enacting major environmental laws, the health of the environment has declined significantly in the last 40 years, she said. “In this country and around the world, we have to recognize that these things aren’t working,” she said. “We need a fundamental change in our relationship with nature because we’re far exceeding our ability to live even close to sustainably on this earth.”

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