ANTIGONE IN THE ANTHROPOCENE: FROM NEOLIBERALISM TO A NEW CONSERVATION ETHIC

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Overview

• Nature in the Law
  • From Natural Law to Positive Law

• Antigone in the Anthropocene
  • From Sophocles to Environmental Change

• From Neoliberalism to a New Conservation Ethic
  • Payments for Ecosystem Services
  • Earth Charter, Wild Law, Bolivia, etc.
Where is Nature in the Law?

Natural Law (Lex naturalis) vs. Positive Law (Lex posita)

Natural Law is “an elucidation of an ideal of law in its fullest, or highest sense” (Marmor, 2001)
Nature in Natural Law

- **Divine Law**
  - Law of the Gods
  - Religious Law
  - Biophilia and the Creation
  - Genesis 1:28
NATURE IN NATURAL LAW

- Enlightenment
- Nature of the Universe
- Universal Nature
- Scientific Inquiry
- Empirical Observation
- Universal Norms
NATURE IN NATURAL LAW

ANTHROPOCOSMIC NATURALISM

- ORGANIC HOLISM: NATURE AS A “SELF-GENERATING, INTERRELATED UNIVERSE”
- MOTHER NATURE
- GAIA THEORY
Nature in Natural Law

- New Natural Law
- Human Goods and Ends
- Human Security and Well-Being
Nature in Positive Law

Destruction  Pollution  Extraction  Efficient Use  Health  Sustainability  Wild Law

It looks like a perfectly balanced system to me.

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Nature in Positive Law

Wild Law

• Earth Law and Great Jurisprudence
• “Wild” nature
• To maintain or restore the integrity of ecological communities and Earth systems
• E.g., Earth Charter, World Charter for Nature, Universal Declaration on the Rights of Mother Earth
Nature in Positive Law
Anthropocentric Environmental Law

- Protection of the Environment for:
  - Human health and well-being
  - Present and future generations (of humans)
  - Enjoyment of basic human rights
  - Human development
- “Adequate protection”
- Sufficient for (human goods/ends)
- E.g., Stockholm Declaration, State Constitutions
Nature in Positive Law

Neoliberal Environmental Law

• Nature = Resource
  National Propriety
  Commodity
  Service

• Valuable when captured or appropriated

• E.g., Laws/Regs governing resource extraction, trade/sale, payments or ecosystem services
ANTIGONE IN THE ANTHROPOCENE

PROBLEM OF MISINTERPRETATION?

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Antigone vs. King Kreon

A conflict of legal interpretation
“The sons of Oidipous: that Eteokles, Greatest in glory with his spear, who died in battle for this city, we will bury...; But his brother by blood – I'm speaking now of Polyneikes – an exile who came back, Who wanted to set fire to his fatherland And to the gods of his own people and burn Everything down from high to low, who wanted To devour the blood he shared with his own kin, And to enslave the others – this man!: for him...no one is permitted to honor him With burial or funeral gifts...”
“It was not Zeus who made that proclamation To me; nor was it Justice, who resides In the same house with the gods below the earth, Who put in place for men such laws as yours. Nor did I think your proclamation so strong That you, a mortal, could overrule the laws Of the gods, that are unwritten and unfailing. For those laws live not now or yesterday But always, and no one knows how long ago They appeared.”
ANTIGONE IN THE ANTHROPOCENE

Conflict of Interpretation: How to properly honor the gods – Burial or No Burial?

Conflict of Laws: A ruler's promise vs. A right to burial
Antigone in the Anthropocene

Payments for Ecosystem Services

Funding conservation?

Or just another natural commodity for sale/trade?
Antigone in the Anthropocene

First they told us global warming wasn’t real, all the while the ice caps were melting, and yearly temperatures were setting record highs.
ANTIGONE IN THE ANTHROPOCENE

INTRAGENERATIONAL JUSTICE

Did you know?

262 million people were affected by climate disasters in 2004, more than 98 per cent of them in developing countries.
Antigone in the Anthropocene

Intergenerational Justice

Climate change, human impact, creative challenge.

Explain to future generations it was good for the economy.

When they can’t farm the land, breathe the air and drink the water.
Antigone in the Anthropocene

The Chorus

The Special Committee to Investigate Climate Change Hysteria will now come to order.
From Neoliberalism to a New Conservation Ethic

Natural Justice: An Epoch Shift
FROM NEOLIBERALISM TO A NEW CONSERVATION ETHIC

A FEW GUIDING PRINCIPLES....

• Principle of Resilience
• Principle of Biomimicry
• Anthropocosmic Legal Pluralism
• Principles of (Transboundary) Peace and Cooperation
• Principle of Interdependence
CHALLENGES

• TRANSLATING PHILOSOPHY/THEORY/ETHIC INTO ENFORCEABLE REGULATIONS
• APPLICATION OF WILD LAW IN A POST-WILD WORLD
• HOLOCENE SYSTEMS, INSTITUTIONS, EDUCATION, ETC.
Thank You!

We the People
Laws of Nature

Lasting freedom, peace & prosperity come from adhering to the laws of nature.