

COMOX VALLEY CLIMATE CHANGE CHRONICLES (8)

The Problem with Human Laws.

Several years ago I came across a wonderful cartoon. No words, just a picture. It shows two tethered astronauts who have been outside on a spacewalk. They are looking into the window of their space craft. Apparently they have locked themselves out. At first the situation just seems amusing. But when you look closely and notice what one of the astronauts is using to get into the spacecraft it really becomes funny. He has in his hand a wire coat hanger.

It is instinctive for us to start with what we know to deal with what we don't know. So we try with human law to protect the environment. But when a young couple lost in the country asked the gas station attendant for directions, he paused, looked down the road and said to them, "You can't get there from here." We can't get to Earth Law from human law for several reasons.

Though we need human laws, they are specifically designed to serve humans, not Earth. When they relate to land it is usually about the rights of owners to the property's resources and their rights to prohibit people from trespassing.

Human laws protecting the land are highly vulnerable to political priorities. The last Canadian Prime Minister, Steven Harper, removed 90% of laws protecting rivers and other bodies of water. He also closed scientific research libraries related to the environment and refused the right of scientists to make their research public. President Trump is going down the same road. More than forty years of environmental law are just going down the tube. And, in spite of existing laws, governments are often reluctant to force corporations to accept responsibility for spills and damages.

Finally, as many folks have pointed out, environmental laws are not designed to protect the environment. They are designed to limit the amount of damage we can do to the environment. But it is worse than that. Legal international agreements enable one country to access another country's resources. If the other country tries to block access to these resources it can be sued.

We discovered this in our valley several years ago. When a Canadian company with international partners tried to develop coal mines next to critical water sources the partner companies in Japan and Korea had more say in the development of our valley than we did. Humans, with these agreements in hand, often became an invasive species.

Scientists are clear. Climate change is threatening our very existence. We need a type of law that will ensure our survival.

How did humans survive before there was a human law: back before the Magna Carta and English Common Law, before Roman and Greek Law, back before there was writing and written scripts to read for instructions? Survival depended upon our ancestors' ability to read the laws of nature. This this ability has been passed on by people who have lived on the land for centuries, especially within indigenous communities.

In the 1990s, when the Inuit people of the Eastern Arctic were developing their Nunavut homeland, there was a great deal of discussion about laws. For the most part laws for the new government were taken over from the Government of the Northwest Territories. Some of the civil servants of the GNWT were hired as heads of the Nunavut departments. This was a concern for Inuit elders. They wanted to ensure that the Kadluunat Laws (White Man's laws) did not replace their traditional laws. I remember the words of one of the Inuit elders, Mariana Aupilaarjuk.

“We are told that Inuit never had laws or Maligait (“things that have to be followed.”) Why? Because they are not written on paper. When I think of paper I think you can tear it up and the laws are gone. The Maligait of the inuit are not written on paper. They are inside people’s heads and they will not disappear. Even if a person dies the mailigait will not disappear. It is part of a person. It is what makes a person strong.”

The traditional Inuit laws were survival laws. They came from the land and enabled the Inuit to exist and survive for centuries.

Fortunately a new survival law is emerging—Earth Jurisprudence—the Rights of Earth. It was developed by Thomas Berry, a cultural historian and geologist. He introduced it for the first time in 2002 at a conference in Maryland organized by the Gaia Foundation in London. The meeting brought together a small group of lawyers and individuals working with indigenous peoples from various parts of the world. I was invited to attend the meeting.

Earth Jurisprudence will be the subject of our next Chronicle.