

## ***SHORT TAKES***

### **Ecuador First to Grant Nature Constitutional Rights**

On September 28, 2008, the people of Ecuador voted overwhelmingly for a new constitution that gives nature—its mountains, rivers, forests, air, and islands—legally enforceable rights to “exist, flourish and evolve.” It is the first country in the world to do so.

The measure is part of an effort to level the legal playing field against multinational corporations that, armed with enormous financial resources and the force of international law written in their favor, scour the earth looking for cheap resources. Ecuador has a long history of exploitation by corporations engaged in banana growing, natural gas extraction and oil drilling, leaving little but pollution and poverty in their wake. The country is currently involved in a 15-year-long legal battle against the U.S. oil multinational, Chevron. The company is accused of dumping billions of gallons of crude oil and toxic waste into the Amazonian jungle over two decades, resulting in high rates of cancer and child leukemia in people living near the drilling sites.

At the instigation of the Pachamama Alliance, a San Francisco-based citizen organization dedicated to preserving the earth’s tropical rainforests by empowering local indigenous people, the Ecuadorian Constituent Assembly asked the Pennsylvania-based Community Environmental Legal Defense Fund to help it draft provisions for ecosystem rights in the country’s new constitution.

Article 1 of the new “Rights for Nature” chapter of the Ecuador constitution reads: “Nature or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution. Every person, people, community or nationality, will be able to demand the recognition of rights for nature before the public bodies.”

Legal Defense Fund executive director, Tom Linzey, explains that environmental protection in industrialized countries is based on regulatory systems that are designed by the very industries the regulations are meant to control, and that under this legal framework, there is no way for citizens or communities to say no to an activity if that activity is legal. “Governments permit and legalize the discharge of certain amounts of toxics into the environment,” he told the London *Guardian*. “As a form of environmental protection, it’s not working.”

Looking at the bigger picture, the Legal Defense Fund asserts that by nearly every measure, the environment today is in worse shape than when the major U.S. environmental laws (the Clean Air Act, the Clean Water Act, etc.) were adopted over thirty years ago. Countries around the world have since modeled their environmental laws on the U.S. laws, yet this approach has not stopped the exponential loss of species worldwide; dangerous advances in global warming; the continued build-up of toxins in the air, water and soil throughout the world; unchecked deforestation; the rapid drawdown of fresh water supplies globally; nor overfishing in the world’s oceans that is pushing many fisheries to collapse.

As part of its effort to provide citizens tools for real environmental protection and return decision-making authority—i.e., democratic self-government—to local communities, the Legal Defense Fund is pioneering this work in the U.S., where it has assisted more than a dozen local municipalities to draft and adopt local laws that recognize Rights of Nature. It has worked with more than 100 local communities in the U.S. states of Pennsylvania, New Hampshire and Virginia to draft laws that strip corporations of their special constitutional protections and prohibit unwanted corporate activities, such as the spreading of toxic sewage sludge, the operation of factory animal farms, water harvesting, chemical and radioactive pollution, and mining.

With the exception of the U.S. communities that have passed Rights of Nature statutes and now Ecuador, nature is legally considered property without any intrinsic value or rights of its own. The Legal Defense Fund maintains that environmental protection cannot be attained under a structure of law that treats natural ecosystems as property.

Under the Rights of Nature laws, property owners are no longer allowed to interfere with the functioning of ecosystems that exist and depend upon that property for their existence and flourishing. Development that doesn't interfere with the rights of ecosystems to exist and flourish is allowed under the Rights of Nature statutes. In addition to recognizing that ecosystems possess the inalienable and fundamental right to exist and flourish, the Rights of Nature laws give people the legal authority to enforce those rights on behalf of ecosystems and require the governments to remedy violations of those ecosystem rights.

“With this vote, the people of Ecuador are leading the way for countries around the world to fundamentally change how we protect nature,” says Mari Margil, associate director of the Legal Defense Fund.

—*Karen Charman*

## **Marx is Hot!**

In mid-October, not quite a month after the meltdown of financial markets began throughout the world, *Reuters* reported that Karl Marx is back in vogue in eastern Germany. Selling 1,500 copies so far this year—a 100-fold increase since 1990—*Das Kapital*, Marx's classic critique of capitalism, “has risen from the publishing graveyard” to become an improbable bestseller for the academic publisher, Karl-Dietz-Verlag.

“Even bankers and managers are now reading *Das Kapital* to try to understand what they've been doing to us,” managing director Joern Schuettrumpf told *Reuters*. “Marx is definitely ‘in’ right now.”

Anti-capitalist sentiment has been building in eastern Germany, which has seen unemployment and poverty skyrocket after free market economics was introduced following the fall of the Berlin Wall in 1989. Unemployment in the former communist east Germany is

14 percent—double that in the west—and wages are significantly lower. After the two Germanys were reunified, millions of jobs were lost as western competitors bought up many factories in the east, only to shut them down. The recent intense financial turmoil and resulting bank failures and government bailouts has only reinforced capitalism’s unpopularity in eastern Germany, *Reuters* reported.

According to a recent survey, 52 percent of eastern Germans said they thought the free market economy is “unsuitable,” and 43 percent said they wanted socialism rather than capitalism. The news agency said interviews with “dozens of ordinary easterners” confirmed those findings:

“We read about the ‘horrors of capitalism’ in school. They really got that right. Karl Marx was spot on,” said Thomas Pivitt, a 46-year-old IT worker from east Berlin. “I had a pretty good life before the Wall fell,” he added. “No one worried about money because money didn’t really matter. You had a job even if you didn’t want one. The communist idea wasn’t all that bad.”

Hermann Haibel, a 76-year-old retired blacksmith added: “I thought communism was shit, but capitalism is even worse. The free market is brutal. The capitalist wants to squeeze out more, more, more.”

—*KC*