



FORUM

The Role of Environmental Personhood in Corporate Practices

Anna Shin

Climate change has been at the forefront of environmental issues in both local communities and the global stage. The United Nations now labels climate change as a crisis that affects every country on every continent, and the problem only seems to be worsening by the year. While ordinary individuals can make small, everyday contributions in an effort to lower carbon emissions, much of the attention has been spotlighted on businesses and corporations, calling for them to adopt a “net zero emission” policy by either 2030 or 2050. While many large corporations such as Google and Microsoft have proclaimed their commitment to slashing carbon emissions, both environmental activist groups and the companies themselves have found that the actions to these large claims tend to fall short. Much of this inadequacy has been due to the lack of implementing rigorous, comprehensive standards for companies to reveal their true net emissions data.

There is a question as to whether corporations are lawfully bound to adopt sustainable practices at the expense of their own resources. Currently, the corporations, excluding their stockholders, are entitled to “corporate personhood” under the law, which defines corporations as able to enjoy and exercise some of the rights and privileges granted to individual people. Corporate personhood also suggests that corporations are defined as “persons” in the Fourteenth Amendment. This is what allows corporations to enter contracts, and also sue others or get sued themselves. The Supreme Court case *Citizens United v. Federal Election Committee* (2010), which established that corporations were entitled to their First Amendment right

of free speech in donating to political campaigns, has not been challenged to this day and therefore the statement that corporations are considered persons continues to stand.

Considering that corporations are considered as persons, the question of whether the environment, or Earth, is held to the same standard, persists. The concept of “earth jurisprudence,” or the belief that the Earth itself and all of its inhabitants have legal rights, has been used to argue that corporations that follow unsustainable or polluting practices are taking advantage of the Earth’s legal status. While earth jurisprudence has not officially been adopted into U.S. law, there has been much legal discourse on the issue of large corporations exploiting natural resources for profitability. Because the only witness to the Earth’s deterioration is the Earth itself, companies utilize this to silently engage in mass pollution and avoid many of the economic and societal ramifications.

The fact that U.S. courts view corporations as individuals comes at a cost. Unlike most individuals, large corporations enjoy the influence of money, power, and privilege. Corporations and businesses are built to work solely in favor of themselves and their profitability — establishing constitutionality to protect their interest-driven actions bears significant consequences for the protection of individual rights, and opens doors to corruption and special interests. The environment is one of the greatest victims of these influences, yet its very essence disallows it from seeking rightful protection. In addition to this, every business relies on the use of natural resources to advance its economic and industrial profits, either directly or indirectly. If the government and its laws fail to protect the Earth from misuse and destruction, it renders serious and irreversible damage for all its inhabitants. If the government recognizes nature as an individual and regulates eco-friendly business practices, it will not only benefit the environment, but also the corporation itself. Furthermore, the corporation will be setting itself up for long-term sustainability and profitability.

The country of Ecuador has already made progress in this issue. In 2008, Ecuador rewrote a portion of its Constitution by including a section called “Rights of Nature.” This acknowledges Earth as an individual and allows other people to bring lawsuits on behalf of it. If the United States were to adopt a similar legal doctrine, it would provide greater authority for the government to pursue environmental issues in higher rigor and reach.

Earth jurisprudence, although currently far from attaining the status it needs, must be carefully considered within the conversation of climate change as a whole. Without both the physical presence and well-being of the ecosystems we live in, other societal issues are essentially meaningless. It is by the efforts within the legal

sphere to acknowledge Earth as an individual that humans will be able to protect the places we live in for the sake of future endeavors.