

# Earth as teacher Earth as client

**James Thornton** is an environmental lawyer who has taken on corporations and governments – and won. Here, he explains the philosophy that inspires him, how it can inform new law – and where a new ecological civilisation may be taking shape

ILLUSTRATIONS BY TONY DEMURO

Illustration from The Trees Series by Toni Demuro [www.tonidemuro.com](http://www.tonidemuro.com)

I've been a practising lawyer since 1980, and a Zen student almost as long. My root teacher was a Japanese Zen master living in Los Angeles, called Maezumi Roshi. When I was in my tenth year of studying with Maezumi, my husband Martin met him for the first time. It was at the end of a week-long intensive retreat in the San Jacinto Mountains of Southern California, a very beautiful natural place.

Martin politely said to Maezumi, "Thank you for your teachings, which have been so important to James." Maezumi replied: "I am not James' teacher. Nature, Nature is his teacher."

After 10 years' intensive Zen training, Maezumi was pointing out who I really needed to pay attention to.

There are different ways to take Nature as your teacher. Deep meditation in the womb of the natural world is one. This is the traditional province of forest monks. Giving expression to the feelings opened by your connection with Nature is another – much of my poetry is about the natural world, and what it is always teaching.

Another way is to be with, move through, listen and absorb. We recently had a wonderful two weeks with the rainforests, desert and ocean in Australia. The cassowary we encountered, with his three chicks, is still unfurling teachings in my heart.

The Earth is also my client. I am an environmental lawyer, and the organisation I founded is called ClientEarth.

When I was in Australia, people asked why I was there. I told them that I was visiting my client. If you are a lawyer, you listen to your clients and serve their needs. So if your client is the Earth, *how* do you listen to it and enquire into what it needs?

I believe that when it comes to expressing its needs in a way that can connect with the worlds of policy and politics, legislation and litigation, the Earth speaks to us in the grammar of science. Let me give you some examples.

ClientEarth is now 10 years old, and we are now a team of over a hundred people. We have offices in London, Brussels, Warsaw, Beijing and New York, and lawyers in five African countries and Australia. We work to protect biodiversity, slow climate change, and protect forests and human health. In each of these areas, we start with the science, develop policy, help write laws, then implement those laws, and finally go to court when they are broken.

When I was just starting ClientEarth, we had only a handful of people. I wondered what was the most impactful thing I could do about climate change. The scientists made it clear: coal-fired power plants were public enemy number one. So I decided to prevent new coal-fired power plants in Europe. We then helped stop a new generation of six such plants in the UK, and we have stopped a new generation of 14 huge stations in Poland. This is not easy work, but it is something you can achieve with law. We are moving on to consider how we can stop the use of

coal entirely, in all existing facilities, across Europe.

Another example: we started working on fisheries because 10 years ago I enquired of the scientists, what is the biggest biodiversity problem in the EU that we can address? The answer that came back was, the destruction of European fish stocks.

That was the Earth teaching me, and the Earth being my client.

We worked on the legislation in Brussels that regulates fisheries: the Common Fisheries Policy. It took six years and a growing team, and collaboration with scientists, NGOs and politicians. At the final stage of the negotiations in Brussels, we were

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close to losing out to the Spanish fishing interests. We brought in a group of six scientists from around the world to make a presentation to the politicians. We worked with them until they all simplified the message of their specialties into a single storyline, and it was this: if you leave enough fish in the sea, there will be enough fish in the sea!

This was the Earth giving a positive message to the politicians through the scientists. And it worked: we got through a law that requires enough fish to be left in the sea so that in 100 years there will be fish, and fishers with jobs.

The Earth is always telling a positive story. The intelligence that inheres in the Earth systems, and in the three and a half billion years of life's evolving, can be heard in the science. And the science needs to be worked into policy, then into law.

Law captures the agreement of what a society is willing to live by. It can be pushed by a positive vision, and informed by our best understanding of the facts. Law can help transform society from where we are to where we need to be, if we are to thrive into the future. Law captures a society's vision of itself in a network of rules. Those rules are as much a part of our natural evolution as the rules on energy transfer in ecosystems.

What do we need to do if we want to improve the network of laws that connect, protect and bind us? We need to start with a vision.

When Aristotle called human beings the rational animal, he forgot an important thing. He forgot story. Story and storytelling are more central to us as creatures than rationality. If we were really rational, the current US president wouldn't have won the White House. He won it by telling stories that illustrate what Buddhists call the three mental poisons: greed, anger and ignorance.

If we want to create wellbeing for people and the Earth, we need to tell a different story, and we need to make it compelling, because the rational

discourse of science and law always operates within the larger story a culture tells about itself. If we create, or I should say co-create, the right positive vision, then law, drawing on science, can build the foundations for a society that we want to live in.

Environmentalists like me have not been good at telling a positive story, a story so attractive that it will draw us into the future together. Instead, we have focused on what is wrong. This is understandable: environmental problems at a global scale are very new. Synthetic chemicals took off after the second world war. On the first Earth Day in 1970, no one knew about climate change – that came later. It is only in the last 40 years that the number of wild animals living on Earth has been reduced by 50%, and we have entered the Sixth Extinction.

## If we are to create the world we want, we need to change our story

We are still waking up to what we have done, and many refuse to even admit these things are happening. So it is not surprising that we haven't absorbed the current crises, turned around, and articulated a compelling positive vision. But we need to. A positive vision is the best prophylactic against the fear-mongering of demagogues.

Let me borrow here from resilience theory, an exciting young discipline within ecology. Resilience theory grew from the study of forests. Scientists started by thinking that the fate of a forest was controlled by annual cycles of rain, pest infestations, and so on. But studying deeply, they found that the opposite is true. They learned that it is the longer cycles that control the shorter.

The surprise was profound. Not only did the annual cycles not control, but it was not even the trees that ran things. Instead, it was the forest as a whole that controlled all the quicker cycles. The forest controlled which plants and animals could survive there, and if big enough, the forest could also make the weather. The way the scientists put it is this: the long slow variables control the short quick variables. The forest, which lives thousands of years, controls the trees, which live hundreds of years, which control the leaves, which live a year.

What does this mean for creating stories, and achieving a positive future?

Let us take resilience theory across into human cycles. Mostly we are captivated by the quick things. We are captivated by the latest bad news, daily. We are captivated by the current politics, the current election cycle. These are like the annual cycle of the leaves. We rarely look up and see a longer time horizon. When we do, it is a cycle of a few decades. The New Deal and its impact in America in the

1930s and early 1940s; the participation of the UK in the European Union from the 1970s. This longer view is like the lifecycle of the trees.

What is at the *forest level* in human cycles, the long slow variable that controls the quick cycles? It is the story we tell ourselves as a culture. Every culture has its myth. This dominant story is what controls everything else. If an idea fits into the dominant story, it may take root and flourish. If it does not, it may wither or the person giving voice to it may suffer opprobrium or even death.

To take an example, for a long time the dominant story in Europe was Christianity. In the Middle Ages and extending into the Renaissance, Catholic orthodoxy was very strong. As a participant in that culture, the thoughts that arose in your mind would have been shaped by it. Your actions would have been determined by it. Deviation brought house arrest to Galileo, and burning at the stake to Giordano Bruno.

What is our dominant story in the west now? Growing from the start of the Industrial Revolution, our story has become capitalism. And though it is wearing thin, the recent edition of our story has been consensus neoliberal capitalism, as enunciated by – among others – economists at the University of Chicago. This has had profound consequences, including for the environment. Little that does not fit within this story gets onto the screens of decision makers. Because the current story places no value on anything other than growth, and gives us no role other than as consumers, it does not hold within it the seeds of a positive vision.

If we are to create the world we want, we need to change our story. With a compelling and positive vision, facts will matter again, people will be valued, and Nature will be treated as our teacher. We will take care of it like our own eyes.

Where do we turn for this positive vision? I have a suggestion that may surprise you. It comes from my work in China, and I have written about it in my book, *Client Earth*.

I was invited into China in 2014, to lead a seminar for members of the Supreme People's Court, the country's highest court, and other senior officials. The reason for their invitation was that a law had just been passed in China to allow environmental groups to sue polluting companies. My hosts were seeking my advice about how to set the system up, so that Chinese citizens could hold companies to account.

This began a period of deep engagement between ClientEarth and the Chinese Supreme Court, Ministry of Environmental Protection, and other officials. After much first-hand experience, I became convinced that their government is serious about addressing what they know are the world's worst environmental problems. China has terrible air, water and soil pollution, unsafe food, and the highest level of carbon emissions. The Chinese people





The forest controls the trees which control the leaves...

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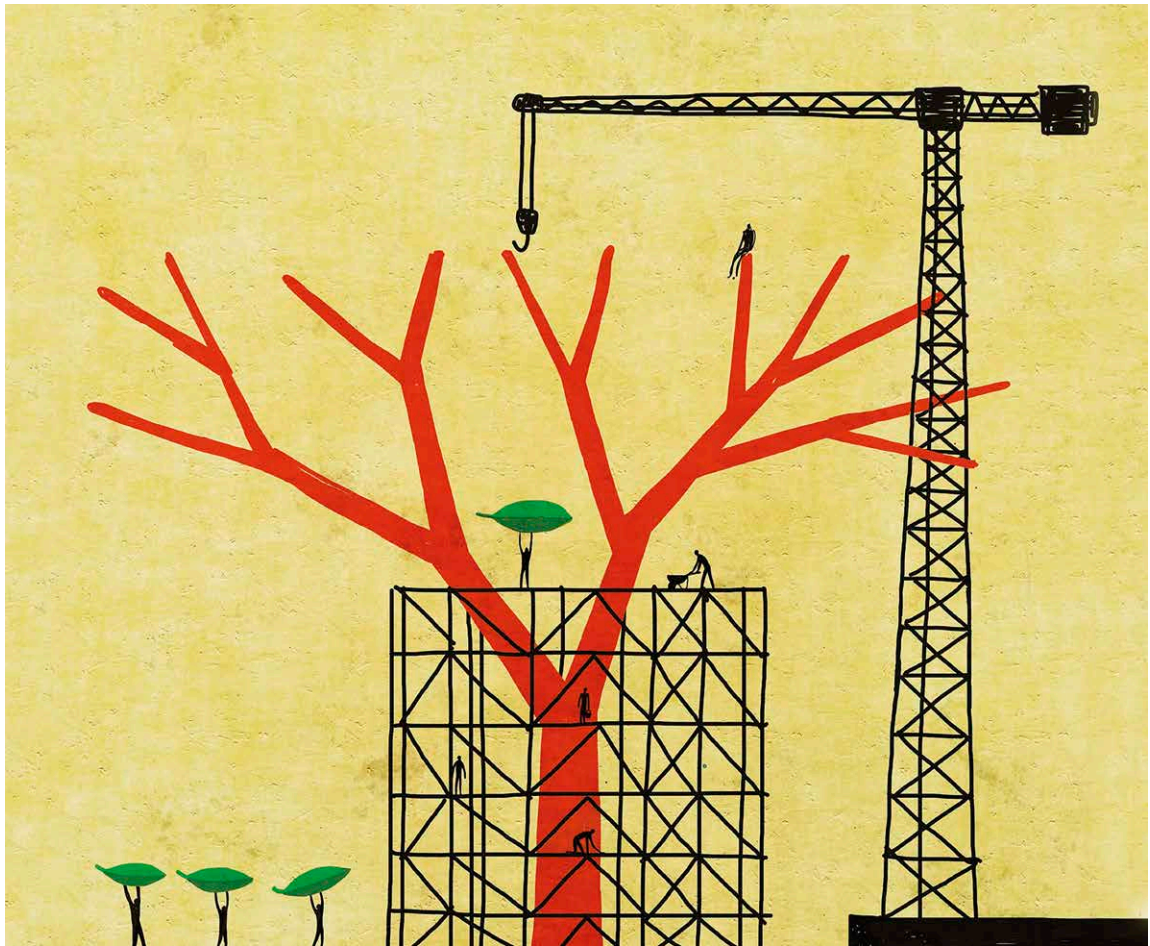
are upset about it, and use social media to discuss it.

The vision of the leaders is that China has been there for 2,500 years and they want to have a prosperous and healthy future for another 2,000 years. That is their timescale. They say their goal was to raise the greatest number of people from poverty in history, and they have done so. But they were

ignorant of the fact that they were harming the environment. Now that it is clear, they must both clean up the environment and be seen to be doing so by the Chinese people.

As a result, I believe China is becoming the most environmentally progressive country in today's political landscape. It is giving people easier access





They are building a culture-changing vision

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to courts for environmental justice than the UK. China is becoming the world leader in building renewable energy. Its use of coal is peaking far earlier than planned, and may even have done so.

## They are building a culture-changing vision ... an ecological civilisation

But on top of all of these things, the Chinese have broken through to the need for story. And their story is at the level of the forest, the level that will set the tone and conditions for all the activity below. They are building a culture-changing vision.

They have decided that they are going to create an ecological civilisation. They say there was previously an agricultural civilisation, then an industrial civilisation, and that now we need to build an ecological civilisation. Nor is this just a slogan. It is the official policy to create this ecological civilisation.

Being practical people, they asked themselves how to go about doing so. They broke it down into eight components: these include economic policy for an ecological civilisation, agricultural policy, industrial policy, rule of law, and so on. I was on a panel that worked for a year and a half – Western and Chinese experts together – to come up with

recommendations for how to change the Chinese legal system so that it could help deliver an ecological civilisation. Our recommendations have gone to the Premier. We will now see what happens.

This is a conscious experiment in building a new story for a culture, one designed to draw forward the changes that are needed. The Chinese have committed hundreds of their best intellectuals to design the different elements. It is very different from what is going on in London, Washington, or any other western capital or country.

I profoundly hope the Chinese succeed. For if they do it right, it will be because they are straining to hear the Earth's teachings, and working hard to embody them in a range of decision-making disciplines, which can then guide society.

If they get it right, and export it, then the Earth our Teacher may become healthy enough to teach future generations of people well.

If they get it right the Earth, my Client, can relax a little, and maybe I can do more bird-watching. **R**

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James Thornton is the CEO of ClientEarth. A member of the bars of California, New York and the United States Supreme Court, he is also a solicitor in England and Wales, a writer and a Zen Buddhist priest. This article is adapted from his talk at the Resurgence Festival of Wellbeing, held in London last September. His most recent book, with Martin Goodman, is *Client Earth*.