# "SUBJECT TO THE LAWS OF NATURE": ECOFEMINISM, REPRESENTATION, AND POLITICAL SUBJECTIVITY

by

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This dissertation effects an engagement between the disciplines of environmental philosophy, feminism, political theory, and law. Through focusing on questions of political representation, subjectivity, and inclusion for women, communities of color, and the natural world, it considers ways ecofeminist theory can aid in transforming legal and political practices that marginalize subordinated groups. It also explores ways that philosophical debates over political representation are relevant to ecofeminist political projects, including ecofeminist envisionings of democracy. The four substantive chapters are independent articles that each, differently but relatedly, investigate contributions ecofeminism can make to particular liberatory political projects: feminist phenomenology, women's environmental activism, the environmental justice movement, and feminist jurisprudences. In chapter two feminist phenomenological accounts of embodiment are interrogated for their helpfulness in linking subjectivity to embodied

responsivity to a more-than-human world as well as their exclusions and effacements of the non-human. Women's forest activism is examined in chapter three as a material site where ecofeminist theory and praxis converge. Chapter four argues that ecofeminism and critical race theory contribute a more efficacious approach to environmental justice struggles. Chapter five synthesizes feminist critiques of legal liberalism and the assumption of ontological separatism that underlies masculinist legal theory with ecofeminist understandings of the ways in which humans are embedded in ecosocial environments, in order to gesture toward a legal theory that would enable better means of representation for women and nature. Taken as a whole, the dissertation intends to raise and provide contingent answers to the following: What is the political status of the more-than-human world? How can law be deployed to resist and contest the systems of power that construct nature as subordinate? How can liberatory theories (e.g. critical race theory, queer theory, feminism) contribute to the ecological project of ending anthropocentric domination of the natural world? How might our political institutions and practices be reconfigured to acknowledge and include the more-than-human as something(s) with political subjectivity? How can/do theory and praxis intersect to effect this reconfiguration?

This dissertation includes my previously published "Ecofeminism and Forest Defense in Cascadia: Gender, Theory, and Radical Activism" (*Capitalism, Nature, Socialism* 17.1 (March 2006) ).

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# CHAPTER I

# INTRODUCTION

## Ecofeminist Political Philosophy

This dissertation contributes to the field of *ecofeminist political philosophy*, an area of intellectual enquiry that examines the political status of that which we call "nature" using the insights, theoretical tools, and ethical commitments of ecological feminisms and other liberatory theories such as critical race theory, queer theory, environmental philosophy, and feminism. It is the principal tenet of all ecofeminisms that varieties of oppression, especially but not exclusively the oppression of women and nature, are interconnected, and that these intersections of oppressions are manifest on both material and conceptual levels. This dissertation explores possible avenues and arenas of representation for the more-than-human world in the context of legal and political ideology and practice. Through an analysis of four areas of importance to feminism or environmentalism—feminist phenomenology, environmental activism, environmental justice, and feminist jurisprudence, I investigate [1] how traditional ways of thinking about law and politics have tended to oppress beings and entities in the more-than-human world and those embodied subjectivities that are linked with women and/or

nature [2] what ontological, epistemological, and ethical commitments may be shared by ecofeminism and feminist legal and political theories; [3] how ideas about the political developed in other theories such as critical race theory and feminism can contribute to the ecosocially liberatory project of ecofeminism; and [4] the ways that ecofeminism poses a challenge to specific kinds of feminist thought.

## Interdisciplinarity

It is often said in the inherently interdisciplinary field of environmental studies that because environmental problems stem from multiple sources and causes, creative and efficacious solutions to environmental issues must also come from multiple sources, and be approached with a diversity of tools and kinds of analysis. Many emphasize that just as *biological diversity* is essential to the long-term health and flourishing of ecological communities and necessary for environments to be able to withstand challenges and threats to their well-being, *intellectual diversity* is critical to the ability of humans to address the threats posed by reductionistic, anthropocentric, oppressive and exploitative views that threaten both human and non-human well-being. This dissertation shares this view.

The format ("journal style"—see below), and perhaps the methodologies here are somewhat unusual for a philosophy dissertation; however, it has been done in fulfillment of the requirements of an unusual Ph.D.—the interdisciplinary Environmental Science, Studies, and Policy (ESSP) program at the University of Oregon. ESSP is a doctoral program which requires that the student concomitantly engage the resources and

knowledges of another degree-granting program on the campus, the "focal department." For me, this focal department is Philosophy. Thus while this dissertation has been written under the aegis of philosophy, my entire academic degree program—my coursework, my candidacy requirements, etc.—has necessitated that I draw deeply and widely from a range of ideas and sources in seemingly unrelated fields in order to address the philosophical aspects of our world's ecological exigencies. It may help the reader to know that my degree program (in accordance with the degree requirements of ESSP) has been grouped around two major self-designed areas: 1) Ecology and Social and Political Thought, and 2) Liberatory Studies and the Environment. In accordance with this thematic and robustly interdisciplinary course of study, the work and the writing in this dissertation has drawn on theoretical, empirical, methodological, and epistemological resources from across the university, the academy, and the broader ecosocial world in order to approach the project of developing more liberatory and environmentally sustainable methods of political and legal representation for the other beings, entities, and ecological processes of the more-than-human world.

## "Journal Style" Dissertation

Given the breadth of environmental problems, my ideas and prescriptions here are aimed at a variety of academic and professional audiences. The substantive portion of the dissertation consists of four stand-alone articles, one of which has been published (chapter 3, "Ecofeminism and Forest Defense in Cascadia," *Capitalism, Nature, Socialism* (March 2006)), while the others are being readied for submission to other

journals in a variety of other fields. All four of these chapter/articles make a distinct contribution to my overall project (a project which reaches beyond this dissertation) which I have described above. Descriptions of the individual chapters and their unique contributions follow.

## The Chapters

**Chapter 2** is being prepared for submission to the journal, *Hypatia: A Journal of Feminist Philosophy*. It is entitled, "THE POLITICS OF EMBODIMENT: FEMINIST PHENOMENOLOGY, EFFACEMENTS OF NATURE, AND THE POLITICS OF SUBJECTIVITY." In this chapter, I address how non-ecofeminist feminisms rarely make more than a passing reference to the presence of non-human beings in the world, and even less often consider whether such bodies might also need to figure in feminist political projects. Normally, feminist attempts to theorize about the human biological/physical body and its relations to the world are motivated not by a desire to affirm or protect the more-than-human world, but instead represent merely the anthropocentric desire to confirm that "women" actually exist. Ecofeminist sensibilities lead one, however, to find it exceedingly odd that the affirmation of world-self relations and the epistemological importance of embodiment do not also lead to a concomitant affirmation of the possibilities and ethical and political claims of non-human bodies that would, by this same logic, also be grounded in corporeality and lived experience. Such a failure to advocate for non-human subjectivity actually re-casts the natural world as the

'stuff' out of which a privileged human consciousness is formed, but itself remains as resource and object.

Such exclusions, I argue, are founded in the human /nature, freedom/necessity dualism that lies at the heart of many forms of oppression, as explicated by ecofeminist and non-ecofeminist theorists alike. This article argues that an ecofeminist perspective is necessary in order for feminist theory to continue its aim of inclusivity and to continue to address *all* interconnected forms of oppression at their intersections. My position is that there is more at stake here than simply theoretical consistency, because there are real ecosocial consequences that follow from the exclusion of the more-than-human in our political discourses, including the political discourse of feminism. By asking whether there is an unstated and untheorized assumption lurking in feminist phenomenologies of "the" body about what sort of a body is necessary for political action, this article intends to show that it is incoherent and speciesist to assert (implicitly) that the body designated as belonging to the species *Homo sapiens* is the only cognitive body which emerges into political subjectivity. Therefore, feminist phenomenologists should evaluate the exclusionary implications of their own formulations about political agency and take seriously the notion that it is not only human beings whose subjectivities are co-constructed through interaction with the ecosocial environment.

**Chapter 3** is entitled ECOFEMINISM AND FOREST DEFENSE IN CASCADIA: GENDER, THEORY, AND RADICAL ACTIVISM. It was published in the peer-reviewed journal *Capitalism, Nature, Socialism: A Journal of Social Ecology;* (v. 17 no. 1 in March 2006). This article shifts the tone of the dissertation from the fairly

theoretical conversation conducted in chapter 2 to an examination of the way that ecofeminism appears in direct action struggles to save endangered ecosystems. It reports about the actions, organization, and self-understanding of women and transgender "Forest Defenders" in a particular bioregion. Forest Defenders are groups of individuals who engage in direct action such as treesitting and blockading to interrupt the logging of ancient forests. Women Forest Defenders in the Pacific Northwest ("Cascadia") organize and execute all-women's actions for both practical and philosophical reasons. In the article I identify four: [1] to challenge and provide an alternative to perceptions that forest defense is "masculine" work and thus teach women the skills necessary to engage in direct action to prevent logging; [2] to alter the unequal and gendered distribution of labor within forest defense communities; and [3] to enable the establishment of activist spaces free of the risk of sexual assault. The fourth is more conceptual, and runs throughout the others: the women's action camps and direct actions are organized around the recognition that forms of oppression are interlocking, and are designed to empower activists to recognize and challenge all forms of hierarchy, discrimination, exploitation, and domination. Through the course of their training and organizing, women and transgender forest defenders make explicit links between the oppression of women, queers, people of color, the poor, and the non-human world both within and outside of activist communities. Such activism potentially exemplifies the intersection of theory and praxis advocated by ecofeminists and other ecoliberatory theorists. Further, perhaps more than other varieties of feminism, ecofeminism maintains that there must be a dialectical and dialogical relationship between theory and practice. Viewing women's forest activism in light of the theoretical analysis provided by ecofeminism, I argue in

this chapter, advances the liberatory goals of ecotheorists by contributing to the development of a robust, efficacious ecofeminist political theory that does not reinscribe a theory/activism dualism.

**Chapter 4** explores the contributions ecofeminism can make to another variety of environmental activism, the environmental justice movement. The title of this article is (EN)GENDERING ENVIRONMENTAL JUSTICE: ECOFEMINISM AND ENVIRONMENTAL JURISPRUDENCE. I intend to submit it to the interdisciplinary journal *Law and Society Review.* This chapter shows how in the United States, advocates of environmental justice struggle to change the conditions by which communities of color and the poor, as a direct result of the oppressive practices and attitudes rooted in histories of racism and colonialism, are disproportionately subjected to the deleterious effects of environmental pollution. Because ecofeminist scholars have extensively theorized the ways that people of color, the poor, women, and the natural world are bound together conceptually such that the oppression—and liberation—of each is linked, ecofeminism is particularly well-situated to contribute a multidimensional analysis to issues of environmental justice. In this article I describe a particular case, that of ongoing attempts throughout the last 20 years to site and expand a toxic waste facility in the 95% Latino Kettleman, CA, in light of the kind of theoretical analysis provided by critical race theory and feminist jurisprudence. I then discuss how environmental justice jurisprudence can be made more powerful and effective through the incorporation of the theoretical insights and analyses of ecofeminism, and how such insights can then be deployed through practical jurisprudences to confront environmental racism. In addition to explicating the

benefits of *ecofeminist* analysis to the environmental justice movement (which I understand as a movement that draws from both the environmental and civil rights movements), this chapter advocates for the explicit deployment of *critical race theory* into environmental justice as well.

The final article, **Chapter 5**, marks a return to theoretical analysis. Entitled THE POWER AND THE PROMISE OF AN ECOFEMINIST LEGAL THEORY: SKETCHES TOWARD AN ECOFEMJ, it will be submitted to the journal *Feminist Legal Studies.* This chapter opens with a brief presentation of the historical background of feminist jurisprudence, noting its critique of conventional law as masculinist and thus furthering women's and other outgroups' (e.g. non-heterosexual persons, people of color, the disabled, etc.) oppression and exclusion "in both life and law." Drawing from the work of prominent feminist legal scholar Catharine MacKinnon, this chapter focuses especially on the political ontology of autonomy and radical individualism which arose out of the modernist/Enlightenment ideologies privileged in most Anglo-American forms of law and political structures, especially legal liberalism. Traditional liberalist ontologies, I show, are characterized by a deep belief in the fundamental independence and atomistic autonomy of individuals in society. Such ontologies have been critiqued by feminist jurisprudentialists as non-representative of the epistemic and existential experience of all persons; rather, such notions are *gendered* conceptions, conceptions that take the experience of certain groups (typically white, class-privileged males), to be that of the "universal" human. The effect of this is to discount the needs of women and other socially marginalized groups. This chapter then draws on feminist jurisprudences'

account of the way that the law's normative imperative toward "neutrality" and "universality" actually masks its gendered, sexual, and racial biases and exclusions for the ecofeminist purpose of attaining better methods of political and legal representation for the more-than-human world. Next I show how ecofeminism shares a similar point of analysis as feminist jurisprudences, containing an ontology of embeddedness as well, but I argue that the political ontology of ecofeminism is more comprehensive in that it includes the more-than-human world. After noting these and other similarities between the two theories, I then turn to an explication of the reasons that A) Feminist Jurisprudence needs an ecofeminist perspective; and B) What ecofeminism gains through engagement with feminist legal theory and political practice.

In final sections of this chapter/article, I explore the promising but ultimately counterproductive attempt by legal scholar Christopher Stone to achieve legal standing for the more-than-human world. I find Stone's model for achieving legal standing for nature in its own right to be well-intentioned but paternalistic, because it views nature as needing human "guardianship" and legal spokespersons for the same reason that "impaired" humans are unable to represent themselves in legal affairs. Stone's suggestion, I find, actually draws us back anthropocentrically to the notion that human beings are the only possible political actors, a conclusion I find unacceptable to an ecofeminist political philosophy. I end the chapter with two first person narratives, one drawn from the work of ecofeminist philosopher Karen Warren and another from my own experience, that exemplify the method of storytelling that feminist and critical race legal scholars argue can enable law to be a tool of social change. This shows that such

narratives when applied to law can help to bring about an *ecofeminist environmental jurisprudence* (EcoFemJ).

## Conclusion

My concluding chapter describes in detail the ways that the chapters, separately and together, address these four environmental and philosophical problems:

- The political status of the more-than-human world
- How law can be deployed to resist and contest the systems of power that construct nature as subordinate
- How liberatory theories such as critical race theory, queer theory, and feminism can contribute to the ecological project of ending anthropocentric domination of the natural world
- How our political institutions and practices might be reconfigured to acknowledge and include the more-than-human as something(s) with political subjectivity
- How theory and praxis intersect to effect this reconfiguration of the political.

My overall goal in this dissertation is to suggest fruitful avenues of exploration and strategies in a range of areas of study and discourses —feminist phenomenology, ecofeminism, environmental justice, feminist legal theory—that can be critically deconstructed, and creatively re-deployed to produce an alternate model of political

subjectivity, one capable of including the more-than-human world, that can be instantiated in contemporary Anglo-American political and legal practice.

# CHAPTER II

# THE POLITICS OF EMBODIMENT: FEMINIST THEORY, EFFACEMENTS OF NATURE, AND POLITICAL SUBJECTIVITY

(This paper will be submitted to *Hypatia: A Journal of Feminist Philosophy*)

## Ecofeminism, Bodies, and The 'Linguistic Turn'

Putatively, feminist discussions of embodiment and the importance of the body as a primary site of knowledge-production, agency, and political subjectivity represent an attempt to recuperate the corporeal and biological, give our "natural" selves a place within theory, to locate gendered experience within the living, breathing, other-filled world. Such attempts mark a critique of and opposition to postmodern or poststructuralist feminisms that stand accused of positing a world of the purely linguistic, a world in which all experience is theorized to be merely an effect of language and discourse, of signifying practices in which the signified appears only as a "trick of grammar."[1] Critiques of the "linguistic turn"[2] in feminism are motivated through a desire to resist the antirealism of postmodern stances and the political ineffectuality or even paralysis which

may be its result.[3] Such critiques are also motivated by the desire to affirm the existence of "real" bodies, bodies which have particular evolutionary, physical/biological characteristics (some of which we call "sex") and interact with their material surroundings within an ecosocial matrix; to in essence affirm that there is a world "out there" as well as in the "in here" of our linguistic and discursive practices to which we sexed and gendered humans in all our multiplicity belong. These critiques, primarily arising from those working within the feminist phenomenological tradition (some shall be specified further on), furthermore wish to affirm the political possibilities and affinities that arise from the understanding of human beings as embodied subjects.

However, when viewed from an *ecofeminist* standpoint, a conspicuous problem within most of these discussions is their tendency to focus *only* on the *human* body (this is made plain by feminist theorists who repeatedly refer to "*the* body" meaning always the (unmarked) *human* body but rarely specifying it as such). Such theories thereby efface the very world and the lives of the more-than-human others that they claim to be theoretically resuscitating, and reproduce an exclusion that ecofeminists have shown to be counter-liberatory, an exclusion founded in the human /nature, self/other, freedom/necessity dualism that lies at the heart of many forms of oppression. Moreover, such theories of embodiment also—contrary to their ostensive claims—privilege the human over the natural, by marking humans as the evolutionary and biological "norm," in contradiction to widely-accepted interpretations of evolutionary science that debunk the notion that human beings are somehow the "apex" or "pinnacle" of the process of evolution.[4]

This article advances the argument that an ecofeminist perspective is necessary in order for feminist theories of all stripes, but particularly feminist phenomenologies and theories of embodiment, to achieve their aim of inclusivity and to continue to address *all* forms of oppression, particularly at their nodes of intersection. The major purpose of this article is twofold, and has both critical and constructive dimensions. In the first part I elaborate how it is that feminist phenomenological attentiveness to the irrefuted (because irrefutable) but under-theorized fact that humans are embodied creatures is exceptionally helpful to environmental and ecofeminist projects; projects that are deeply committed to showing that the human/nature dualism so prevalent in western thinking is empirically fallacious, politically suspect, and ecologically dangerous, and to remedying this danger by re-situating humans within nature. In the next sections, however, I perform the critical work of "lovingly" interrogating[5] these feminist theories as to whether they actually reinforce some of the very beliefs that they take as the starting-point for their critique—the denial that humans exist in relation to other beings and the natural world, the dismissal of non-cognitive somatic forms and sources of knowledge, agency, and subjectivity, and the dualistic privileging of the mind over the body. My general position is that there is more at stake here than simply theoretical consistency, because there are real counter-liberatory ecosocial consequences which follow from the exclusion of the more-than-human in our political discourses, including the political discourse of feminism. (Conversely, the aims of liberatory projects like feminist phenomenology[6] are to explore the political ramifications of the acknowledgment that subjectivity is rooted in embodiment. Ecofeminism helps to complete this project by contributing the knowledge

that human embodiment takes place in a more-than-human world.) By engaging recent feminist work, specifically that of Sara Heinämaa, Sonia Kruks, and Toril Moi in her reading of Beauvoir, that has challenged conventional philosophical accounts that regard the fact of human embodiment and the existence of human bodies as peripheral to philosophical understanding, I ask here whether there is nonetheless an unstated and untheorized assumption lurking in feminist phenomenologies of "the" body about what *sort* of a body is necessary for political action. If the answer is affirmative, then it may well be the case that it is incoherent and speciesist to assert (implicitly) that the body designated as belonging to the species *Homo sapiens* is the only knowing body which emerges into political subjectivity. In fact, I will mention here only briefly as I have written elsewhere on the thesis,[7] the species-specific body, just like the raced and the gendered body, may itself be a product of political processes and social power relations as much as it is a "natural fact"—i.e. species delineations,[8] especially markers of species difference that are deployed to deny non-humans the requisite subject-status to be granted a role in political affairs may be just as capricious as racial classifications have been shown to be. If I am correct, then feminist liberatory theorists such as feminist phenomenologists will need to consider the exclusionary implications and effacements of their own formulations about political agency, and take seriously the notion that it is not only human beings whose subjectivities are co-constructed through interaction with the ecosocial environment. Additionally, we will need to rethink the (so-entrenched-as-to-be-hardly-voiced) assumption that humans are the only critters possessive of the sort of subjectivity that is capable of political participation.

*Defining Political Subjectivity*

Before continuing on to discuss the constructive contributions that can be made when phenomenological theories of embodiment are brought to bear on ecofeminist political projects, I'll first explain how I understand political subjectivity, for this paper intends to lay some of the groundwork necessary to establish a conception of political subjectivity that can be liberatorily applied to the more-than-human world. I think that beings and entities in nature can be understood to be political subjects in these three ways: as subjects that are part of our political community; as subjects deserving of political recognition and acknowledgement by other political subjects; and as subjects/candidates for political inclusion and address. In accordance with what I take to be the general understanding in the literature on feminist phenomenology, I view "political subjectivity" to be related to the more general notion of "subjectivity" in the following way: subjectivity (or at least a particular kind of subjectivity), following the basic phenomenological account, is not a fixed property of human beings already present at birth but is better described as an emergent and fluid property, deeply affected and influenced by social, historical, political, and biological factors and shaped through the continuous interactions of self and world. A feminist analysis adds to this the understanding that all aspects and delineations of the self are enmeshed in political relations, that nothing lies outside the political (see n. 7), and that markers of "difference"—be they sex/gendered, raced, or specied—are deployed and/or ascribed to bodies to further political relations of domination and subordination. Subjectivity is

neither wholly inherent nor completely constructed; rather it is contingent, unstable, and changeable *but/and* exists as a profoundly durable aspect of subjects' self-understanding, movement through the ecosocial world, and treatment by other subjects. The way subjects are treated by subjects is fundamentally a political relation. I think the feminist phenomenologists, Heinamaa, Kruks, Moi, that I engage in this article would agree with my claims, at least at a basic level. I shall continue to develop my understanding of political subjectivity in what follows, although I do not here provide a complete theory nor show how such a notion can be applied to the more-than-human world (although I think it can, as will become plain).

## Constructive Connections: Feminism, Rationality, Embodiment, and the Environment

The turn toward a focus on the embodied character of being has been an exciting moment within feminist theory. Of all the foci or theoretical explorations that occur within what broadly counts as feminist theory, the philosophy of embodiment is perhaps one of the richest areas of potential convergence between feminist and environmental philosophies.[9] Environmental philosophy, of course, is the (western) academic site where ontological, epistemological, and ethical relationships between the human and more-than-human worlds are explored, questioned, deconstructed and (hopefully) re-constructed in ways that contribute to the protection, health and sustainability of that which we call "the environment." Environmental philosophies, because of their focus on non-human beings and strong critiques of the criterion of rationality as a basis for moral standing,[10] have

from their inception provided a counter-hegemonic force to dominant forms of rationalist, unembodied, anthropocentric,[11] Enlightenment philosophies which either see the human body as an obstacle to knowledge (as in Platonic/Cartesian musings on the inherent deceptivity of both the senses and the sensuous world) or ignore the human body altogether (such as occurs in certain philosophies of mind in which it seems quite reasonable that we could be "brains in a vat"). Environmental philosophers have been at the forefront of challenges to the often-implicit but equally-often explicit definition of the human being as the "rational animal." Such philosophies have exposed the deep normativity of construing rationality as the definitive human characteristic, and the anthropocentrism inherent in making the ability to engage in rational thought the primary criterion for moral standing. Feminism, as we know, also has a well-developed critique of rationality, and feminist theorists such as Nancy Tuana and Sandra Morgen (2001), Alison Jaggar (1983), Val Plumwood (1996), Nancy Hartsock (1998), and many others have shown how traditional accounts of rationality have been linked to masculinity and maleness (and also to whiteness), as well as how the historical disattribution of "full" rationality to particular groups (e.g. women and people of color) has served to legitimate socio-political relations of domination and subordination.

In relation to these facts, one reason that the theorizing about embodiment that has occurred within feminism has been such an important moment for philosophy is because of the way such inquiry highlights the ways that rationality has been construed as strictly a *mental* as opposed to *physical* or *bodily* characteristic/capacity (an account that phenomenology rejects in its development of a conception of the body as knower as

opposed to passive recipient of information). As is often remarked on in feminist and environmental writings, the dominant Western narratives since at least Plato have held the mental to be superior to and thus entitled to dominate what ever is associated with physicality.[12] The logic that leads from the privileging of rationality to the domination and exploitation of women, nature, animals, and people of color should by now be familiar to most readers, and I won't take up space here reproducing the ubiquitous "table of opposites/dualisms" that pits mind against body, reason against sensuosity and affectivity, and culture against nature that has been roundly and soundly explicated and critiqued by so many. But it does bear remarking that interrogating the formative dualisms of modernity and in particular the mind/body dualism is extremely significant for liberatory theories like feminism and environmentalism because doing so has revealed the ways that political relations of domination are intimately bound up with defining the "rational" as the "human." The obvious implication by extension of this is that that which is not rational is not human, what is not human is not rational, and thus not to be accorded the political "rights and liberties" thereof. Phenomenological theories of embodiment specifically reject the notion that subjectivity is dualistically rational, and instead emphazise the relational and intersubjective character of sensuous subjectivity that is located in a responsive and reciprocal ecosocial world. Since part of the purpose of this article is to suggest criteria for political participation other than conventional ones applied by traditional Enlightenment political theory that might enable us to engage with nature as a political interlocutor, the shared critique of rationality of both phenomenology and environmental philosophy is helpful to ecofeminist political projects.

## A Critical Turn:
## Feminism, Phenomenology, and Effacements of Nature

Unfortunately, for all their insight into the ways that discourses surrounding embodiment contribute to women's oppression, non-ecofeminist feminisms rarely make even so much as passing reference to the presence of other-than human beings in the world (and when they, do, as we shall see, the reference is often disparaging). Even less often do they consider whether such bodies might *also* need to figure in feminist political projects. Ordinarily, feminist attempts to theorize about the human biological/physical "factic" body and its relations to the world are motivated not by a desire to affirm or protect the more-than-human world, but instead represent only the anthropocentric desire to confirm that "women" actually exist—as flesh-and-blood creatures, and not as simply social constructs, linguistic fictions, or "surfaces to be inscribed." [13] Ecofeminist sensibilities lead one, however, to find it exceedingly odd that the affirmation of world-self relations and the epistemological importance of corporeality do not also lead to a concomitant affirmation of the possibilities for ethical and political claims of non-human bodies that would, by this same logic, also be grounded in somatic, sensuous, lived experience. Such a failure to advocate for non-human subjectivity, I suggest, actually recasts the natural world as the "stuff" out of which a privileged human consciousness is formed, but itself remains as resource and object. Such theoretical configurations of the connections between the mental and the physical thereby reinscribe the very dualisms that they wish to subvert.

If I were to put my primary points thus far concerning my critique of feminist phenomenologies of embodiment in a simplified numerical schema, it might look like the following: 1) feminist phenomenology effaces the more-than-human world by presuming a human body. This elision is similar to the effacement of women that occurs when conventional philosophy presumes a male or "ungendered" subject, or the effacements of poor women and women of color that occur when white feminists fail to consider race and class in their analyses of "women's" oppression, etc. 2) Doing so furthermore reduces the world to mere resources, simultaneously contradicting the phenomenological project of casting subjectivity as a somatic property arising through self-world interactions. 3) Such reductionism and effacement of the more-than-human is a moral failure for a comprehensive liberatory project such as feminist phenomenology 4) It also renders our own human embodied lives opaque insofar as those lives are bound to relations with other non-human body subjects.

As example of the effacement of nature in contemporary anti-dualistic feminist theory, consider a book chapter by Sara Heinämaa in a well-known text on feminist philosophy of science.[14] In it, Heinämaa writes that her project utilizes the phenomenological tradition to situate the lived material female body as a source of meaning about "women":

> "Phenomenology of the body introduces several concepts...which refuse to abide by the familiar dichotomies: biological or cultural, corporeal or intentional, object or subject. Here the *human* body is ultimately not an object of knowledge, *but a precondition for all objects and all knowledge claims. The body is our basic framework of meaning and truth,* both the source and

> the 'sedimentation' of significations and values, which constantly reproduces itself in practices and actions. *Its relations to the world are not external relations of cause and function but internal relations of dependence*" (1996, 291, Emphasis mine).

This passage provokes several questions. Why is it that the *human* body is specifically identified as being "not an object of knowledge" (is it then that other bodies *are* properly scientific "objects of knowledge")? How does the slippage from the specifically human body to "the" body occur, and why is it assumed that the reader understands what kind of body is being referenced? Don't such attempts inadvertently reintroduce a power-laden relation of inequality between humans and the natural world, a relation that feminists concerned to oppose all forms of oppression and who see such opposition as central to feminist politics, should not contribute to? And as appreciated as such attempts to recover a place for the world within theory and for theory within the world may be, why do phenomenological feminisms such as this one fail to interrogate their own elision of the more-than-human world, *especially* when these theories so fervently embrace human corporeal situatedness and world-self epistemological interactivity?

To address these questions, I'll examine more fully some of the reasons already touched upon here regarding why it is that feminists have found it necessary to affirm the philosophical and epistemological importance of embodiment. Although feminist phenomenological recuperations of the body genealogically stem in part from the "classical" phenomenological tradition, most importantly the perception-celebrating philosophy of Merleau-Ponty, as well as the work of Sartre and even more centrally

Simone de Beauvoir, contemporary feminists have drawn upon these philosophical traditions not simply to express their agreement but because they realize deeply the *political* importance of legitimating the lived body, which proactively engages with other phenomena, solicits and organizes experience in a manner that defies the traditional ontological split between subject and object, and has a large—indeed defining— role in subjectivity. Feminist phenomenologists take up this understanding as a liberatory political project in order to elucidate the ways that experience and being-in-the-world is organized through gender, to explore the ethical and political insights that can be gleaned from validating embodiment, and to end the oppression of those bodies that must experience the ecosocial world as female, when female signifies that which is inferior.[15] All feminisms, I would maintain, are inherently political projects, and one of the most central insights emanating out of feminism since at least the 1970's is that oppressions are interconnected. Feminist struggles, it is widely accepted, are not just struggles for "women's" emancipation, but *must* be concerned with racism, heterosexism, ablism, economic exploitation, ageism, etc...[16]but where is nature in this? Returning to the discussion of the embodiment, feminists know that women have long been associated with the body, and that this association has been constitutive in women's (and other human groups') oppression. In a culture such as our own which regards that which is associated with physicality to be inferior, feminists know that the move to define women in terms of our physicality and biological functions (i.e. to assert that women are "closer to nature," or are "made" to bear children, or are "limited" by our innate "feminine frailties," etc.) has played a major role in (to adopt the terminology of bell hooks) white supremacist capitalist patriarchy's strategy to construct women as "naturally" subordinate

and thus exploitable. Early western feminisms such as that of Mary Wollstonecraft and her liberal feminist intellectual progeny sought to overcome this problem by asserting that women *are* as rational as men—that is, as much to be defined through the exercise of mental capacities as men are, and thus as *fully human*. But while feminist phenomenologists and ecofeminists certainly agree that women are potentially and actually as "rational" (whatever that means) as men, such theorists eschew defining the "essence" of human-ness as being located in the mental. As the above quote from Heinämaa succinctly illustrates, the body is a critical player in the gathering and shaping, and co-construction of meaning and understanding. Furthermore, acknowledging the embodied character of being human requires that we also acknowledge the fundamental relationality between self and world, and that we admit that we are ontologically embedded in and continually interacting with our, and developing our subjectivities, political or otherwise, in concert with the natural environment. Feminist phenomenological and ecofeminist strategies for liberation rest then not upon locating women (and other similarly subordinated groups) firmly in the realm of the essentially "mental" or rational, where men, the invisibly privileged, already are (and thereby legitimating the structure of normative dualism), but instead challenge the structure of dualism itself, first by disputing that that which is bodily ought to be denigrated and secondly by calling into question the ossified lines Western masculinist culture has drawn between that which knows—i.e. the subject—and that which is known—the object.

But if it is the case that the body is so important to subjectivity—so important in fact that one's body in many ways *is* one's subjectivity wouldn't it equally be the case

that *all* embodied beings possess subjectivity?[17] To build on my earlier definition of subjectivity, subjectivity at least entails being a deliberate, aware, reflective agent in the world, a creature able to have conscious perceptions and perspectives, and to have an interest in one's own well-being and flourishing. A crucial corollary of such a definition of subjectivity is that subjects are both able to understand themselves and be understood by others as politically relevant and as agential in political realms. My formulation is in agreement with the phenomenological insight that, as Kruks puts it, "embodiment effects a conjunction of self and world" (Kruks 2001, 32).

Thus, since feminist phenomenologists like Heinämaa and Kruks (I shall turn to another, Toril Moi, momentarily) want to center the conditions for subjectivity and political agency not in the capacity for (narrowly and masculinistly defined) 'rational thought' but in the engagements and "relations of dependence" (Heinämaa 1996, 291) with eco-social environments (my term, not theirs) that living embodied beings necessarily participate in, then it seems apparent that non-human beings, including but not limited to non-human animals, must also be political subjects, also must experience the accretions and "sedimentations" of the "meanings, values, and significations" that come from embodied existence. To not acknowledge this, and to wittingly or unwittingly deny embodied subjectivity to nature as do Heinämaa and Kruks is to efface the natural world that embodied knowing is anchored in.

Another such effacement of nature occurs in the following argument from Toril Moi, who in her book *What is a Woman?* (1999) usefully asks whether anti-essentialist (read: postmodern or poststructuralist) feminisms really need to go so far as to

completely disconnect coherent notions of gender from the body (or "sex"). Moi's major project in her book is to defend Simone de Beauvoir against those who assert that Beauvoir is an essentialist (or at the least a biological determinist); that is, that Beauvoir believed that the essence of 'woman' is primarily rooted in her biology, in a fixed facticity of the physical organism that is the female of the human species. (Of course it is well recognized by Beauvoirian scholars like Moi that she did not believe that a woman's biology is her destiny—hence Beauvoir's most famous statement, "one is not born, but rather *becomes* a woman"(1989, 267); but Beauvoir has sometimes been interpreted as saying that it is the social meaning ascribed to the essential facticity of her body that accounts for women's social subordination. Notice that this formulation of Beauvoirian thought can—and primarily has—been interpreted to mean that she does indeed hold bodies, and especially women's bodies, to be simultaneously in some sense fixed as well as an impingement on (but not an absolute impediment to) freedom. After quoting Beauvoir at length on the notion of the (sexed) human body being not a thing but a "situation," Moi remarks, in what she presents as a better interpretation of Beauvoir, that "To say that 'woman' is not a fixed reality is to say that as human beings (and unlike animals) women are always in the process of making themselves what they are"(62-63). You may guess that it is the parenthetical "and unlike animals" that I wish to draw attention to in this quote. Indeed I do, to support my general contention that despite the helpfulness of feminist accounts of embodiment and feminist projects that wish to validate the importance of bodily, physical existence to our being-in-the-world, that such feminisms fall short insofar as they efface, or in this case, actually repudiate, the more-than-human world. Moi inserts her parenthetical exclusion of non-human animals to

illustrate that Beauvoir believes that human women are undetermined in a way that female non-humans are not; the fact that it is inserted without further argument and in casual parentheses shows that Moi assumes that the reader will find it self-evident that other animals do not "make themselves" in the way that human beings do. That this occurs undeliberatively or "unintentionally" is no defense of this move; in fact it only serves to bolster my point that an untenable and unethical anthropocentric exclusionism, an exclusionism ecofeminists have shown to be counter to feminist aims in general, remains in much feminist theory. Moi's parenthetical undefended dismissal of "animals" exemplifies this tendency.

Lest the reader/listener think I'm being too harsh on Moi (after all, she is going to great lengths to show that Beauvoir thought that our body is our situation in the existentialist sense, and thus both the condition and possibility of our freedom), consider the following passage as well. In it, Moi has just discussed how an accurate reading of Beauvoir would not support postmodern reconfigurations of the sex/gender distinction[18] because such a belief is based on a confusion regarding the translation of certain words from French in to English. After a lengthy examination of Beauvoir regarding Beauvoir's view that the insult to women that she is located primarily as "imprisioned in her [biological] sex"[19] by being called "female" (which can be rendered *femme* or *femelle* in French), Moi explains,

> This passage may seem puzzling to some readers. Why does Beauvoir leap to the conclusion that to be called a female must be an insult?...In English, this does sound somewhat exaggerated; in French, the passage depends for its effect on the distinction between *femme* and *femelle*, a distinction that is not

> fully conveyed by the words *woman* and *female*. Although both the English *female* and the French *femelle* designate 'the sex which can bear offspring, or produce eggs' *femelle* refers exclusively to [non-human]animal: its meaning is 'she-animal" not 'human female.' Precisely because of its association with she-animals, *femelle* is regularly used as a pejorative term for woman. Beauvoir's point is clear: by refusing to reduce the woman (*femme*) to the she-animal (*femelle*) she takes a strong stance against the misogynist ideology which can only picture woman as [imprisoned in her biological sex](60-61).

So Moi, a champion of feminist phenomenological approaches to embodiment, is explaining for English readers of Beauvoir her resistance to being etymologically associated with non-human animals by pointing out the important and non-translatable difference between *femme*, woman, and *femelle,* biological female. If Moi is correct, though, then one might do well to say that though the men may be being misogynist by linguistically linking human women with non-human animals, then Beauvoir is being speciesist by agreeing that it is insulting to be so compared! The take-home point here is that although Moi, who, writing at the end of the 20th Century certainly could have availed herself of some 30 years of ecofeminist theorizing, readily defends Beauvoir against the charge that Beauvoir positions women as purely physical beings (and thus located in animality), the defense *does not* extend to an interrogation of the assertion that "actual" animals should be assumed to be inferior. The force of such a failure is, as I have been arguing, to affirm the anthropocentric belief that the more-than-human world is indeed to be understood as purely "dumb" animate matter (in both the literal and colloquial senses), and thus not to be conceived as consisting of beings that also are, in

some way, subjects. But if, say, non-human animals,[20] *are* to be rightly understood as non-cognitive non-subjects, and yet human women's cognitive, epistemic, and subjective capacities are rooted in (or at the very least strongly dependent on) their bodily existence-in-the-world, then either women *do* have some special other, extra-physical trait that enables human (female) bodies to be subjects or embodiment *cannot* be the basis of subjectivity, as Moi, Kruks, (and perhaps Beauvoir) assert. Since I presume feminist phenomenologists would not wish to claim the latter, then such theorists are guilty of failing to consider the possibility that embodied beings other than humans are capable of subjectivity, and deserving of the sorts of political recognition and participation that human women are. To frame this as a question, are feminist champions of embodiment (and I count myself among them) actually furthering an exclusion that feminists themselves have shown to be (to put it lightly) problematic, by failing to acknowledge the ontological and epistemic connections and political solidarity among *all* embodied creatures?

As follow-up on this theme, that is the notion that contemporary feminist recuperations of bodily existence nonetheless efface more-than-human others, let us turn now to another example, from another Beauvoir scholar, this time that appearing in the recent book *Retrieving Experience* by Sonia Kruks (2001). Kruks's project, like Moi's, is to affirm the embodied character of subjectivity, and to disaffirm the postmodernist implication that subjects are purely constituted discursively such that subjects and subjectivity have no or only peripheral relation to embodiment. Although I personally find much of Kruks' account quite helpful to ecofeminist political projects, I am also

exceedingly frustrated by portions of her text. While Kruks goes to great lengths to demonstrate that subjectivity, and in particular women's subjectivity, is critically and irreducibly tied to embodiment, Kruks nonetheless explicitly reinforces the very kind of exclusion that she is so disturbed by in both masculinist, postmodernist, and linguistic accounts of disembodied subjectivity—the ignoring or denying of the bodily affinities we have with one another, *affinities that form the basis of a feminist politics*. For example, in her final chapter, Kruks explains how it is that "affectivity" and physical, extra-cognitive empathy with embodied others can rescue us from the conundrum of how to relate with, and thus struggle politically to protect, radically different others, without presuming identification with nor appropriating the experiences of the other. In the chapter Kruks describes her experience as a volunteer in a battered women's shelter, where she encountered a Nigerian woman with severe bruises and facial lacerations. She explains how it is that despite the radical and irreducible racial, social, and national differences between herself as a white English woman and the Nigerian immigrant who sought assistance and refuge that she is still able to feel with, and in some sense understand, the other woman's experience.

> As I imagined the blows raining down on the woman's face, ...I felt nauseous: a common physiological reaction to fear and pain. Thus, while my primary attention was on her suffering and I could feel-with her pain, I was also sharply aware of my own body as discrete. In a certain doubling of embodied awareness, my body was connected to hers since my (dissimilar) pain was engendered by feeling-with hers. *We are, my example suggests, capable of an immediate intersubjective apprehension of another's experience of pain. This apprehension takes place in the dimension of sentience and is not primarily a*

> *function of conscious evaluation or discourse.* Moreover, this immediate apprehension does not involve an appropriation of the other in which I claim her suffering as my own or an identification in which I claim I can fully enter into her experience (166, emphasis added).

So here Kruks (and this is typical of many feminist phenomenologists) asserts that the basis for the "feeling-with" another is founded in sentience, the ability to feel and to inhabit the world in a body which engages in sensory experience. Such shared sentience, which all women possess, for Kruks is the condition of the possibility of "feeling-with" another in a way which does not necessitate *being* that other. The "immediate intersubjective apprehension of another's experience" does not rely on, indeed it seems is not related to (putatively) specifically human capacities of cognitive reflection and discourse—in fact Kruks explicitly rejects such a notion. This would seem to imply that all sentient embodied beings, whether or not they engage in discursive or 'higher order' reflective practices, would participate in the reciprocal "feeling-with" activities. However, merely a page earlier, in contradicting Arendt's assertion that "[physical] pain is the most private and least communicable of all"(164) and Rorty's claim that "pain is what ties us to non-language using beasts"(165), Kruks writes in a footnote commentary, "the body in pain can be the site of extremely wide and *profoundly human* forms of communication. It is not evident that other animal species communicate their pain to each other as we do"((165 fn 16, emphasis added). [21] As remarkable as this statement is, it is beyond the scope of this article to delve into animal ethology or to bring up the many studies that convincingly demonstrate that non-human animals have neurological

structures quite similar to humans' (never mind their actual physical reactions—Descartes is still the *de facto* authority on that one) and thus *do* experience pain and suffering; or relay the "discovery" that animals in slaughterhouses exhibit extreme agitation when they witness their fellows being violently killed, or to tell you accounts of dolphins and whales who reportedly swim around cradling with their fins stillborn infants, surrounded by their pod mates, until the babies decompose away in what has been described as a mourning period; or my own experiences growing up in rural California of mother and child cows lowing relentlessly to each other across a pasture for days after forcible separation. My purpose here is not to argue for the compelling thesis that beings in the more-than-human world experience pain, suffer, and therefore should not be subject to unnecessary anthropogenically-caused physical, affective, and cognitive distress. Rather my purpose here has been to draw attention to the ways in which much feminist theory tends to efface the more-than-human world, by either 1) ignoring how theories of embodiment can and should be extended to bolster environmental philosophical claims of the moral and political standing of nature; or 2) by actively disassociating human women from nature thereby repudiating the very physicality that feminist theories of embodiment site/cite as constituting the foundation of subjectivity.

## Political Subjectivity and Embodiment

But if feminist theories (such as feminist phenomenologies of the body) that recuperate embodiment from either rationalist or discursivist theories like Butler's and other postmodern feminisms have such less-than-fully-liberatory forms, what are the

constructive and helpful elements which can be gleaned from these theories? Despite the effacement of the more-than-human other explicated here, aren't there insights achieved and work done by feminist theories that grapple with embodiment which will assist in the project of achieving meaningful forms of political subjectivity (a reminder of the threefold definition in the introduction: as subjects that are part of our political community, subjects capable of political recognition and acknowledgment by other political subjects, and subjects/candidates for political inclusion and address) for the more-than-human-world? I believe there is, but that theories of embodiment—and the political implications thereof— need to be extended beyond the human. Allow me to situate my project a bit here. My work is largely motivated by the kinds of inquiries into the relationships between ecofeminism, other feminisms, and political discourse and action that appears in the work of contemporary ecofeminist theorizing. In particular, I am compelled by the arguments of ecofeminist democratic theorists Catriona Sandilands (see Sandilands 1999); Val Plumwood, (see Plumwood 1993, 2002) and Noel Sturgeon (see Sturgeon 1997), who each (in different ways of course), tackle the thorny and perhaps heretical notion that it is cogent and coherent to recognize the political subjecthood of nature. I am hoping through this article to pick up in some ways where their work leaves off, as I read them all as asserting that the more-than-human world should be "allowed" to participate in some way in our political processes, but they leave short of describing the ways in which our theories of politics and subjectivity will have to be reconfigured to explicitly admit nature into discursive political praxis.

Of course I have only just now stated, not shown, that such a reconfiguration of political subjectivity is possible—to do so is beyond my purposes here. However, my

argument here hopes to contribute to that further project which will argue that political subjectivity can be meaningfully ascribed to beings within the more-than-human world, and that concomitantly such beings are capable of both political agency and political self-representation. How can the investigation/exposition of the relation between embodiment and subjectivity such as conducted by feminist phenomenologies aid in this?

Clearly, arguing that creatures in nature are capable of political agency and self-representation is a large philosophical project; this article represents only a small part of the work to be done. What I have hoped to have accomplished here is to have indicated that feminist phenomenology might be able to contribute to an understanding of embodied subjectivity that extends to the more-than-human world, and concomitantly will help us to appreciate non-human beings and entities as members of an intertwined ecosocial and political community.

So now I'll re-state the question posed earlier: how can the politicized account of embodied subjectivity offered through feminist phenomenologies contribute to the development of an account of subjectivity for the more-than-human world that will enable humans to relate with beings and entities within nature as political agents capable of self-representation? I'll answer with the following claim, developing it a bit it in the final pages of this paper, and end by hinting at further directions that the search for ways to establish political subjectivity for natural beings and entities might take. My claim is thus: the validation of "the" body as not just an object but a subject of knowledge and a foundation for ethical obligations and relations both exposes the politics behind the effacement of the physical/biological as well as points the direction toward a more inclusive, sustainable, and just picture of being-in-the-world. Environmental theorist

Catriona Sandilands writes in her book *The Good Natured Feminist: Ecofeminism and the Quest for Democracy* about the "chain of equivalencies" (1999, 102)[22] between women, nature, and other 'marked' bodies such as non-white, queer, or animal bodies, that positions each similarly (but not identically) in oppressive racist, sexist, classist, and speciesist discourses. (A chain which, incidentally, according to Sandilands, produces "contingent" subject positions.) The corollary of this ontology of oppression is that each link is forged to the others, depends on the existence of the others in the chain for its force, and therefore the liberation of any individual "link" relies on unhooking them all from the structure of domination. Ecofeminists have long made explicit that a key compound in the weld has been each oppressed groups' association with physicality, biology, facticity, necessity—i.e. *embodiment*. Some ecofeminist writers,[23] like many feminist phenomenologists, have also asked whether postmodern feminisms unintentionally privilege the rational/linguistic and deny non-constructive, non-discursive embodiment, thereby reproducing one of the central and most oppressive problems of modernity. It would behoove feminist theorists of all varieties to take seriously ecofeminist claims and familiarize themselves with ecofeminist arguments regarding the ways in which gender, race, class, and ecological exploitation is entangled. To but it baldly and perhaps boldly, feminist phenomenologists especially (since they are concerned with the political ramifications of embodiment and self-in-the-world) should be incorporating the insights and analyses of ecofeminism. The suppression of the possibility of subjectivity for the more-than-human world such as appears in phenomenological feminisms reveals, in my view, that despite the embrasure of

embodiment and the identification of embodimentality for the possibility of subjectivity, that there remains a strong discomfort among most humans, including feminist philosophers, in genuinely acknowledging the ontological, biological, ethical, and evolutionary interconnections between humans and non-humans. I maintain that this discomfort has its source in the same modernist, dualistic oppressive discourses that have been shown to be oppressive to women, people of color, non-heterosexuals, (etc.), and nature.[24] To locate humans, *all* humans, male, female, and otherwise, as embodied subjects would entail acknowledging the deep, irreducible continuities and similarities (as well as difference) among ourselves and the other beings we share the planet with. To do this completely, in the feminist spirit of liberation for all, would mean relinquishing the privilege that we who designate ourselves as belonging to the species *Homo sapiens* allot for ourselves in our political practices. It would entail giving up the claim to superiority, the right to exercise mastery and control over the natural world, that human beings (including female human beings) now enjoy. Since feminists have shown that "essences" are anything but that, that whenever attributes that privilege one set of beings over others are invoked they are inevitably political decisions masquerading as "natural fact" to conceal the power-relations behind them, then to claim on the one hand that subjectivity is rooted in embodied, sensuous, extra-cognitive self-world relations but on the other to assert that only human beings possess subjectivity and are to be accorded the opportunity for self-representation in political praxis and social affairs, is to act contra to the basic liberatory project of feminism by illegitimately and oppressively effacing nature—the very nature that we belong to, and co-construct our subjectivity with.

## Conclusion:

## Whither Subjectivity? Toward an Ecofeminist Political Philosophy

**"Why not ecofeminism? Why shouldn't feminist theorists welcome a political discourse that interrogates the equation of women with nature and examines the political consequences of that equation not just for women but for nature as well?**

--Nöel Sturgeon, *Ecofeminist Natures: Race, Gender, Theory, and Political Action* (1997, 168)

If I were to summarize what has been accomplished here, I would state that the following has been shown: 1) Some feminist phenomenologists have engaged in the witting or unwitting exclusion or effacement of the more-than-human world by ignoring or actively repudiating congruencies between human and non-human embodiment and by continuing to linguistically subordinate non-humans to women. 2) However, if feminist phenomenologists are right that sensuous embodied being in a receptive and responsive natural world grounds both the possibility and expression of subjectivity, then other embodied beings too must possess subjectivity. Feminist phenomenologists have largely not engaged in this project, counter to their own stated political and ethical solidarities with other embodied beings. 3) To rectify this, feminist phenomenologists should therefore extend their account of embodied subjectivity to beings and entities in the more-than-human world. Since some feminist phenomenologists have included mentions of non-human animals in their theorizing, analysis of the possibilities of embodiment-based subjectivity for such beings would be a good place to start.

To return in conclusion, though, to the positive aspects of embodiment theories toward the project of obtaining political subjectivity for the more-than-human world, it seems plain that if subjectivity is conceived of *not* in the Enlightenment sense of

something 'rational beings' enter into the world with in some fully-developed pre-political, pre-discursive, and pre-embodied way, but as rather something that *emerges* through our intersubjective interactions with other intelligent sensuous bodies, then it is entirely cogent to conceive of "nature" as exhibiting some or most of the properties considered to belong to the subject. What exactly these properties are, and how they structure, influence, and are represented in political praxis is work that I feel strongly must be done within feminist theorizing, and this article marks a beginning for this very important project. Such a project I call *ecofeminist political philosophy*. In ending what is only a beginning in this regard, however, consider the following statement by Ecofeminist theorist Noël Sturgeon, in yet another in response to the dilemma posed by postmodern feminisms that potentially reduce the subject to a non-agential effect of language:

> Most answers...to the political questions brought about by the predominance of anti-essentialist theories within feminism have centered on the notion of *strategically* deploying political identities. That is, if subjects are created within processes that are multiple and ongoing, the task for scholarship is to analyze the operation of these processes in producing subjectivities. As Butler has put it, "the task is to interrogate what the theoretical move that establishes foundations authorizes, and what, precisely, it excludes or forecloses." The task for politics, however, is one of producing *collective political subjectivities* that can be deployed in oppositional ways, while acknowledging that these subject positions are not universal, natural, or fixed, but positional, strategic, mobile, and/or differential (Sturgeon 1997,17) (Citations omitted in final sentence, second emphasis added).

To only suggest what needs to be argued for, and will be in future work, feminist phenomenology is a politics that is capable of engaging in the *both/and* of acknowledging *and* producing a political subjectivity for nature that can taken up through our political practices. But to fully realize the ecosocially transformative and liberatory potential of feminism, it is, in the words of another French feminist, Francois d'Eaubonne, some 30 years ago, "the time for *Ecofeminisme"* (1974, 215-52).

The next chapter/article takes up the project of delineating the political status of nature differently. Chapter III shifts from the theoretical conversation conducted in Chapter II to an examination of the way that ecofeminism appears in direct action struggles to save endangered ecosystems. It reports about the actions, organization, and self-understanding of women and transgender "Forest Defenders" in our the ecoregion known as "Cascadia"

## Notes

[1] Judith Butler, exemplar of postmodern feminism, writes, for instance "...for this 'I' that you read is in part a consequence of the grammar that governs the availability of persons in language" (1999, xxiv).

[2] This moment is said to have arisen with the advent of "postmodern feminisms" that interrogate notions of sexual essentialism and foundationalist models of sex/gender theory. 'Linguistic feminisms' under this critique, embrace a poststructuralist view of bodies as not consisting of fixed, biologically-determined matter but rather as the material upon which the normative and productive codes of culture become "inscribed." In some versions the body is apparently an immaterial effect of language, and the subject appears only through and within discourse. The work of Judith Butler, especially in *Gender Trouble* (1999) and *Bodies That Matter* (1993) is probably most frequently identified as typifying this theoretical movement.

[3] Bonnie Mann, for example, argues that postmodernism potentially leave us with no politics, or at least no particular political stance—i.e. a politics with feminist and liberatory commitments is not guaranteed through the destabilization of the "subject of feminism." (Mann 2002).

[4] Although this common belief is held widely through the general population, operating as part of the dominant narrative of humanness and the human place in nature (as evinced by the attitudes of my students in environmental ethics classes and just everyday popular discourse and interpersonal conversation); some scientifically-minded environmental philosophers even hold this view. See, for example, the work of environmental philosopher Holmes Rolston III, in his field-founding work *Environmental ethics: Duties to and values in the natural world* (1988); and more recently in a chapter appearing in Anthony Weston's *An invitation to environmental philosophy* (1999).

[5] This could also be put in the terminology of "immanent critique;" in which the terms of the original critique are deployed back in on itself to make it stronger and more consistent. Thus one of the things I wish to emphasize is that I am in no way repudiating feminism; my project is deeply feminist and indebted to feminism for providing the background and theoretical tools with which to conduct this inquiry. Perhaps more than any other discourse and practice, feminism has always welcomed "challenges from within" as a way to strengthen the liberatory potential of feminist work.

[6] I take feminist phenomenology to be an inherently political project for at least two reasons: Number one, feminism, whatever the variety, has from its inception always been a liberatory project: its goal (among other things) is to end the oppression of women and others (that this term "women" who is the subject of feminism is a problematic term is a fact of which I am not unaware…). This is political work, it deals with fundamental political categories like equality, authority, justice, fairness, and representation; and attempts to change both beliefs and practices that limit women's full and equal participation in the possibilities of (eco)social life. Feminism has always adhered to the injunction that nothing is outside of the political, that power relations inhabit all aspects of life. My computer dictionary offers as a definition of politics as "the totality of interrelationships in a particular area of life [like gender] involving power, authority, or influence, and capable of manipulation." At a minimum, the political involves the production, distribution, and use of power; feminism argues that women's subordination is the result of the unjust and alterable exercise of male dominance and power, not natural fact. The second reason that feminist phenomenology is inherently political is it is precisely about the liberatory uses of notions of embodied subjectivity that can be deployed to assist the primary project of feminism—to end the oppression of those bodies that are marked in patriarchal culture as "women" where "women" signifies that which is subordinate, inferior, and exploitable.

[7] See Chaone Mallory "Spec(ies)al (as) Performance: Ecofeminism and the Regulatory Fictions of Race, Gender, and Species" conference paper, delivered at the Pacific

Division Meeting of the Society for Women In Philosophy, Eugene, OR, October 2004. See next footnote for further synopsis of the paper.

[8] It has long been acknowledged within the biological and ecological sciences that species classifications are arbitrary, that the term 'species' is a conceptual tool used to represent very real organisms that nonetheless resist discrete demarcation into fixed and stable biological groups. Just as has shown to be the case with human racial classifications, there are no firm and fast genetic, behavioral, geographical or other markers which acontextually and essentially separate a given species from another. For a book-length treatment of this issue from the perspective of ecology, see Stamos (2003).

[9] I wish to emphasize here that feminism + environmentalism does not necessarily = ecofeminism. Ecofeminism cannot be conceived of on an additive model; one might say that its analysis exceeds that which one might get from simply viewing gender and the environment concurrently.

[10] Many environmental thinkers have engaged this discussion, but representative samples include the work of environmental philosopher J. Baird Callicott, legal scholar Christopher Stone, and ecofeminist philosopher Val Plumwood. Plumwood's latest book, *Environmental Culture: The Ecological Crisis of Reason* (2002), excellently explains how dominant forms of reason and rationality have contributed immensely to environmental crisis, as well as the exploitation and oppression of women, the poor, and people of color worldwide.

[11] Anthropocentric, as probably most readers are aware, means "human-centered." Since its inception as a formal disciplinary area in the 1970's environmental philosophy has concerned itself with exposing the ways that our ontologies, epistemologies, and especially our ethics have taken human beings to be the only beings who matter. Many environmental theorists have compared anthropocentrism to human racism (see

Eckersley 1998; Singer 1975), drawing an analogy between notions of white superiority and assumptions of human superiority. Such views have sometimes been labeled "speciesist," analogous to attitudes that are sexist or racist.

12 In my view, Karen Warren's watershed and much anthologized essay, "The Power and the Promise of an Ecological Feminism" (1990) remains the clearest treatment of the ways in which dualism strongly figures in the logics of oppression that conjoin environmental and sexist oppression. For a classical philosopher who also establishes the dualistic metaphysics justifying the subordination of women, slaves, children, and animals, see Aristotle, *Politics* Book I.

13 See for example Grosz (1994), as well as the work of Sonia Kruks discussed in the next section.

14 The text is *Feminism, science, and the philosophy of science*, edited by Lynn Nelson and H. J. Nelson (Klewer, 1996).

15 I am intentionally using the language of both phenomenology and postmodernism here. In contrast to some critics, I do not take the two theories to be in necessary opposition regarding the production/emergence of the subject. Hence my emphasis here in this paper on the *both/and* instead of the *either/or*.

16 Butler in *Gender Trouble* remarks on the "embarrassed etc" of feminist theories of identity, where lists of co-linked "situated subjects" who share comparable positions in oppressive practices and discourses are never able to be complete, instead always ending with an implied chagrined ellipsis…"This illimitable *et cetera*, however," Butler remarks, "offers itself as a new departure for feminist political theorizing." This comment to me seems to be especially significant for ecofeminism.

[17] Thus the feminist phenomenologist Sonia Kruks (to whose work I shall return in more detail later), approvingly citing Beauvoir's agreement on this issue with Merleau-Ponty, recounts the conversation:

> "I am my body," writes Merleau-Ponty, and Beauvoir cites his notion of embodied consciousness, or the "body subject" for her own ends... Consciousness is seen to be always situated and perspectival, its evaluations of the world anchored in and delimited by the sensory and physical capacities of the body...Concommitantly, the body can no longer be conceived as an object distinct from consciousness. Rather it is *itself* the site of forms of sentient knowing, arising from perception, touch, and other sensory experiences. The "lived body" of phenomenology (as opposed to the objective body of science) is not the passive recipient of information but itself actively organizes our knowledge of the world in accordance with it's own orientation, capacities, and projects (2001, 33).

[18] The most common formulation of this distinction is that sex is what is biologically given (ovaries, penises, beards, uteri, etc.) while gender is what sorts of social characteristics and roles a person should have because of these physical traits. Moi especially objects to Butler's claim that sex *is* gender; that is, that bodies do not have an inherent, firmly, scientifically identifiable biologically-based "sex", but rather that bodies exhibit multiple biological configurations but that these are suppressed and bodies are labeled as "male" or "female" according to the needs of a patriarchal and heterosexist society that requires that humans be divided into two, and only two genders.

[19] Beauvoir, quoted in Moi (60).

[20] I do not wish here to assert that it is only animals (usually envisioned as mammals) are the only entities in nature that may be capable of subjectivity, as I do not wish here to begin "ranking" or decending down the slippery slope of who is "in" and who is "out." I use this statement because it is the *femelle*, the female animal, that Moi highlights women as *not* being in her analysis.

[21] I should at this point mention that I brought this statement and its implications up to Kruks directly when she visited the University of Oregon as a participant in the Feminist Philosophy Research Interest Group in February of 2004. She agreed with me in public and private conversation that the statement had been made unreflectively and not on the basis of evidence she was familiar with. Kruks was also amenable to and interested in the possibility that other-than-human animals could possess subjectivity on the basis of their embodied existential character. Thus my point here, as in all "loving critiques", of course, is not to vilify particular theorists (as I have said, feminist theories of embodiment are extremely helpful to ecofeminist projects such as my own), but rather to reveal the ways in which the oppression and effacement of nature continues even in movements that call for inclusiveness and wish to break down destructive binaries.

[22] Sandilands gets the term from the work of political theorist Chantal Moufee.

[23] See, for example, Twine 2001.

[24] See Soper 1995.

# CHAPTER III

# ECOFEMINISM AND FOREST DEFENSE IN CASCADIA: GENDER, THEORY, AND RADICAL ACTIVISM

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## Logging in "The Biscuit": The Context

In the cold mist of early March 2005, bulldozers and trucks laden with tree-felling machinery bore down on the fire-blackened, old-growth forest in the rugged mountains of the Siskiyou National Forest in southern Oregon, USA, in an area referred to as the Biscuit Region. The Bush administration had recently declared that this previously off-limits, endangered species habitat was no longer protected by provisions in the hard-won Northwest Forest Plan implemented by the Clinton administration in the 1990s The timber workers occupying the trucks were prepared to "salvage log" still-standing, still-living 800-year-old trees. Under the Bush administration's new interpretation of thought-to-be-settled environmental law, the Biscuit was being logged in the name of "forest health " despite extensive scientific evidence to the contrary—which was brought repeatedly to the attention of the U.S. Forest Service—and much public outcry. In response, there to greet the workers—whose labor was being enlisted by the corporate

timber industry to extract capital value from the living products of centuries-old ecosystemic processes—were radical environmentalists They came ready to engage in direct action, to blockade the bridge leading into the federally protected area and otherwise put their bodies on the line and in the way of the impending—and, protesters argue, illegal—assault on this fragile and endangered, fire-dependent, temperate old-growth forest ecosystem.[1]

The actions in the Biscuit are part of the bigger regional—indeed global—struggle against the hegemonic power of the multinational corporate logging industry and the larger economic and political policies that promote deforestation. This article focuses on struggles taking place in a few particular sub-regions of the western United States But readers should be aware that such actions are contiguous, both in terms of place and ideology, with forest activism throughout the western United States and Canada in the bioregion often referred to as "Cascadia" (which for environmental activists is a political and cultural entity as well as a geographical one). It must also be noted that local environmental struggles always take place in a global context, which always includes the historical movements and machinations of capitalism, the physical and cultural variability of the ecoregion, and the ongoing fluid historical presence of resistance movements. An important and highly relevant example of the continuity of forest protection movements are the organized women's actions which protested and sought to halt the clearcutting of the Clayoquot Sound in British Columbia, Canada that took place in the late 1980s and peaked around 1993.[2]

**Gender and Forest Activism: Intersections of Theory and Practice**

Typical of direct actions in the last decade or so on behalf of forests as well as grassroots environmental activisms worldwide,[3] a large percentage of the activists in the Biscuit were women of various ages and social (although dismayingly not racial[4]) locations. To give a sense of the range of women activists at the Biscuit, one woman was nine months pregnant at the time of the initial incursion into the Biscuit and occupied the "Green Bridge" along with her birthing team. Self-identified grandmothers asserting their obligation to future generations to halt the destruction of the forest also participated.[5] Many of these activists are self-consciously organizing *qua* women—in fact, since March 2005 more than 20 organized "women's actions" have protested logging in the Biscuit and other areas of western Oregon These Forest Defenders train and plan "women's actions" in all-women's "action camps" and generally reference their identities as women in the course of their activism, thereby undertaking a specifically gendered approach to forest defense in a way that could be deemed "ecofeminist."

However, terming an action "ecofeminist" or viewing such actions through the lens of ecofeminism provokes a number of thorny questions. What exactly might it mean to say that a given action is ecofeminist, especially in light of perennial tensions between those who identify primarily as theoreticians and those engaged in ecological political praxis?[6] To the extent that there are tensions, are they *productive* tensions? That is, do debates (implied or explicit) between theorists and activists tend to strengthen the effect of ecofeminist political praxis, or are academics and activists simply at an impasse over

the dialectical value of theory to activism? How does the interplay between ecofeminist theory and practice manifest in recent and ongoing direct action campaigns in forest bioregions such as the Siskiyou/Biscuit and other places? Or more broadly, how exactly do theory and praxis intersect through direct action to protect ancient forests in the Pacific Northwest, and how might analyzing these intersections contribute to the emergence of an ecofeminist political theory grounded in and responsive to the material needs of activist practice?

In light of these questions, the intent of this essay is to report on the radical activism that began in the summer of 2003 and has continued through the present (fall of 2005) by women in the Pacific Northwest I look at how such activisms represent an explicit and direct integration of feminism with environmentalism that should encourage and inspire ecoliberatory theorists such as ecofeminists, ecosocialists, green anarchists, and deep ecologists. I also consider how such activism exemplifies the kind of intersection of theory and praxis long sought by ecofeminist, ecosocialist, and other liberatory scholars. I explore these questions using the analytic tools developed through the academic discourse of ecofeminism to examine how both gender identity and movement-generated understandings of the intersection of oppressions affects, informs, and produces environmental activisms. Such an analysis, done in the context of women's direct action forest defense in the Pacific Northwest, reveals interesting and important knowledges about the character of the interrelation between ideas and action, a subject of long-standing interest to those engaged in the practice of environmental theory. Such an analysis also advances the liberatory goals of ecotheorists and ecoactivists by

contributing to the development of a robust, efficacious ecofeminist political theory that does not reinscribe a theory/activism dualism.

## Ecofeminism: An Overview

Over the past 25-plus years, ecofeminists have continued to refine what has become one of the most important developments in environmental movements both inside and outside of the academy: the knowledge that a feminist perspective is crucial to understanding and ameliorating the global environmental crisis. Only by interrogating the interconnections—both conceptual and material—between the domination and exploitation of women, people of color, the poor, and the natural world will we be able to engender a worldwide environmental movement capable of producing the profound shifts in personal attitudes, social and institutional practices, and individual and collective values needed to envision and bring about a healthy, sustainable, and just relationship between human beings and the more-than-human world.[7] A primary tenet of ecofeminism is that the patriarchal values of domination, exploitation, and control must be uprooted and our collective ethical landscape replanted with the more life-sustaining values of nurturance, care, and reciprocity—values often identified as "feminine " (Although as ecofeminists from Ynestra King to Carolyn Merchant have pointed out, it is paramount that we view such traits as *human* values which *all* genders are capable of.[8]) Furthermore, ecofeminism, like other feminisms, contains at its core a critical analysis of power and power relations between dominant groups and those that are marginalized, exposing the ways in which certain groups—most notably men, whites, class-privileged elites, and

humans—maintain their superior status through the subordination and domination of women, people of color, and the natural world. Ecofeminism understands the relationship between humans and nature to be marked by power thus an investigation of the way power relations constitute the material relations among human groups is central to its analysis. Furthermore, unlike some other theoretical stances, ecofeminism contains a constructive, prefigurative vision that seeks to transform existing power relations—both intra- and trans-human—in ecologically sound and socially just ways.

Expressed in its barest form and without adequate treatment of important internal debates,[9] ecofeminism is a theoretical position *and* a political movement that examines environmental problems through the lens of gender, revealing the myriad ways that the oppression of women and the exploitation of the earth are conjoined and mutually-reinforcing. Most in the environmental community, particularly those in academic settings, acknowledge this much about ecofeminism

It is crucial to reiterate, however, that ecofeminism as both a theory and a set of political/ethical commitments is not exclusively concerned with gender oppression and environmental exploitation but also addresses the pernicious problems of racism, classism, colonialism, heterosexism, and other oppressions Ecofeminist analysis shows that such so-called "social issues" contribute immensely to ecological degradation and that ecological degradation is both materially and conceptually linked to the domination of all oppressed human groups.[10] Such varieties of oppression are interlocking and become dialectically reinforced through the historical, philosophical, and ethical traditions that are embedded in and proliferated through our laws, practices, and institutions. Like other feminists, ecofeminists hold that destructive, controlling, and

oppressive behaviors toward women, nature, and other subordinated groups are a product of the male-dominant paradigm that governs the structure and function of basic institutions of society, including government and politics, sexuality, marriage, parenting and the family, the military, commerce, and economic form and practice.[11] However, while agreeing with other feminisms that many of our most deeply rooted social problems bear a significant relation to patriarchal thinking, ecofeminism differs from "conventional"[12] feminism in that it understands the domination and exploitation of women to be inseparably intertwined with the domination and exploitation of the more-than-human world.

The foregoing presentation of ecofeminism is undoubtedly quite familiar to the majority of this readership. I provide this background in order to better approach the major question of this essay: whether the theoretical analysis provided by ecofeminist theory on oppression emerges and materializes through instances of environmental activism, and whether women Forest Defenders resisting forest destruction in the Pacific Northwest demonstrate an ecofeminist theory/praxis dialectic. Ensuring a strong and vital relation between theory and praxis is essential to *any* liberatory project This is especially true for ecofeminism, which originated in direct-action movements, such as the peace movement, anti-toxics movement, and mothers' movements, and then moved into the academy explicitly to use its tools and epistemological resources to better effect change in intra-and trans-human ecosocial relations.[13] Ecofeminism has been called "engaged theory" and asserts that theory and practice are mutually reinforcing Theory is made more relevant, accurate, and compelling when it incorporates the perspectives, knowledges, and voices of those who are struggling for change "on the ground" (or in

this case, "in the trees"); Action becomes more effective when activists are conscious of the deeper patterns of ideas that connect specific issues and undertake reflective assessment of long- and short-term goals, tactics, and strategies. Thus, perhaps more than other varieties of feminism, ecofeminism explicitly maintains that there must be a strong and mutual relationship between theory and practice. In light of this, it is the argument of this essay that a genuine (although not unproblematic) theory/praxis dialectic can be seen in the women's radical activist communities currently engaged in defending ancient forests from logging threats in the Pacific Northwest/Cascadia.

**Women and Forest Defense in the Pacific Northwest ("Cascadia")**

The Pacific Northwest region roughly spans from northern California through Oregon, Washington, and western Idaho up into the Canadian temperate rainforest lining the western edge of the continent In the bioregional tradition of marking place according to physical, ecological, and cultural features rather than by artificial political boundaries, direct-action environmentalists often refer to this region as "Cascadia " Multiple highly but nonhierarchically organized groups of self-declared "Forest Defenders" exist throughout Cascadia Forest Defenders engage in controversial and confrontational forms of direct action to interrupt or prevent commercial timber operations from continuing to degrade the already severely logging-impacted ancient forest ecosystem.

The Forest Defenders reported on in this essay operate in or near Eugene in central Oregon or in southern Oregon near Ashland and Grants Pass. Forest activism is common in Oregon, and takes place in the context of a relatively politically progressive

climate in the major population centers, an extensive "natural resource" base, and staunch conservatism in the rural areas. The ideological split between Oregon's progressives and conservatives has made it one of the centers of so-called "culture wars."[14]

Oregon is home to many of North America's last remaining stands of old-growth forest.[15] One of the most effective tactics—at least so far—to halt the destruction of these stands is "treesitting." Treesitters are courageous individuals who, with the help of equally hard-working ground crews, place themselves 150 feet or more up a particular tree, and live on self-erected platforms for weeks and even months at a time.[16] Treesitters try to prevent any given timber company that has successfully acquired the "sale" of trees from the U.S. Forest Service from felling that tree and the entire surrounding forest.

Individuals within these radical activist communities have begun not only to question the values of the dominant culture *outside* of radical ecological movements, but to also expose and challenge instances of sexism and discrimination *within* activist communities They engage in collective dialogue, workshops, conferences, and role-playing to explore the ways in which forms of oppression—sexism, racism, classism, homophobia, anthropocentrism, etc.—are interconnected and manifest *within* the group dynamics of activist communities as well as "outside," in the dominant American culture at large.

Central to this process of interrogating the lived connections between ecological and social oppression by activists has been the organization of "Womyn and Trans[gender] Action Camps " Women and gender-queer [17] Forest Defenders have also set up all-women's (or women and gender-queer only) tree sits, base camps, and other direct actions. The camps feature trainings, discussions, and workshops ranging from

"harnessing," "rigging," "platform setting," and "backwoods first-aid" to "radical cheerleading," "DIY [do it yourself] GYN[ecology]," "gender discussion," and "ecofeminism."[18] As part of the overall global collection of deforestation resistance movements, Womyn and Trans Action Camps and women's forest defense actions, serve at least three concrete purposes: 1) to challenge and provide an alternative to perceptions that forest defense is "masculine" work and thus teach women the skills necessary to engage in direct action to prevent logging; 2) to alter the unequal and gendered distribution of labor within forest defense communities; and 3) to enable the establishment of activist spaces free of the risk of sexual assault. A fourth conceptual purpose runs throughout the others These action camps and direct actions are organized to explicitly recognize that forms of oppression are interlocking, and challenge all forms of hierarchy, discrimination, exploitation, and domination. In this way, they provide an example of a bridge between theory and activism as advocated by ecofeminism.

*Challenging Masculinism in Radical Activism*

For Forest Defenders, gender-exclusive treesits and actions have become necessary for several reasons. A primary motive for implementing women- and transgender-only camps and treesits is to create a supportive atmosphere designed to allow women to learn the necessary physical skills—climbing, knot-tying, treesit and blockade construction, etc.,— for forest defense in an environment not permeated by the "macho" ethos common in forest actions since Earth First! formed and organized protests in the 1980s. Recognizing that women may be subtly or even overtly discouraged by

male activists from engaging in some of the more "rugged" activities necessary for treesitting and blockading such as building structures, climbing trees, and confronting and resisting authorities, women activists in the Pacific Northwest have for the past several years planned and implemented "Womyn and Trans Action Camps" to teach one another and build skill levels and confidence for the physically and emotionally strenuous work of defending endangered forests. The Womyn and Trans Action Camps are a necessary response to a culture that many women experience as decidedly patriarchal and masculinist.[19] Judi Bari, the deceased northern California redwoods activist, labor organizer, and feminist, characterized this as the "big man goes into big forest and saves big trees" mentality of forest defense. In an op-ed piece for *Ms. Magazine* that was republished in her book *Timber Wars*, Bari offered her view of this facet of the so-called "debate" between deep ecology and ecofeminism

> I see no contradiction between deep ecology and ecofeminism. But Earth First! Was founded by five men, and its principle spokespeople have all been male. As in all such groups, there have always been competent women doing the real work behind the scenes. But they have been virtually invisible behind the public persona of "big man goes into big wilderness to save big trees."[20]

*Challenging Gendered Labor in the Forest*

Women involved in environmental movements, as in all social movements, have long noted the contradictory tendency for even "progressive" or "leftist" groups to fail to acknowledge internal patterns of interaction and labor division that privilege men, even while they are working to eliminate a specific oppression within the society as a whole.[21]

Furthermore, women Forest Defenders have in many instances found themselves relegated to doing such underappreciated "support work" as securing and preparing food, organizing transportation, and answering phones, while men have been overrepresented in the more "glamorous" tasks of treesitting and acting as spokespersons for the media.[22] Such patterns mirror the gendered segregation of labor in the dominant culture and are consonant with generations of feminists' observations about the kinds of labor women and men are assigned in patriarchal culture, the higher status and prestige accorded to work performed by men, and the tendency to view women's work as "unproductive," as noted by ecofeminist economists Marilyn Waring and Maria Mies, among others.[23]

As a result of such unfair attitudes, women Forest Defenders have found it necessary to organize dialogues, workshops and other events within their communities designed to expose and confront misogynist, heterosexist, and other oppressive attitudes harbored by fellow (male) activists. Some forest defense groups have also come to formal consensus regarding behavior and attitudes that the entire community of forest activists proclaims to be both unacceptable within forest defense communities and antithetical to the work of ending environmental oppression These include heterosexism, racism, gender bias, classism, and anthropocentrism. Activist collectives with a strong women's presence have adopted "anti-oppression agreements," collective statements of values that participants in forest defense activities are expected to adhere to. One such policy/agreement, posted on the group's website (readers should be aware that this agreement is currently undergoing energetic debate and revision)[24]and distributed through a 'zine, reads:

> In order to create a safe and productive environment for activism and community, we have a zero tolerance policy toward oppressive behavior.
>
> Oppressive behavior is herein defined as behavior that demeans, marginalizes, threatens, or rejects people or non human animals based on a characteristic that cannot readily be justifiably changed. Examples are a person's gender, age, sexual orientation, race, mental health, culture, general apperances, [sic] income status as homeowner, renter or squatter, being a parent or a child, employed or unemployed, level of experience in activism, etc....[25]

A portion of this group's anti-oppression policy further reads:

> "Any type of sexual, verbal, or physical assault will be taken especially seriously."[26]

Beyond representing a constructive response to some of the problems encountered by women activists in particular, such policies articulate a form of what ecofeminist author Noël Sturgeon calls "direct theory," the practice of producing and reflecting on meanings and understandings generated within movements by participant-observers themselves through the course of their activism. I return to this concept at the end.

*Combating Sexual Assault in the Forest*

A third, and sadly less positive but even more urgent motivation for same-gender actions has been to organize women-only spaces to combat instances of sexual assault at

base camps and in treesits. In recent years several assaults, including rapes, as well as cases of sexual harassment have been perpetrated by male activists against female activists.[27] One former treesitter who goes by the name of Wombat, was sexually assaulted during her first-ever treesit in Fall Creek, Oregon by a respected veteran male activist nearly 20 years her senior who was supposed to train her. The young activist's assaulter used a combination of tactics to enable the assault, including intimidating her by "showing" her his "knife collection,"and persuading her to ingest intoxicating substances. Later, as the two lay down to sleep on the narrow platform 120 feet off the ground, the man began to touch Wombat through her sleeping bag and eventually that night committed sexual assault. Wombat recounts:

> He kept apologizing [for touching me], but he kept on doing it anyway. I didn't know what to do. We were up in the tree, and I didn't want him to push me off the platform; and I didn't want to push ***him*** off the platform. There was no one around to help. I eventually left my body [note: disassociating is a common psychological and physical survival tactic used by victims/survivors of sexual assault], and the next morning he climbed down without having taught me anything [about treesitting]. I stayed up in the tree for another week by myself. It was good that I was alone, because I spent a few days communing with the tree. I thought, 'holy shit! This is what the tree feels like—it's all for the white man's power. They get off on the vulnerability.' It was two different actions [sexual assault and cutting down the tree], but it comes from the same source.
>
> I started crying when I eventually came down. I was scared, because I was the new girl, you know, and I didn't know if I'd be believed. I was afraid if it could happen with him [an established and status-holding forest activist] that it could happen with anyone. [28]

Wombat was fortunate that once on the ground she did get support from a fellow female activist who helped her to stage a community confrontation of the perpetrator. After telling others about her experience, she began hearing from other women about other assaults, in many cases committed by powerful men in the community. Wombat reports that "by breaking the silence, it opened up so much community dialogue." Women's action camps and trainings were formed soon after women began sharing their experiences of assault, harassment, and discrimination with each other.

As this story illustrates, the physical isolation of the base camps means that members of activist collectives are particularly reliant on one another for material and psychological sustenance. Base camps are stationed in remote areas of the National Forest, accessible solely by rough, treacherous logging roads usually listed only on Forest Service maps. Getting food, water, clothing, climbing gear, cooking equipment, wood for platforms, and other supplies in and out of the forest is highly strenuous. Forest Defenders must rely heavily on one another and those stationed "in town" in order to survive the cold and wet days and nights in the secluded mountainous regions. Women and transgender Forest Defenders are particularly vulnerable if they are assaulted by fellow activists. Numbers at base camps are small, and treesits usually number only one or two activists. Opportunities for assault readily exist, because activists are in close proximity to one another and must combine sleeping space to stay warm. Communication to the outside world is difficult and relies on signal receipt by a few cellular phones.

Authorities or formal sexual assault support services are far away. Female Forest Defenders must therefore rely on the immediate community of fellow activists for safety and redress should one member of the community choose to commit sexual assault. A better strategy, women Forest Defenders have quite rationally concluded, is to eliminate the risk of heterosexual sexual assault altogether through the creation of women-only spaces and actions.

Decades of practico-theoretical feminist work provides a ready framework to understand how rape and sexual assault functions as a tactic used by men to control and intimidate women and maintain male power in any setting It also provides practical strategies to support survivors of sexual assault. An ecofeminist analysis adds to this a better understanding of the ways that white supremacist patriarchal power functions to construct both women and the natural world as exploitable and violable, as Wombat intuitively understood after her assault. Ecofeminism helps to extend our understanding of rape as a tactic of power and control as something that applies beyond the human and into our relations with the biosphere.

## Conclusion: The Dialectic of Theory and Practice

The relationship between theorists and activists, even when each in good faith proclaim to be working for the end of ecosocial oppression, has not always been smooth. However, there is good evidence that the gap between ecofeminist theories and activisms performed by women and their allies and alongside it the distrust activists have for the work of theorizing is beginning to erode. Some women's forest defense communities

actively draw on ecofeminist analysis of the intersections of oppression and, in some cases, even label their groups and actions "ecofeminist." This marks a significant change from just a few years ago when the prevailing attitude of many forest activists revealed deep skepticism about the applicability and usefulness of the term.[29]

An example of the growing acceptance of ecofeminist theorizing in forest defense activism is the "Ecofeminist Manifesto," which was published in a widely distributed Eugene weekly newspaper.[30] The Ecofeminist Manifesto was authored by the Ecofeminist Liberation Front, who declared that "Oregon eco-feminists this week announced the beginning of an 'all-womyn's action, occupation, and tree-sit in defense of public land sold off to private industry'." The remainder was posted on the group's website by women involved in an all-women's action camp/treesit in the Willamette National Forest in Oregon during the summer of 2003. On its website, the Ecofeminist Liberation Front notified the public that:

> In addition to defending the last 2 percent of native old-growth forest that still stands in Oregon, the Womyn's[31] Action is dedicated to building a community that is intolerant of all forms of oppression. We work to build a space of mutual learning and growth; a space where we can conquer not only the demons of capitalism, patriarchy and indifference that surround us but also the demons of oppression, self-loathing and fear that reside within us.
>
> The Womyn's Action is a safe space where womyn can come and gain skills and perspectives; a safe place to clear our heads after a lifetime of being taught not to trust ourselves.

> It is our belief that the oppression of womyn and the destruction of the earth comes from the same unsustainable need to dominate and control. The same ones who wish to take away our autonomy wish to take away the last of the wild beauty on earth.
>
> We cannot stop the humyns' race toward extinction without taking back our freedom of choice. We cannot as womyn achieve liberation while the earth is still in chains. We need oxygen to survive, we need clean water to survive, we need the forest to survive. We need to be able to walk around alone at night, we need our homes to be free of violence; we need a life where rape, molestation, and assault are not the norm. None of these things will exist without the others. Womyns' struggle and the earth's struggle are the same.
>
> Today should be the last day lived in fear, breathing carcinogenic air and wondering when the next time we will be fondled on a public bus or we'll be held down against our will by someone we love. With your help and support it can be!
>
> We invite womyn of all situations and backgrounds to come to [the] Straw Devil [timber sale] for an hour, a day, a month, a lifetime — and take back what they never had a right to sell. We will take our last breath in defense of our bodies, the earth, and each other.
>
> In love, solidarity and strength,
>
> *The Womyn's Action*[32]

*Women's Forest Actions as Direct Theory*

Ecofeminist theorist and activist Noël Sturgeon's concept of "direct theory," which she defines as "a lived analysis of contemporary domination and resistance,"[33] is

helpful to understanding the intersections of theory and activism occurring in women's forest defense. Direct theory emerges through the practice of reflective assessment done by activists *in the course of their activism* regarding methods, strategies, organizing structures, rhetoric, and other tools of their movement(s). Sturgeon argues that "movement practices and structures [can be understood] as a form of theorizing through practice" but that understanding movements and activism in this way is unusual in Western thought.

> It seems novel to understand a movement as engaged in political theorizing *through its practice* because of the long Western tradition of separating thought and object, theory and practice, which has enabled the constitution of political theory as an academic discipline. Because we think of movements as engaged in practical action, with strategizing as perhaps the main kind of thinking going on, it seems as though they are far apart from the practice of political theorizing, which we imagine involves a single (traditionally male) thinker who, in order to reflect on politics, is necessarily separate from political action itself. But in reality, political theorists are always inside the political relations they simultaneously analyze and critique; they are participant observers themselves. Further, political theory is meant to affect those political relations. Political theory is both critical and creative, just as movements are both oppositional and prefigurative.[34]

Forest defense actions engaged in by women, transgender persons, and their allies in regions such as the Biscuit in southern Oregon exemplify the process of direct theory. Women Forest Defenders of the Pacific Northwest actively protest not only the values of

the dominant culture in regard to how nature is anthropocentrically dominated and exploited by capitalist patriarchy, but also how such attitudes are part and parcel of the domination of women, people of color, queer and transgender persons, and the poor. Through Women's and Trans Action Camps, Forest Defenders are challenging the way conceptual beliefs in the inferiority—and thus justified exploitability—of both women (and feminine-identified persons and entities) and nature coincides and intersects with misogynist attitudes within the movement that manifest as exclusions of women from forest defense training and implementation, gender segregating the kinds of tasks that must be performed in activist collectives, the unequal status accorded to men's and women's labor, and the intolerable problem of sexual harassment and assault in activist spaces.

*Ecofeminist Identification?*

One remaining question, however, is whether it matters whether the activists themselves wish to identify as "ecofeminists." Not every activist, female or male, who wants both to confront social oppression and protect forest environments would necessarily self-identify in this way; in fact, some *do* reject the term outright for a variety of reasons First, there is still the lingering (but false) impression that feminism is "anti-male"—in forest communities, as elsewhere, feminism, for some, remains the F-word. Others feel that the label has too much of an academic ring to it Activists don't want to be placed into categories that others—especially others who may not be engaged in direct action themselves—define for them nor see their work appropriated for academic

purposes. Still others have a received view of ecofeminism as something apolitical and caricatured as a way for women to access the "Goddess within"—and thus not to be taken seriously.

However, as one both trained in the academic discipline of environmental philosophy as well as a participant-observer in the feminist and environmental movements, I am cautiously optimistic that ecofeminism as theoretical practice *is* quite useful to activists As a theory it makes the powerful point that forms of oppression are not simply parallel, or similar, but actually stem from the same historical/conceptual roots Ecofeminism thus reveals how it is that in order to address one form of oppression, one must simultaneously confront them all.[35] Ecofeminism also facilitates a multi-layered analysis of complex environmental problems in ways that bolster activists' ability to effect the broader change in attitudes necessary to preserve life on the planet. Knowledge of ecofeminist theory encourages activists to become more reflective regarding the nature and causes of ecological harm, thus illuminating the connections between global economic systems, local economies, class, race, and gender relations, political systems, and consumer behaviors. Along with this knowledge comes greater ability, better strategies, and stronger tools to change the existing eco-destructive state of affairs.

Those of us involved in academic fields who consider our contributions to environmentalism (or feminism) to be primarily in the production of scientific, philosophical, and socio-cultural knowledges *must* realize that theory and practice are a dialectic, that the directionality of the epistemologies produced by both theorists and activists runs both ways, and most importantly, that it is the obligation of those working within academic fields to actively incorporate the insights and knowledges of activists

into our methodologies and scholarly practices. This can be done in a variety of ways by actively seeking out interactions between activists and theoreticians *in activist spaces and venues* and not simply in academic symposia and the like; by sharing the results of theoretical inquiry with activists in workshops and public discussions; and by comporting oneself with a general attitude of humility, respect for activist work, and a with commitment to anti-hierarchical pedagogies and research methodologies. Then, perhaps, will all activism be experienced as a form of theory, and all theory will truly bake bread.

The next chapter/article, Chapter IV, explores the contributions ecofeminism can make to *another* variety of environmental activism, the environmental justice movement.

## Notes

[1] See Appendixes at end of dissertation for further information on the ecological, legal, and political context regarding the Biscuit fire and salvage-log timber sales.

[2] The actions at Clayoquot Sound,which were largely organized and executed by women (including several arrestees in their fifties and sixties, as well as some children and a First Nations teenager) are the subject of an important film entitled *Fury for the Sound: The Women of Clayoquot* (Wine, Mackey, et al. 1997). I have published a film review that uses this example of Canadian women's forest activism to examine the relationship of women's activism to ecofeminism online at: http://darkwing.uoregon.edu/~chaone/womenofclayoquot.html

[3] It is estimated that 80 percent of grassroots environmental activists worldwide are women. But only a minority of women occupy leadership positions in major environmental organizations. (Merchant 1996, 150)

[4] One result of this is that individual activists of color are particularly easy for authorities to identify, thereby increasing the risk of arrest for these individuals and further discouraging the participation of nonwhite activists.

[5] While most of the women who label themselves Forest Defenders and devote a majority of their time to direct action forest campaigns are younger (late teens and twenties), there are nonetheless many women who are considerably older than the "typical" radical forest activist. In fact, perhaps half of the women active in the current Biscuit campaign are over 50. Journalist Matt Kohl, "A Line in the Ancient Forest" *Counterpunch Online Magazine* (http://www.counterpunch.org/koehler03152005.html) reported on 72-year-old Joan Norman and 76-year-old Dot Fisher Smith who were arrested for sitting on a bridge leading into the Biscuit Wilderness on March 14, 2005. Forest protection activist Kelpie Wilson profiled several women over 50 in her article "Siskiyou Grandmothers Sustain

Campaign for Trees," *Oregon PeaceWorker*, 19, 6, July-August 2005. Interestingly, according to activists in the Biscuit campaign, older men are not similarly represented. [Note: Joan Norman, a lifelong activist for social and more recently environmental justice, was killed in an automobile accident on July 23, 2005. Activists who worked with Norman have staged protests and other actions in her honor. For more information, see http://o2collective.org/archives/000059.html].

[6] Disagreements over whether theory and acts of theorizing occurring through academic writing, discourse, and pedagogy are relevant to activism are certainly not unique to ecofeminism or environmentalism. At least since Marx wrote that the point of philosophy is not to describe the world but to change it (more recently re-stated by Edward Abbey as "sentiment without action is the ruin of the soul"), there has been the justified worry that theory at best serves as a distraction from the revolutionary political work at hand and at worst reinforces the privilege of those with access to university locations and reinscribes the unequal power dynamics between workers/peasants/proletariats/indigenes and educated elites. Having led an invited panel on ecofeminism regularly at one of the world's largest gatherings of environmental lawyers, activists, and academics, given a workshop on ecofeminist theory for an annual gathering of direct-action activists and their supporters, and been invited to discuss ecofeminism at a women's and transgender action camp for treesitters, I personally have encountered a range of views of academics and academic labor from a subtle hostility and ignorance and indifference to open enthusiasm for academics' potential and actual contributions to eco-activist work. My feeling is that academic work is integral to creating the ethical-epistemological shift needed to transform our ecologically-destructive capitalist patriarchal society, but only if done self-reflexively and in dialogue with the worlds of activism.

[7] Coined by environmental philosopher David Abram in his book *The Spell of the Sensuous: Perception and Language in a More-Than-Human World* (New York: Vintage Books, 1996), this term is used to refer to that which we call nature (environment, etc.)

without inadvertently dualizing and hierarchicalizing the relationship between the natural environment and people by referring to it as that which is *not* human.

[8] Ynestra King, "The Ecofeminist Imperative," in Gwyn Kirk and Margo Okazawa-Rey (eds.), *Women's Lives: Multicultural Perspectives* (New York: McGraw Hill, 2004), pp. 500-502; Carolyn Merchant, "Ecofeminism and Feminist Theory" in Irene Diamond and Gloria Orenstein (eds.), *Reweaving the World: The Emergence of Ecofeminism* (San Francisco: Sierra Club Books, 1990).

[9] One of the more prominent and vigorous debates internal to ecofeminist approaches centers on whether the intertwined oppressions and exploitations of women, people of color, the poor, and the natural world are best understood as stemming from philosophies that in the Western philosophico-religious Cartesian tradition have denigrated and de-animated the (feminine) physical and celebrated the (masculine) rational/spiritual; or whether women and nature are oppressed in order to provide the raw materials and labor for capitalism. Representatives of what could be characterized as "philosophical ecofeminism" include Val Plumwood, Karen Warren, Carolyn Merchant, and Greta Gaard. Representatives of "materialist ecofeminism" include Vandana Shiva, Maria Mies, Ariel Salleh, and again Carolyn Merchant. However, I feel that it is misleading to characterize ecofeminism in such dichotomous and oppositional terms. Major ecofeminist authors, regardless of their disciplinary affiliation, methodology, and training, all recognize and acknowledge the dialectical interaction of the ideological and material bases of oppression. (This can especially be seen in the work of ecofeminists who write on the connections between the exploitation of women and non-human animals, such as Carol Adams, Marti Kheel, and Greta Gaard.)

[10] As stated, this is a basic claim of ecofeminism that has been elaborated and built upon by many. Key authors and works include Karen Warren, "The Power and the Promise of an Ecological Feminism," *Environmental Ethics*, 12, 2, 1990, as well as Warren's edited anthologies *Ecological Feminism* (New York: Routledge, 1994) and *Ecological Feminist*

*Philosophies* (Bloomington: Indiana University Press, 1996); Val Plumwood, *Feminism and the Mastery of Nature* (London: Routledge, 1994); Carolyn Merchant, *The Death of Nature: Women. Ecology, and Science* (San Francisco: HarperCollins, 1980); Vandana Shiva, *Staying Alive: Women, Ecology, and Development* (London: Zed Books, 1989); Greta Gaard, *Ecofeminism: Women, Animals, Nature* (Philadelphia: Temple University Press, 1993).

[11] To say that such institutions are "patriarchal" is to say that not only are they largely designed, administered, and controlled by men, but that they are organized according to "masculine" precepts, in which characteristics associated with maleness are privileged, such as rationality, objectivity, domination, toughness, etc., and traits associated with "the feminine" are repudiated as being "weak," "emotional," and ineffectual.

[12] I use this term with irony, as one of the basic tenets of feminism that feminism is *not* a monolithic, uniform philosophy that must adhere to a rigidly set group of principles that are universally agreed upon by all who call themselves "feminist." Rather, feminism celebrates diversity and divergence, embraces multiplicity, and engages frequently in productive debates about the meaning of the term "feminism." There is by no means a "party line" as to what counts as feminism, although some major varieties of feminism have been identified by theorists and are used widely in the literature for purposes of clarity. These include liberal feminism, radical feminism, Marxist-socialist feminism, global feminism, womanism, and postmodern feminism. For a rich analysis of some western varieties of feminist thought (although not ecofeminism), see Alison M. Jaggar, *Feminist Politics and Human Nature* (Totowa, NJ: Rowman & Littlefield, 1983). Another good basic source on varieties of feminism that *does* include a chapter on ecofeminism is Rosemarie Tong's *Feminist Thought: A More Comprehensive Introduction* (Boulder, CO: Westview Press, 1998).

[13] For genealogical tracings of both ecofeminist movements and theorizing, see Noël Sturgeon, *Ecofeminist Natures: Race, Gender, Political Theory and Environmental*

*Action* (New York: Routledge, 1999); Carolyn Merchant, 1997, *op. cit.*, and Ariel Salleh *Ecofeminism as Politics: Nature, Marx, and the Postmodern* (London and New York: Zed Books, 1997).

[14] For example, Oregon voters in the 2004 elections narrowly passed Measure 36, an anti-gay marriage initiative, as well as a controversial environmental measure that requires that private property owners be compensated when environmental and land-use regulations affect the economic value of their land. In the closely fought 2000 and 2004 presidential elections, both the Bush and Kerry campaigns visited the normally ignored state numerous times in a struggle for its seven electoral votes, which ultimately went to the Democrats. (By contrast, California, Oregon's immediate neighbor to the south, has 55 electoral votes).

[15] It is commonly estimated that in the United States, between 2 and 5 percent of the original (pre-European contact) forest remains. Of that, over 50 percent is currently slated to be logged. For two accounts of the pressures facing public lands in the U.S., see Nancy Langston, *Forest Dreams, Forest Nightmares: The Paradox of Old Growth in the Inland West* (Seattle and London: University of Washington Press, 1995) and Mark Dowie, *Losing Ground: American Environmentalism at the Close of the Twentieth Century* (Cambridge, MA: MIT Press, 1995).

[16] The longest and most celebrated case of continuous same-occupant treesitting was undertaken from 1997 to 1999 by Julia "Butterfly" Hill, who occupied a tree named "Luna" for two years and a week on land owned by infamous junk-bond trader Charles Hurwitz's Maxxam Corporation Hill's treesit gained widespread publicity through the popular press, and Hill garnered much attention for both herself and the treesit, even generating music benefits by the likes of celebrities Phil Lesh of the Grateful Dead and folksinger Joan Baez to raise money to save Luna. Hill is often credited for bringing the tactic of treesitting to public consciousness. She tells her story in her semi-bestselling book, Julia "Butterfly" Hill, *The Legacy of Luna: The Story of a Tree, A Woman, and the*

*Struggle to Save the Redwoods* (San Francisco: HarperSanFrasncisco, 2000). However, Hill's efforts and treesit were highly controversial within radical activist communities due to the fact that Hill repudiated the Earth First! activist collectives who first erected and supported "her" particular sit and the ones surrounding it, and because the focus of Hill's activism became centered on saving one tree rather than protecting the entire old-growth biotic community. Activists were also upset that Hill and her supporters paid Maxxam Corporation $50,000 to leave Luna and a few surrounding trees standing, setting what other activists understandably saw as a very bad precedent. For a critical anarcha-feminist look at Hill and her famous treesit, see Audrey Vanderford, "Can't See the Forest for 'Her' Tree: Activism, Celebrity, and Julia "Butterfly" Hill," published online at http://darkwing.uoregon.edu/~audreylv/her_tree.htm.

[17] In this context, the term "gender-queer" generally refers to persons who do not identify as either male/masculine or female/feminine, primarily because they are transgender/intersexual/transsexual and/or because they eschew the oppressive constructions surrounding gender foisted upon all persons by the dominant society. Although a discussion of transgender and queer theory as it applies to environmental thought and activism is beyond the scope of this essay, much excellent scholarship has emerged in recent years specifically about intersections of queer and environmental theory. See for example the work of Catriona Sandilands, especially "Desiring Nature, Queering Ethics: Adventures in Erotogenic Environments," *Environmental Ethics*, 23, 2001, pp. 169-88.

[18] I have, by request, designed and facilitated ecofeminism workshops at both large and small activist gatherings (July 4, 2003; May 8,2005); regularly at an international environmental law conference held at the University of Oregon each March, and yearly for the past five years and ongoing at a community fair/gathering in mid-July.

[19] Of course, the experience of exclusion and sexism in so-called "progressive" or left movements is not unique to the environmental movement. Women activists have been

noting this contradiction and this indication of the pervasiveness and deep-rootedness of patriarchal oppression since the 1960s. For further comments on this phenomenon, see Ariel Salleh, "Moving to an Embodied Materialism," *Capitalism Nature Socialism*, 16, 2, 2005, pp. 9-14. Also see fn. 21, following.

[20] Judi Bari, *Timber Wars* (Monroe, ME: Common Courage Press, 1994), p. 220.

[21] See, for example, many of the writings from the second-wave American women's movement (spanning from roughly the late 1950s through the late 1970s) anthologized in Rosalyn Baxandall and Linda Gordon (eds.), *Dear Sister: Dispatches From the Women's Liberation Movement* (New York: Basic Books), 2000. The essays describe instances of sexism within New Left movements such as the Civil Rights and Anti-War movements, and in countercultural ("hippie") communities. Such exclusions are mirrored in the academy today when male theorists fail to become acquainted with the work of feminist writers.

[22] Personal conversations with forest activists. For an on-camera discussion by activists of previous elisions regarding gender relations in direct forest action campaigns, see the film *PickAxe* (PickAxe Productions, 2000).

[23] Marilyn Waring, *If Women Counted: A New Feminist Economics* (San Francisco: Harper & Row, 1988); Maria Mies, *Patriarchy and Accumulation on a World Scale: Women in the International Division of Labor* (London: Zed Books, 1998). For an engaging and accessible film version of Waring's analsis of the ways women's and nature's labor is disregarded in classic capitalist economic accounting, see her video *Who's Counting: Sex, Lies, and Global Economics* (Bullfrog Films, 1995).

[24] Such policy decisions are not static, and in anti-authoritarian and anarchist-identified communities such as the ones described here such agreements are by nature fluid and subject to change. The Anti-Oppression Agreement quoted here has undergone revision since this paper was first written. The changes, currently being discussed within the

group Cascadia Forest Defenders, significantly deepen the theoretical analysis of the intersections of oppressions of the earlier one and offer specific remedies for violations of the policy, especially rape and sexual assault. It should also be noted that some in the forest defense community, most notably white males, object to language that defines opposing racism, sexism, etc. as part of the work of forest defense. (Source: Email communication with "Scuttle.") Activists are currently re-writing the anti-oppression policy, which they will attempt to post on-line after completion at a web site to be announced.

[25] Cascadia Rising, "Anti-Oppression Policy" published file:///online at/ http///www.cascadiarising.org/static/antioppression.shtml.

[26] *Ibid.*

[27] Personal conversation and email communication with Forest Defenders "Wombat" and "Pika."

[28] Personal conversation, summer 2005.

[29] For example, several female Forest Defenders who visited a class I was teaching on ecofeminism at the University of Oregon in 2000 pointedly rejected being called "ecofeminists," deeming it a "label" which could not encapsulate the complex work of forest defense performed by women and transgendered persons. Of course, not all Forest Defenders espouse the same views or opinions regarding the proper terminology for their work, and there is a wide divergence of opinions within the general forest defense community. Forest Defenders often identify explicitly as anarchist or green anarchist and as such resist having anything like a general or universal statement of policy, opinion, or values that purports to represent the "official" views of participant actors.

[30] "Womyn Forest Defenders Occupy Straw Devil Sale," *Eugene Weekly*, May 8, 2003.

[31] Note here the decision to present a different spelling, "womyn" instead of "women." Such a change from traditional spellings is often enacted by feminists who wish to both draw attention to and challenge lingustistic conventions that make "woman" a subsidiary of "man." Notice that the conventional spelling of "human" is changed to "humyn" in the third paragraph as well.

[32] http://www.forestdefenders.org/WomynSD.html.

[33] Noël Sturgeon, "Theorizing Movements: Direct Action and Direct Theory," in Marcy Danalovsky, Barbara Epstein, and Richard Flaks (eds.), *Cultural Politics and Social Movements* (Philadelphia: Temple University Press, 1995), p. 36.

[34] *Ibid.*

[35] This is not to say that activists or theorists (or theorist activists) should not choose to focus on a particular issue, e.g. toxic waste, urban poverty, global warming, racism, domestic violence, deforestation, etc. It simply means that one must be aware of the ways these problems are connected through the patriarchal desire to maintain mastery and control over others, as well as realize that long-term, permanent solutions are going to require that all systems of domination be dismantled.

# CHAPTER IV

# (EN)GENDERING ENVIRONMENTAL JUSTICE: ECOFEMINISM AND ENVIRONMENTAL JURISPRUDENCE

*(This article will be submitted to the journal* Law and Society Review*)*

**Communities are not all created equal. In the United States, for example, some communities are routinely poisoned while the government looks the other way. Environmental regulations have not uniformly benefited all segments of society. People of color (African Americans, Latinos, Asians, Pacific Islanders, and Native Americans) are disproportionately harmed by industrial toxins on their jobs and in their neighborhoods....**

**Why do some communities get "dumped on" while others escape?... What institutional changes would enable the United States to become a just and sustainable society?**

—Robert Bullard, *Confronting Environmental Racism: Voices from the Grassroots* (1993:15)

**It is particularly important that environmentalists join the fight against racism. Changes in behavior required of almost all people for environmental reasons need widespread cooperation, and most people on earth are nonwhite. Environmentalists can expect needed worldwide cooperation only if the environmental agenda is seen clearly to respect all people, regardless of gender, ethnicity, or race.**

—Laura Westra and Bill Lawson, *Faces of Environmental Racism: Confronting Issues of Global Justice* (2001: xx).

**Primary among ecofeminism's strengths is a political theory that attempts to deploy at once a number of radical analyses of injustice and exploitation focused on racism, classism, sexism, heterosexism, imperialism, speciesism, and environmental degradation...[E]cofeminism is potentially a meeting ground for contemporary radical movements.**

—Noël Sturgeon, *Ecofeminist Natures: Race, Gender, Feminist Theory and Political Action* (1997: 18)

**[L]egal scholarship devoted to social justice can be made more potent and relevant through multidimensional analysis...multidimensionality tends to promote awareness of patterns as well as particularities in social relations by studying in an interconnected way the specifics of subordination.**

—Francisco Valdes, "Beyond Sexual Orientation in Queer Legal Theory: Majoritarianism, Multidimensionality, and Responsibility in Social Justice Scholarship *or* Legal Scholars as Cultural Warriors" (1998: 1414-5)

## Introduction: Multidimensionality

Normally, in law as in life, the categories of nature and culture are thought to be separate. Those who care about environmental issues and the health and well-being of the natural world are supposed to be concerned with the question of what people are *doing to* natural environments and what can be done to stop *them*, the undifferentiated category human, the archetypal, universal human person who, without regard to race, or class, or gender, or nationality, is —so the dominant story goes—a parasite, or worse, a cancer on the planet. The main characters in this story are the ecologically-malfit humans who exist outside of nature, who don't belong there, the people and all their buildings and cities and roads and cultural trappings who are ontologically separate from the natural world. Thus we have the infamous case of the letter-to-the-editor of the Earth First! Journal from "Miss Ann Thropy" remarking that AIDS is a positive thing for the planet from the perspective of radical environmentalism.[1] Conversely, those who are concerned with issues of social justice are, we suppose, unconcerned with the environment; the environment is not relevant to addressing problems of social inequality because nature is something *out there*, distant, displaced from the social and cultural dwelling-places of people and human communities and groups; in *this* story nature and its moral and

political status is not relevant to human problems. Granted, nature is the background, the backdrop, the underlying substrata for human endeavors that provides culture's raw material, but environmental problems are fundamentally irrelevant to human problems of inequality and injustice, and examining our attitudes and values regarding the natural world won't get us very far in solving pressing social issues such as racism, gender discrimination, and poverty—or so the doxa goes. This side of the coin of the nature/culture dualism leads to instances in which social justice organizations, including the Southern Poverty Law Center and the Anti-Defamation League, express anxiety over the rise of what they see to be "green hate" within environmental groups for privileging the needs of the more-than-human world over oppressed humans, as occurred when the Sierra Club in 2004 nearly adopted an anti-immigration policy on the grounds that "population pressures" were fueling the continued degradation of ecosystems (Knickerbocker 2004:1).

Despite such tensions between environmental and social justice advocates, however, there are at least two positions within the general realm of environmental ethics and philosophy that reject this notion that we can think nature and culture separately: *environmental justice* and *ecofeminism.*[2] The efficacy of each, which both exist as social movements with an articulate, practico-theoretical orientation, lies in their ability to help end the twinned phenomena of social discrimination and marginalization and the degradation of the natural environment. These positions also oblige us to think nature and culture together, compel us to think through the ways in which the categories of the "natural" and the "cultural" are interpenetrating and mutually constituitive. And when we think nature and culture together, we come full circle back to the practical by realizing in

a much richer fashion the profound material and ecosocial consequences of the human/nature binary.

My goal in this article is not to provide a principle by which to determine whether said human beings and the natural world are being treated wrongly but to outline a process for engaging in the sorts of conversations and strategies needed to reach right courses of action when it comes to balancing the desires of humans and the needs of other-than-human beings. The direct aim of the theory of law I am presenting is to strengthen environmental justice jurisprudence and to end environmental racism. However, this in this article I hope to offer as well a sense of how theories of environmental justice and ecofeminism take up a particular conception of science, of ethical epistemology, and law.

After some initial methodological considerations regarding multidimensionality and the related notion of intersectionality, which I detail in the next subsection, I'll describe the points of intersection between environmental justice, critical race theory, feminist jurisprudence, critical legal theory, and ecofeminism. My analysis will explore how these diverse but related fields can cross-fertilize to better pursue their liberatory goals. The central question concerns their commonalties; what are the theoretical and practical linkages that can help both activists and scholars in these areas work to end the oppressive forces that perpetuate ecosocial[3] injustice?

*Multidimensionality and Intersectionality: Related Theoretical Frameworks*

In what follows I argue that an ecofeminist perspective must be inserted into environmental justice activism and law in order for the environmental justice movement to accomplish its aims. My argument is founded in a commitment to what legal scholar Francisco Valdes terms "multidimensional analysis," the ability to draw widely and deeply from multiple and disparate theories, practices, and movements in order to strengthen the project at hand, which is to end the conjoined oppression of particular human groups—specifically women and people of color—and the more-than-human world. Multidimensionality, as articulated by Valdes, is to be understood as a kind of "multi-intersectional analysis and discourse that attempts cognition of multiple intersections [of oppressions and identities] at once" (Valdez 1998, 1414, n. 21). The benefit of such a kind of analysis is that it enables the capacity to look at multiple and interlocking oppressions simultaneously, as well as allowing for the concurrent application of frameworks for understanding oppression developed in disparate fields. Valdes explains: "[U]under prevailing sociolegal circumstances, multidimensional analysis is more likely than unidimensional analysis to produce effective interventions in contemporary lawmaking based on majoritarianism and essentialism because multidimensionality can help to connect various 'minority' aspirations that, on their own, stand relatively little chance of success in majoritarian contests dominated by essentialized backlash and elitist self-interest" (1998, 1449). Multidimensionality thus aids in making visible the interconnections of oppressions, and also demonstrates that

strategies and analyses developed in one field of liberatory scholarship and praxis can be creatively used to counter related subordinating practices.

Before engaging in the sort of multidimensional analysis articulated by Valdes, it must be noted that there is a scholarly tradition that preceeds Valdes that he is invoking and using to inform his understanding of multidimensional analysis; that of intersectionality. The key article that develops the use of intersectional analysis, explaining how it is that a kind of analysis that understands multiple oppressions to be synergistic rather than additive is necessary to address the material effects of simultaneous oppressions, is by legal scholar Kimberle Crenshaw.

In "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color" (1993), Crenshaw elaborates how violence against women of color cannot be understood or addressed by applying either an anti-racism perspective, or a feminist perspective, exclusive of each other. Instead, much of the way that violence against women of color occurs and is experienced by such women (her examples are battering and rape), Crenshaw argues, uniquely result from the way that racial and gender oppression synergistically intersects in the lives of women of color, both producing a problem and requiring solutions that can account for the intersectional character of such oppression. For example, Crenshaw notes how it is that immigrant women may have fewer options in leaving abusive relationships than racially privileged battered women, due to the fact that a non-citizen may (quite realistically) fear deportation if she leaves her abuser, since her residency status may depend on the existence of the relationship. Futhermore, cultural and language barriers face English-limited immigrant women seeking refuge at shelters, even from shelter workers themselves who may not appreciate

why a battered immigrant woman might be reluctant to use community resources or draw attention to her plight. (1993, 1245-1249). Such predicaments are a result of "intersectional subordination" which, states Crenshaw, "is frequently the consequence of the imposition of one burden that interacts with preexisting vulnerabilities to create yet another dimension of empowerment" (1249).

Yet another example of intersectionality as elaborated by Crenshaw concerns the particular predicament black women face when they are raped by black men. Because they are located within historical and popular narratives that position black women as "sluts" "bitches" and "hos"—i.e. as sexually promiscuous and available in ways as a group that white women as a group are not, black women are frequently treated with skepticism and insensitivity by authorities (such as police) who have absorbed these myths about "black womanhood." This is a particular intersection of racism and sexism that is not experienced by white women (although white women too are often disbelieved when they are sexually assaulted, but it is not because white women as a whole have historically thought to be "unrapable" as were/are black women). Compounding this is the fact that black women who name black men as their assailants must sometimes face the charge that they are harming the black community at large by reinforcing the racist belief that black men are inherently more violent, or are accused of "dividing the community" at a time when (it is said) persons of African-American decent should be demonstrating unity and mutual solidarity against white supremacy. Thus, as has been noted by other scholars and activists, women of color are frequently put in the position of having to implicitly choose an identity—and thus political solidarity—with other

members of either her race or her gender, when her own experience is a confluence of the two (and many other factors beside).

An understanding of the ways that race and gender operate intersectionally to produce oppression, and require intersectional analysis to adequately address, is Crenshaw's purpose in "Mapping the Margins." She writes, "Although racism and sexism readily intersect in the lives of real people, they seldom do in feminist and antiracist practices. And so, when the practices expound identity as woman or person of color as an either/or proposition, they relegate the identity of women of color to a location that resists telling…the intersection of racism and sexism factors into Black women's lives in ways that cannot be captured wholly by looking at the race or gender dimensions of those experiences separately. " (1993, 1242).

Intersectionality, as explained by Crenshaw, does not only illuminate the ways that oppressions converge and compound, it also provides a method for addressing such oppressions. At the end of her seminal article, Crenshaw remarks that recognizing intersectionality does not mean that we must abandon politics based on identity, but she urges that we abandon responses to oppression based on *unidimensional* understandings of identity.

> [A]ny discourse about identity has to acknowledge how our identities are constructed through the intersection of multiple dimensions[.]…[It] requires that we first recognize that the organized identity groups in which we find ourselves in are in fact coalitions, or at least potential coalitions waiting to be formed….Intersectionality provides a a basis for reconceptualizing race as a coalition between men and women of color. For example, in the area of rape,

> intersectionality provides a way of explaining why women of color have to abandon the general argument that the interests of the community require the suppression of any confrontation around intraracial rape (1993, 1299).

The liberatory potential for intersectionality, however, lies in its potential to "provide the means for dealing with other marginalizations as well" ( Crenshaw, 1993, 1299). Thus intersectional analysis is not merely critique, but also opens spaces for understanding solutions to complexly interrelated oppressions, such as (I would argue) the intersections of oppression between women, people of color, and the more-than-human world.

How does intersectionality relate to multidimensionality? Multidimensionality as developed by Valdes is a kind of analysis designed to address "essentializing and majoritarian" discourses that consider identity to be fixed and unitary, and privilege those thought to belong to "majority" identities, such as, but not exclusively, those with heterosexual identities. Like intersectionality, which Crenshaw at one point characterizes as a "provisional concept linking contemporary politics with postmodern theory [that engages] dominant assumptions that race and gender are essentially separate categories" (1993,1244, fn. 9), Valdes conceives of multidimensionality as drawing on intersectional analysis as elaborated by Crenshaw (whom he cites along with Angela Harris and Mari Matsuda as developing the relevant precursor analysis) along with postmodern antiessentialism in order to unseat forms of social dominance predicated on claims of race, class, gender, or sexual fixity and "natural" dominance. Writing a few years later, Valdes deploys intersectionality's understanding of the synergistic character of some

oppressions alongside a non-unidimensional understanding of identity, in order to embrace what he terms a "postmodern" understanding of situational and identitarian fluidity and multiplicity.

> Responding to postmodern tenets, multiplicity signifies embrace of the fact that all humans embody simultaneously identities composed of multiple features, such as (but not limited to) sexual orientation, race, class, and gender [and species]. Intersectionality complements multiplicity by recognizing that these multiple features interact, or intersect, in both structural and situational ways to produce multifaceted and multilayered, or multidimensional, social hierarchies. Thus, multiplicity recognizes the complexity of identities and intersectionality recognizes the concomitant complexity of power relationships based on multiplicitous identities. In tandem, these two concepts bring a postmodern and multidimensional mindset to the analysis of law, power, and justice (Valdes, 1998, 1420)

Therefore, there are important similarities between the notions of intersectionality and multidimensionality as developed by these two legal scholars, and intersectionality as articulated by Crenshaw is a primary analytic ingredient in multidimensionality. The added analysis provided by multidimensionality will enable an even more situated analysis of the intersections of oppression as well as enable creative cross-deployment of the liberatory tools and strategies developed in seemingly disparate struggles for justice.

## Environmental Justice and Critical Race Theory

*Environmental Justice*

I'll begin with a brief explanation of environmental justice. *Environmental Justice* (EJ) is the social movement and area of jurisprudence which seeks to identify and rectify the ways in which certain members of the populace—the poor, communities of color, the very young and the elderly, women, and others who are marginalized in society, are disproportionately and inequitably subjected to the health-impairing effects of environmentally toxic industries and practices. Momentarily I will turn to a particular example, the siting of a toxic waste incinerator in the predominantly Mexican-migrant community of Kettleman, California, that illustrates a typical EJ struggle, and can also be analyzed intersectionally to show how other liberatory theories of law such as critical race theory, ecofeminism, and feminist jurisprudence can help engender environmental justice. Before doing so, however, I'll note that although my discussion in this article centers on the U.S. environmental justice movement, EJ as a whole has an international and global focus, since persons and environments worldwide are subject to the unequal and deleterious results of industrial contaminants and ecological destabilization—pollution, unfortunately, knows no borders. In fact a current area of struggle within the environmental justice movement concerns attempts by rich western nations like the United States to export toxic waste to "less developed" nations as a solution to siting problems and NIMBYism (Not In My Back Yard). Consider the following: In response to an internal memo signed by then World Bank chief economist

Lawrence Summers celebrating the "impeccable" economic logic of dumping first world toxic pollution in "less developed" countries, where any lost wages due to health problems from pollution have a lower impact on the poorer nation's GNP because, well, they are poorer to start with (and in fact, says Summers, citing "under-populated countries in Africa" as his example, are "vastly underpolluted,"(!), from an economic standpoint),[4] Westra and Lawson, in their book *Faces of Environmental Racism,* (2001) remark:

> The element of racism appears when one considers that poor countries are overwhelmingly nonwhite, by current U.S. definitions at least. So the above proposal amounts to this: Toxic hazards should be located among nonwhites, even though they are generated by whites in industrial processes mostly invented by whites and employed by corporations owned predominantly by whites to provide products and services overwhelmingly for whites. Mainstream economics, also invented by whites, give this proposal "racially neutral" support (2001:xviii).

Such *de facto* racist policies as the one espoused by Summers expose the ways in which international business and industry, backed by state governments and institutions of globalization like the World Bank, recognize few normative boundaries in their attempt to transform the world into raw material for the economic gain of a few, and how nature, women and persons of color are viewed as "lesser," and as expendable resources in the eyes of neo-liberal capitalism.[5]

But to continue on to our basic definition of EJ, EJ as a movement to confront "environmental racism,"[6] the environmental justice movement explicates 1) the ways that human and environmental health are related; 2) how patterns of siting polluting industries

stem from and reflect historical practices and attitudes of class and racial oppressions; and 3) how achieving ecological sustainability *and* social justice can only occur through a change in political and economic policies.[7] In 1987, a landmark study conducted by the Commission for Racial Justice, United Church of Christ entitled "Toxic Wastes and Race in the United States," revealed formally and empirically for the first time the extent of environmental racism and the consequences for those who are victims of polluted environments. The study found that:

- Race was the most significant variable associated with the location of hazardous waste sites.
- The greatest number of commercial hazardous facilities was located in communities with the highest composition of racial and ethnic minorities.
- The average minority population in communities with one commercial hazardous waste facility was twice the average minority percentage in communities without such facilities.
- Although socioeconomic status was also an important variable in the location of these sites, race was the most significant even after controlling for urban and regional differences.

The report furthermore indicated that three out of every five Black and Hispanic Americans lived in communities with one or more toxic waste sites. Over 15 million African-American, over 8 million Hispanics, and about 50 percent of Asian/Pacific Islanders and Native Americans are living in communities with one or more abandoned or uncontrolled toxic waste sites (Weintraub 1994).[8]

As it has developed thus far, the environmental justice movement arises from, shares concerns with, and borrows conceptual and practical understandings from two

other social movements, the environmental movement,[9] and the civil rights movement (and in fact EJ advocates argue that environmental justice is a part of civil rights law and should be litigated under title VI of the 1964 Civil Rights Act—see note 15). Environmental justice then has a two-pronged approach, drawing resources from each of these movements at the same time that it attempts to persuade activists in both praxis-oriented locales that environmental justice is an extension of their concerns: environmentalists because the same contaminants that are compromising the health of vulnerable persons are damaging to the more-than-human world; and civil rights activists because those who are vulnerable tend to disproportionately occupy the "lower" classes of society, especially persons of color Interestingly, and dismayingly, the noted sociologist and environmental justice scholar Robert Bullard reports that race is the single most important determiner, over income and educational level, of who is most likely to be exposed to environmental toxins.

At times, "establishment" members of both the environmental and civil rights movement have exhibited resistance to the call of environmental justice advocates. Civil rights activists have sometimes levied the accusation (not without cause) that environmental issues are only of concern to affluent whites who wish to preserve nature to recreate in, or are working only to save "charismatic megafauna"—the polar bears and dolphins that show up on calendars distributed by the Sierra Club—and are not relevant to the issues faced by the poor and communities of color who must confront what to them are the more pressing exigencies of racial and economic discrimination on a daily basis. Westra and Lawson (2001:xix) report that such a perception of the environmental movement led one community leader in Birmingham, Alabama, to assert that "If it does

not hoot in the night or swim upstream, environmentalists are not interested." In this context environmentalism is seen as at best a luxury and at worst an injurious insult, because of the perception that more concern is being levied for threatened non-humans than for members of the human species[10]. Mainstream environmental groups however, have also been reluctant to admit issues of environmental justice onto their agendas, because of a belief that social and environmental problems are separate issues, and that there are "already enough people working on social issues—we need to save the Earth." (This statement, incidentally, is a paraphrase of Dave Foreman's statement, when he left the radical direct-action environmental group Earth First!, that it was time to part ways—it had become a "leftist class-struggle group…" infiltrated with "eco-feminists, leftist-class struggle advocates and other social "woo-woo's"…"[11]) Bullard remarks on this split between traditional social justice/civil rights groups and traditional environmental advocates by noting that

> Although concern for the environment cuts across class and racial lines, ecology activists have traditionally been individuals with above average education, greater access to economic resources, and a greater sense of personal power. ...During the 1960's and 1970's, while the "Big Ten" environmental groups focused on wilderness preservation and conservation through litigation, political lobbying, and technical evaluation, activists of color were engaged in mass direct action mobilizations for basic civil rights in the areas of employment, housing, education, and health care. Thus, two parallel and sometimes conflicting movements emerged, and it has taken nearly two decades for any significant convergence to occur between these two efforts. In fact, conflicts will remain over how the two groups should

balance economic development, social justice, and environmental protection (Bullard 1993:21).

Now that I've presented the basic background, claims and points of analysis of the EJ movement, let's look at an example of environmental racism, that of Kettleman, CA. To demonstrate my claim regarding how it is that a multidimensional analysis, the bringing together of disparate and epistemologically genealogically diverse theories, can illuminate the ways that ecofeminism and other liberatory political theories help the cause of environmental justice, we'll first examine this case in a straightforward manner—that is, as the case is typically seen through the lens of EJ theory. Then we'll "layer on" some other kinds of analysis, specifically that provided by critical race theory, ecofeminism, and feminist jurisprudences, to show the contributions these liberatory theories of law can make toward ending environmental racism.

*Kettleman, CA: Of Race and Waste*[12]

In 1979, without the permission or even notification of the residents of Kettleman City, CA, a community ninety-five percent Latino, with a majority of residents who are migrant farmworkers for whom English is not their primary language, a toxic dump owned by Chemical Waste Management (CWM), the world's largest waste disposal company, was established. At this site, *each day* up to 200 twenty-ton trucks filled with chemical wastes like PCBs, benzene, and asbestos passed within four miles of the town center on their way to their final destination where the toxins were treated, stored or buried.

As a result of health and other complaints levied by residents, in 1985 Chemical Waste Management was fined $3.5 million by the EPA and the state of California for improper record keeping and other violations, including toxic leakage into water supplies. Despite its poor track record of respecting environmental quality, in 1990, CWM proposed building a hazardous waste incinerator near the same location to take advantage of the pre-existing toxic dump built in 1979. Its incinerator would annually consume between 50,000 and 100,000 tons of hazardous waste materials, including byproducts from auto and electronics manufacturing, unused or banned pesticides, dry-cleaning chemicals, oil wastes, solvents, paint sludge, contaminated soil, and water from Superfund sites. Inspired by the community-led closure of incinerators in other California towns, resident-activists, farm workers, agribusiness growers, and politicians organized to oppose the planned incinerator.

In February 1991, a lawsuit filed by California Rural Legal Assistance (*El Pueblo para el Aire y Agua Limpio v. Kings County)* on behalf of the community coalition El Pueblo Para el Aire y Agua Limpio (People for Clean Air and Water) formally stated that the permit process violated the civil rights of residents, as meetings, hearings, and technical information were given only in English. CWM had followed the letter of the law in posting required public notifications, but unquestionably knew that Kettleman was overwhelmingly Latino, and in fact seemed to be relying on the fact that a majority of residents would not be able to read the notices and thus know to respond to the proposed incinerator. Residents filed suit on the basis of discrimination on the basis of race and primary language, arguing that the failure to notify the public in the language primarily spoken in Kettleman in order to allow residents to comment on and participate in the

decision as to whether to site the waste incinerator where they lived amounted to a violation of their civil rights—significantly, the first such allegation of environmental racism of this variety in the United States. By 1994, according to accounts of organizations involved, the efforts of protesters, more stringent requirements under the Clinton administration, and the two successful lawsuits filed by California Rural Legal Assistance compelled Chemical Waste Management to abandon its plans.

Remarkably, though, CWM has not given up, and as recently as April of 2006 attempted once again to expand its waste disposal facility (the first one is nearly full; CWS wishes to build a second one). In a move reminiscent of the 'jobs v. environment' "economic blackmail" that Bullard names in *Dumping in Dixie* and Vandana Shiva notes in her discussions of the Chipko Movement in India,[13] CWS, which was ordered as a result of a 1995 settlement over environmental violations to build a community center and contribute .25 cents per ton of toxic waste dumped at the center, offered to increase its contributions by a dime, up to .35 cents per ton, for waste dumped in the new facility. CWS also warned that the community center would have to close due to lack of funds if their proposal for the new dump was not accepted (Nidever 2006).

According to Bullard (Westra and Lawson 2001:3-9), attaining environmental justice generally requires at least three elements: 1) Procedural equity; 2) Geographic equity; and 3) Social equity. Conversely, environmental racism generally violates one or more of these principles. A straightforward EJ reading of the Kettleman case might highlight the following things: a low-income community of color has already been forced for decades to accept the presence of one toxic waste facility that residents know to be affecting their health, and directors are proposing siting another in their community; the

residents are resisting the new proposal, and directors are responding (among other ways) by threatening that a community service center will have to shut down if the waste management's money is withdrawn. The Spanish-speaking residents have had unequal access to the political process determining toxic facility siting through the original decision to post required notices only in English, and due to language barriers Spanish-speaking residents continue to have difficulty in participating in public hearings and discussions. The decision to locate the waste facility in Kettleman as opposed to, for example, nearby Sacramento is not place-neutral but is the result of persistent and pervasive dominant culture practices of exploitation of lands inhabited by "minority" peoples, and reflects as well historical patterns of racist and economic oppression that increases environmental burdens on people of color while unevenly allocating environmental benefits to whites. Therefore, the Kettleman case violates the basic three principles of EJ explicated above by Bullard. However, I think by subjecting this case to a multidimensional analysis and applying liberatory theories of law and politics, especially critical race theory and ecofeminism, we will better further the cause of achieving environmental justice by seeing in a more profound and robust fashion ways that the conceptual dualisms that have subjugated women, people of color, and the natural world function in material ways. Let's begin with critical race theory.

*Critical Race Theory*

In the arena of law and legal theory, critical race theorists have made great strides in applying an identification of the ways that racism functions socially and

politically to an analysis of the ways in which the law reinforces attitudes and stereotypes which disadvantage particular "out" groups (which would not just be limited to people of color, but also includes women, lesbian, gay, and transgender persons, and those with disabilities). The critical race legal scholars Richard Delgado and Jean Stefancic (2000:xvi) argue that because racism is so pervasive in American society, that "it looks ordinary and natural to persons in the culture," and that the rules of formal equality that dominate race law in the United States can do little to address any but the most "extreme and shocking" forms of injustice that occur in our society. Robert Bullard concurs, pointing out that "many of the at-risk communities are victims of land-use decision making that mirrors the power arrangements of the dominant society. Historically, exclusionary zoning has been a subtle form of using government authority and power to foster and perpetuate discriminatory practices." (Westra & Lawson 2001: 10). Critical race theorists, then, assert that the law is in need of radical reform, not just some mild tinkering, if it is to uproot the entrenched racial and class inequality that is the condition of life for members of poor communities and communities of color. That is, the law must examine—and change—its basic understandings of fundamental categories like race, power, equality, neutrality, and authority. (Later I will discuss how feminist jurisprudences pose a parallel challenge to the law's understanding of gender and gendered categories as well).

As discussed throughout this article, environmental justice advocates act to change the fact that such communities are disproportionately targeted by polluting industries through the application of existing laws and governmental policy, through new interpretations of existing policy such as in administrative findings that environmental

justice is required by civil rights law,[14] and the creation of new laws and policies. Different kinds of legal strategies are attempted as a way of eliminating the threat to human and environmental health that occurs from toxic industrial pollution. However, as the Kettleman case illustrates, the law is frequently fashioned and applied in such a way that unconscious or even deliberate racism and classism inhibits the usefulness of law as a tool for social and environmental reform. Critical race theory is not merely critical, however, but also advocates for the use of law and policy as tools of social reform and the transformation of existing social, political, and economic relationships (Delgado & Stefancic 2000). Critical race theory can therefore serve as a useful tool of analysis for environmental justice advocates in the search for methods and analyses of the problem of environmental racism and ways of bringing about reform, because it shows how law is invested in and reinforces racism, *but and* functions as a complex site of resistance, reformation, and even revolution. Additionally, critical race scholarship acknowledges and values alternate means of gathering information and knowledge about individuals' and groups' experiences of oppression, such as "storytelling," and local knowledges (Wing 1997). Such alternate epistemologies and epistemologies of oppression can be especially relevant to survivors of environmental racism, who cannot rely on dominant scientific and political practices or practitioners to adequately represent their experiences of environmental illness and harm.

In the Kettleman example, a critical race perspective makes the failure of Chemical Waste Management to post required notices in Spanish visible *as* racism, as the deliberate exclusion of a non-white group socially subordinated on account of race,

culture, and/or ancestry from meaningful participation in civic and environmental practices that literally affect the physical well-being of the community. Thus environmental justice theorist Robert Figueroa writes,

> One common cultural association among Latino groups is their deep connection with the Spanish language. While many self-identifying Latinos are not fluent in Spanish, Latino identity involves the celebrated use of Spanish language in many ways, with the spoken language being the most prevalent. Given that environmental identity emerges as a facet of cultural identity, one consideration for environmental justice in Latino communities is the recognition and respect for the use of Spanish. The use and control of language has always been a candidate for sustaining the hegemony, which is partly why Latino communities are particularly affected by the important role language plays for environmental justice and environmental racism (Westra & Lawson 2001:168-169).

While the officials at CWM maintained that there was no deliberate racism nor attempt to evade the intent of legal requirements by not posting notices in the language actually spoken and read by residents, a critical race perspective links such exclusions to the entire history of racist, colonial practices that have subjugated peoples of what is called "Latin America" for at least the past 500 years, through the colonizers' annihilation and/or control of the language, culture, and economic and environmental identity of people of color. Of course environmental justice advocates are already drawing implicitly on the lived knowledge of such a history; this is clear in the primary claim of EJ advocates that siting hazardous waste facilities in communities of color is a species of racism. A critical race analysis would strengthen the force of this claim,

exposing the long history and deep present/ce of white supremacist culture's attempts to dominate and control peoples of color and the environments in which their cultures are ontologically embedded.[15]

## Ecofeminism, Communities, and Environments

Despite the usefulness of critical race theory to the practical goals of environmental justice advocates, struggles for environmental justice that do not incorporate an explicitly gendered and ecofeminist analysis of ecological problems will not adequately understand the ways in which systems of oppression (such as racism, gender discrimination and environmental degradation) are interconnected and mutually reinforcing, and thus will thus be less powerful and effective. For this reason, ecofeminism, a political movement and theoretical stance which identifies and articulates these interconnections, is a necessary intervention into discussions and debates about how to alter the fact of environmental injustice.

Ecofeminism represents a unique moment within both environmental and feminist theorizing, explicating how it is that the association of women with nature so prevalent in western conceptual frameworks (e.g."Mother Earth", "Mother Nature,"etc.) has been deployed to justify their mutual oppression. As stated by gender, race, and environment scholar Noël Sturgeon (1997:23): "Ecofeminism is a movement that makes connections between environmentalisms and feminisms; more precisely, it articulates the theory that the ideologies that authorize injustices based on gender, race, and class are related to the ideologies that sanction the exploitation and degradation of the environment." A core

feature of ecofeminist thought is the rejection of false binaries and dualisms such as the human/nature dualism[16] upon which the aforementioned attitudes are predicated, as well as a refusal to privilege "ecological" concerns over so-called "humanist" ones, and vice-versa.[17]

Ecofeminists argue that the same sorts of doxologies that in Eurocentric metaphysical systems of dualism associate women with nature also have historically regarded persons of color as "closer to nature," and have constructed women and people of color as belonging to the degraded categories of embodiment and corporeality where they are considered "less rational" and "less human" than white males of European origin. Among the ethical effect of such ideologies are the rendering of such persons, along with women and nature, as subordinate, able to be dominated, as exploitable resource.[18] Because both women and nature, as well as people of color, have been associated with the body (see fn # 16 on philosopher Charles Mills' article "Black Trash" in Westra and Lawson), the beings occupying these categories are then put in opposition to the more "masculine" realms of the mind or spirit. And of course nature is associated with the body as well, with the realm of necessity and not freedom—— Rationality/maleness/ transcendence/human-ness are privileged categories in Western thought, while embodiment/femininity/materiality/animality are cast as subordinate; and (according to what the ecofeminist philosopher Karen Warren (1990) calls the "logic of domination"), those beings who have membership in the first category are entitled to dominate and exploit whatever lies in the second category.

Ecofeminism's analysis of the ways in which gender, racial, and ecological oppression are connected is not merely conceptual however, but shows how these

ideological connections are dialectically entangled with the material condition of women and other oppressed groups. Many ecofeminists have directly incorporated the concerns of environmental justice into their work, and have revealed the large presence and participation of women in the environmental justice movement. According to environmental historian Carolyn Merchant (1996:161),

> Environmental equity is an ecofeminist issue. The body, home, and community are sites of women's local experience and local contestation. Women experience the results of toxic dumping on their own bodies (sites of reproduction of the species), in their own homes (sites of reproduction of daily life), and in their communities and schools (sites of social reproduction). Women's leadership and organizing skills gained in grassroots struggles empower them to change society and themselves.

Ecofeminism, by placing gender at the center of its analysis of environmental problems, also helps to make visible the ways in which women, and especially women of color, are particularly and specifically affected by ecological degradation and contamination. Globally, women comprise over 80% of grassroots environmental activists (Merchant 1996:60), and women are frequently motivated to become active when the health and well-being of their children, families, and communities is negatively impacted as a result of environmental contamination and degradation. Women's socially-assigned role as caregivers[19] positions women to notice when local industries are having a deleterious effect on human and environmental health. Women are also affected by the presence of environmental pollution through our reproductive capacities, such as when we experience

such problems as miscarriage and birth defects, contaminants in breastmilk that enters the bodies of our children, and breast cancer, whose precipitous rise in recent years many researchers feel can only be attributable to environmental causes.[20] Moreover, although persons of all genders are affected, of course, by harmful substances in air, water, and food, women's lives are in many ways more deeply impacted since women are the ones who typically must care for those who fall ill, and who are assigned the labor of the reproduction and maintenance of daily life. One measure of the efficacy of ecofeminism for the environmental justice movement lies in its ability to simultaneously operate on the practical and conceptual levels to discern how it is that women, persons of color, the poor, and nature are mutually degraded and exploited through, to use the phrase of feminist cultural theorist bell hooks, white supremacist capitalist patriarchal systems, institutions, and ideologies.

Let's consider again the case of Kettleman, CA. One thing to quickly note is that in Kettleman, as in the majority of grassroots struggles for environmental justice globally, the primary community activists are women. These are women who do not necessarily consider themselves activists, but step beyond their roles as caretakers of the "private" realm of home and family to enter into the public debate over where and whether to site toxic waste industries and other sorts of human and non-human environment-health-impairing activities. An ecofeminist analysis, while subjecting to critical analysis the potential claim that women are "naturally" more inclined to want to "clean up" and "take care" of things that are dirty and/or dependent (like a polluted earth or sick child)[21], nonetheless looks at the way that women (in part due to the historically-constructed association of women with the body) have been assigned caregiving and affective labor

and might be thereby motivated to address problems that affect the health of their children and families and the places they live, work, and play. Ecofeminism, like other feminisms, places gender and gendered relations in the foreground of its understanding of ecosocial life, but also examines the ways that gender complexly intersects with nature—both the "nature out there" and "human nature." Thus on a practical level, an ecofeminist analysis applied to our example would make more visible who it is that is harmed by CWM's activities (largely women and children), and help to explain why it is that women are more likely than men in the community to organize against the proposal to expand the waste facility.

A second contribution of ecofeminist analysis to the Kettleman case would be to help us to see that oppressive gendered and raced relations exist on the level of public discourse and rhetoric as well, and are reinscribed through cultural productions such as the print media. The language used to describe resistance by subordinated groups to environmental oppression illustrates the cultural presence and discursive reproduction of connecting women and people of color with emotionality and irrationality exposed by ecofeminism. Returning to the frontpage newspaper story mentioned previously, which reported on Chemical Waste Management's latest proposal to site a toxic facility in the 95% Latino Kettleman, a reporter who attended a public meeting in which residents of Kettleman expressed their views on the proposal described the event as an "emotional, often chaotic" meeting of "mostly Spanish-speaking residents" who "told Chem Waste director Bob Henry in no uncertain terms that they don't want dollars in exchange for more waste near their town." In a statement which shows that despite the fact that it's been three decades since Lois Gibbs, who successfully fought for the re-location of her

working-class neighborhood in Love Canal, New York after it was discovered that the homes and schools had been knowingly built on a toxic waste dump was first dismissed as a "hysterical housewife," the local newspaper, in a front-page story, reported that

> "The director [of Chemical Waste Management] took a lot of heat Wednesday night, mostly from women, *some of them irate*...One *particularly angry woman* said that her asthma had gotten worse since Chem Waste arrived. " I don't believe that I am (affecting) your health because of this facility," [CWM director] Henry answered." (Nidever 2006, emphasis added)

What this reveals is that not only has this particular company failed to listen to the expressed will of the community they have been poisoning and are proposing to place at further risk, an attitude antithetical to the demands of a feminist-and critical race theory-infused ethical comportment, but also that even those who purportedly report on such events in a "neutral" fashion are themselves steeped in, and unreflectively reproduce entrenched and damaging rhetorics of the "emotional" and "angry" and "irate" nature of women and people of color An ecofeminist-influenced environmental jurisprudence would enable a critical analysis of these struggles and make visible the ways in which the oppression of women, people of color, and the natural environment are intertwined through practice and discourse. Ecofeminism, by bringing to awareness the ways that women and people of color are represented in the context of environmental controversies, can help us to resist rhetorical exclusions and denigrations of women and nature.

Lastly, but perhaps most importantly, ecofeminism, through its deep conceptual analysis and challenge to normative dualisms, especially its interrogation of the

nature/culture dualism, helps us to understand why it is that issues of gender and racial justice and environmental health must be addressed together. Ecofeminism can help environmental justice advocates avoid reinscribing an ecosocially-destructive normative dualism by discouraging civil rights advocates from asserting that environmental concerns ought be subordinate to social justice concerns. Ecofeminism would help communities of color such as Kettleman understand themselves as allied with environmental groups concerned about the effects of toxic waste seepage into plant and animal habitat, and it would help environmental activists see that they must engage the poor and address their concerns if they wish to ameliorate environmental degradation. An ecofeminist analysis—an analysis that shows how women, nature, and people of color have been conceptually linked and subordinated—makes visible why it is that those cast as belonging to these categories wind up being mutually and concomitantly degraded by toxic practices such as those authorized by CWS. As a theory that already incorporates concerns of race, class, gender, and environmental oppression, ecofeminism is in a stronger position than even critical race theory to enrich and make more efficacious the environmental justice movement.

To enrich law and jurisprudence in this way, however, we will need a theory of law and legal practice that is capable of performing multidimensional analysis of the sort done by ecofeminism. Such a theory of law is found in feminist jurisprudences.

**Feminist Jurisprudence**

Like the politically proactive strain of critical legal studies discussed earlier, feminist legal theory and feminist jurisprudences have shown how it is that law is not "neutral" and "objective" but rather mirrors and dialectically reinforces the worldviews of dominant groups, particularly white, class-privileged men (as a group).[22] Feminist jurisprudence reveals the law to be fundamentally male in that it views women as an "Other" whose function is to provide the sexual and economic resources needed by capitalist patriarchy.[23] Feminist jurisprudentialists understand the law not to be fixed, but rather as indeterminate and contingent, and made, interpreted, and applied according to what values and which worldviews one ascribes to. Feminist legal theory has a proactive comportment, arguing that rather than striving for laws that are "neutral" in regard to race and gender, since the claim to neutrality is most often deployed to conceal the unequal power-relations underlying it, that law ought to be constructed and applied from the point of view of women—a standpoint epistemology of sorts.[24] Feminist jurisprudences illustrate ways that frequently the law is reflective of the social reality of white men, and argues that it ought to at least some of the time be written, interpreted, and applied from the point of view of women and other disadvantaged groups and the law can serve a site for liberatory change—such as, to take a few examples, in the case of anti-pornography law that understands pornography as harming *all* women through the objectification and sexual exploitation of women's bodies and sexuality rather than narrowly construing the harm as "private" and "personal;" rape law that is able to see the ways that social constructions of passive femininity and tough masculinity contribute to the existence of

rape culture and encourage sexual assault; and law that combats partner abuse by viewing the "failure" of individual women to leave violent relationships in the larger context of women's economic and social inequality.

Furthermore, by placing an explicitly political slant on the genealogical and deconstructionist tendencies of another proactive form of legal theorizing, critical legal studies,[25] feminist jurisprudence exposes the law as not neutral, objective, and "scientific," but rather as partial, particular, contingent, and fluid in its formulations and findings, as well as steeped in power-relations. Because of this fundamental indeterminacy and vestment in power, legal questions become political and ethical questions. Feminist jurisprudentialists argue that rather than "finding the law" jurists must choose amongst particular possible states of affairs and implement the one(s) that they see to be most just. For feminists, the most just state of affairs will constitute aligning the force of the state and the law with those who have been historically disenfranchized and oppressed. For feminist jurisprudentialists, the goal of law is not to strive for impartiality or neutrality (the infamous "rational man" standard) but to select among interests and values according to explicitly moral criteria, choosing whenever possible to make heard the perspectives and voices of those who have historically been largely *un*heard in American political and legal processes. So a feminist jurisprudential approach the Kettleman case on a *practical* level would at the minimum be twofold: 1) the particular impacts on women and those cared for by women (i.e. children) would be highlighted; and 2) attempts to use the force of law to make heard those perspectives previously effaced (such as the perspectives of the non-English speaking residents) would be made. But as I have suggested throughout, the contributions of an ecological

feminism would be even richer on a *conceptual* level, showing the intersections between environmental degradation and gender, class, and race-based oppressions.

To my knowledge no feminist jurisprudentialist has explicitly taken up the cause (in her theory or her practice) of environmental harm, although surely feminist legal theorists insofar as they are also anti-racist certainly would align themselves with the cause of environmental justice.[26] But like critical legal studies (see n. 26), feminist jurisprudence is based on a conception of law which views law and legal scholarship as iterative sites for the generation of cultural narratives which can simultaneously perpetuate ecosocial harm *also/and* function a means of achieving the sorts of political changes necessary to create a world in which both humans and non-humans are able to co-exist healthily and sustainably. In contrast to standard liberalist or positivist accounts of law which conceive of legal formulations as being fixed, universal, and knowable through the epistemology of Enlightenment rationality (Balkin 1987:408),[27] feminist accounts of law view the law as fundamentally indeterminate and steeped in power relations. For critical feminist legal studies theorists, to say that the law is not determinate is to say that it is not governed by rational and empirically uncoverable precepts as standard modernist accounts of law hold, but instead hold that the law is intimately and inescapably entangled in the dominant belief, values, historical and political conditions, and the cultural locations and political leanings of those who are charged with applying it. And to repeat, the law is deeply implicated in maintaining existing power structures, in privileging the interests of socially dominant groups, and in serving a status quo that benefits from the subordination and exploitation of the poor, women, people of color *and* (as I am asserting), the natural world.[28]But, as noted throughout, the law can also serve as

a tool of resistance through which to alter the structure of society itself, through the development and implementation of what critical race theorist and law professor Cheryl Harris (1997:104) refers to as a "jurisprudence of resistance" and the feminist legal scholar Catharine MacKinnon (1989:xiv) designates a "jurisprudence of change." But ecofeminism is rarely discussed in the feminist legal literature, a situation which must be changed for both ecofeminists *and* those committed to feminist analyses of law and political practice to achieve their liberatory goals. Ecofeminism best brings together a number of liberatory movements and analyses, and serves as a rich site for the interrogation and dismantling of ecosocially damaging dualisms.

To summarize then, an ecofeminist perspective, taken broadly to mean not only those positions that are concerned with what affects women and nature but as a method of analysis that offers a thoroughgoing critique of power and enables a theoretically rich interrogation of such foundational western notions as dualism, hierarchy, objectivity, rationality will be necessary if environmental justice advocates are to understand the underlying conceptual ideologies concerning the inferiority of women, people of color and that manifest in environmental injustices. Furthermore, feminist jurisprudence, informed by the insights, conceptual tools, and practical understandings of ecofeminists, can and should take up the cause of environmental justice.

## Conclusion: Toward an Ecocritical Legal Theory

**The feminist methods of unmasking, contextual reasoning, and consciousness-raising seem easily transferable to the study of other forms of oppression or multiple oppressions. For this reason, similar methods of inquiry have already surfaced in both critical race theory and gay and lesbian theory.**

--Robert M. Verchick, "In a Greener Voice: Feminist Theory and Environmental Justice" (1996:71)

I have argued here for active engagement between, and a theoretical and practical merger of, the fields of critical legal studies, critical race theory, feminist legal theory, and ecofeminism; as a way to strengthen environmental justice jurisprudence and activism. A multidimensional analysis toward issues of race, class, and gender should be adopted by those involved in the environmental justice movement so that these theories' understanding of the causes and function of social inequality can be applied to the quest for environmental justice. But an ecofeminist perspective will be necessary to enable the cultivation of an ability to think nature and culture together, to escape the ecosocially-destructive consequences of dualism. Ecofeminism can also help us to diagnose racism when it appears alongside environmental destruction, can help us see how the ecological harms are inequitably distributed and spur us to ask why the harms are disproportionately placed on women and people of color—locally *and* globally. Ecofeminism moreover can help to make visible and to correct the rhetorical and linguistic associations between women, people of color, and emotionality that sometimes appear in discursive representations of environmental struggles. And finally, an ecofeminist environmental jurisprudence will help us to use law more effectively as a site of activism.

As famously stated by Catharine MacKinnon (1989:237), "law is not separate from life… a jurisprudence is a theory of the relation between life and law...Law turns epistemology into ontology, law actively participates in [the] transformation of perspective into being". Law reflects the views of dominant groups: men, and white, economically privileged heterosexual able-bodied, etc. persons; converting epistemology—ways of understanding the world—into ontology—the way that the world is. The liberatory legal theories I have discussed here deconstruct the notion that law, legal formulations, and the political and social processes through which law is derived and enforced are neutral; showing that such processes create the very categories which law then purports to regulate. The current state of environmental law tends to view environmental issues as problems for science and not issues of social justice, ignoring the fact that not all groups of humans are situated equally in regard to ecological degradation and exposure to environmental toxins. An ecofeminist understanding of environmental justice law would challenge such assumptions, and push for jurisprudences and laws predicated on the notion that human beings are ontologically *connected*, living in webs of human-nature relationality, and help us to understand the ways in which of oppression for various "out groups," *including nature,* are conceptually and materially entangled. Such an understanding would also assert that the tools and methods of liberation for these groups are related (although are importantly distinct), and that ending oppression in one arena requires that we interrogate the way that similar practices of domination and subordination are at work in other areas of ecosocial life. To the cause of environmental justice such explication of the ways that the poor, persons of color, women, and the more-

than-human world become mutually degraded by economic and social systems that privilege a select few is especially important.[29]

Both ecofeminism and critical race theory have much to contribute to EJ, both through their "cutting edge" analysis of the pervasiveness of racism and gender oppression and their commitment methods of analysis which admit particularized or "local" knowledges and alternate epistemologies into the legal mainstream. Environmental justice advocates such as Robert Collin, Robin Morris Collin,[30] and professor of environmental science Giovanna DiChiro (2001) have argued that local knowledges—knowledge of information as diverse as what time the local factory tends to emit its foulest odors to how many in a particular block have been diagnosed with cancer to who has recently experienced a miscarriage—are absolutely essential in compiling the empirical data necessary to show that a local land use is harmful to a community's human and nonhuman residents. Local knowledge is important as well in the case of Kettleman, where the residents rather than company officials ought be considered the authorities on what the health effects of CWM's waste facility are. Ecofeminism can usefully inform and organize the struggles of those who are combating environmental racism, through its challenge to conventional rationalist, "dispassionate" epistemology and scientific methodology as well as its relentless insistence on examining social and environmental justice together, as products of the same conceptual frameworks and social and economic systems that dominate western culture. The focus of ecofeminism is not simply on women's relation to nature but is a thoroughgoing critique of power; of the way that dominant systems and structures (such as law) perpetuate ecosocial harm. As Noël Sturgeon stated, "feminism isn't just about women but is about power and its

intersections and manifestations."[31] By the same token, environmentalism is not simply about "preserving" nature but concerns itself with the ways in which the more-than-human world is constructed as an Other available for exploitation and degradation. The struggle for environmental justice provides an important opening within law and legal discourse for a rethinking of the relationship between human communities, state power, subordinating practices and institutions, and the natural world in which every human community is embedded.

My final substantive chapter, Chapter V, marks a return to theoretical analysis. Like Chapter IV, it focuses on law as a means of ameliorating the harms of conjoined race, class, gender, and specied oppressions as articulated by ecofeminism, however, this chapter examines certain presuppositions and assumptions contained in law as a metadiscourse that structures the ecosocial world(s) in material ways.

## Notes

[1] Eugene C. Hargrove attributes this recounting to Rik Scarce in his book *Eco-Warriors* in remarks in the foreword to *Faces of Environmental Racism: Confronting Issues of Global Justice* (Westra & Lawson 2001). This story is often retold in the environmental literature, usually for the purpose of discrediting radical or direct action environmentalism for its supposed bias against humans and disregard for human welfare. While there are certainly strains of environmentalism that, especially in their formative years, rhetorically located the value of human endeavors as low relative to the value of intact ecosystems, contemporary radical environmentalisms such as eco- or green anarchism actively challenge the residual anthropocentric discrimination and oppression carried in environmental thought, rhetoric, and action. For an account of ways that contemporary "forest defense" communities in the Pacific Northwest are actively addressing gender, class, race, ability, and other exclusions and oppressions in the context of activist training, see Mallory 2006.

[2] I don't mean to say here that these are the only two varieties of environmental and/or philosophical thought that challenge the nature/culture dualism. But I do maintain that these two theories are the most praxis-oriented, and tie the effects of the dualism most directly to social and political inequities, and for the most part link the theoretical to the material more forcefully than more experiential environmental philosophies such as eco-phenomenology and deep ecology.

[3] I intend "ecosocial" to connote the idea that the social and ecological worlds are not distinct, but rather that human beings, the social and cultural structures which they inhabit, and the environment are embedded in webs of relationality such that ecological, political, and cultural forms should not be seen as ontologically separate but intimately and inextricably intertwined.

[4]For the full memo, see http://www.whirledbank.org/ourwords/summers.html.

[5] To continue this tangential but highly relevant discussion of the "pollution memo" further, here's a serendipitous coincidence that an ecofeminist perspective, that is a perspective that explicates the connections between 1) discriminatory attitudes toward women and people of color (as well as other groups linked to the body, such as queer persons or the disabled) and 2) environmental exploitation, makes visible: A quick Google search revealed that the Lawrence Summers who signed the above mentioned leaked "pollution memo" is the same Lawrence Summers, Harvard President, who on Jan 14, 2005 asserted in front of an audience of top science researchers, many of them women presenting work identifying the social causes of the dearth of women in top science and engineering programs, that perhaps the reason that fewer women made their way into the profession was because women have less "intrinsic aptitude" for math, science, and engineering (Bombardieri 2005). This is also the same Lawrence Summers, who, as president of Harvard, reprimanded African-American Studies professor Cornell West for neglecting serious scholarship and devoting too much time to activism. (http://en.wikipedia.org/wiki/Lawrence_Summers#Cornel_West). At the very least what this case shows is that a "top scholar and intellect" such as Summers can find it ethically and/or rationally compatible to treat people and environments in the developing world as dumping grounds, suspect women of natural intellectual inadequacy, and view scholarship that aims to expose the sources and reasons for racial inequality as not rigorous. Although the Summers case makes strikingly explicit the ways such attitudes go hand in hand, many ecofeminists (such as myself) would argue that the confluence of such views is typical of those invested with and in white supremacist capitalist anthropocentric patriarchal power.

[6] Robert R.M. Verchick(1996) notes how this term, while descriptively useful, fails to adequately "acknowledge the role that sexism, classism, ageism, and other biases play in slanting environmental policy against society's less powerful members. He also notes that "The word 'racism' may also connote the presence of intent, which users of the term do not always mean to imply". In response to this sentiment, however, Bullard argues, citing multiple examples of communities of color forced to accept LULU's (locally

undesirable land uses—renamed PIBBYs (put it in black's back yard) that included in the principles of environmental justice must be a principle which "obviates proof of intentional discrimination" since such proof is next to impossible to establish in a court of law (Westra & Lawson 2001:18-19).

[7] In addition to Westra and Lawson's *Faces of Environmental Racism,* other major figures and texts addressing the subject of environmental justice, with detailed examples of cases and instances, include Robert Bullard (1993; 1994), and Hofrichter and Gibbs (1993). Within the field of law and legal scholarship, Robin Morris Collin and Robert Collin, former professors in the University of Oregon School of Law and Environmental Studies program respectively, figure prominently.

[8] The Church of Christ Report is widely cited and quoted in the literature and is the beginning point for much of the work and activism of the contemporary environmental justice movement.

[9] For a well-researched history of the American environmental movement which traces U.S. environmentalism from its origins in "nature study" as a pastime for the economically privileged classes of the U.S. through the economic and utilitarian-based conservationisms typified by Forest Service founder Gifford Pinchot Theodore Roosevelt, who inaugurated such institutions as the Forest Service and the Park Service, to the current struggle for environmental and gender justice manifested in environmental feminisms, see Merchant 1996.

[10] Please note how such a view, that is a view that challenges the privileging of the more-than-human world present in some environmentalisms, however well it points out the effacement of issues of race within environmental organizations, nonetheless rests on an attitude of speciesism. Speciesism in turns rests on a normative dualism that places humans above the rest of nature. While taking very seriously the concerns raised by communities that have historically been discriminated against, we must be sure not to uncritically accept views which may continue to reinforce intersecting oppressions, even

if expressed by historically oppressed groups. Confronting *human* privilege I suspect will be the most difficult oppression to confront—by *every* human group, including those themselves subordinated—of all.

[11] As reported by long-time feminist environmental union activist Judi Bari in her book *Timber Wars* (1994) (the same activist who was the victim of a bomb planted in her car by unknown assailants (which the FBI refused to investigate or pursue) while on her way to an environmental rally in 1990), which chronicles events in the struggle to save the California redwoods during 19990's 'Redwood Summer' and throughout the 1980's.

[12] The case of Kettleman, CA is widely cited in the EJ literature. My information for this section and my discussion throughout this article comes primarily from the chapter by Robert Melchior Figueroa, "Other Faces: Latinos and Environmental Justice" in Westra & Lawson 2001, and a website (Invisible5) which details struggles for environmental justice along the I-5 Interstate Highway corridor in California, running through California's agricultural Central Valley.

[13] "Chipko" is the women's movement that took place in Himalayan India in the 1980's, in which women embraced trees to prevent them from being cut down by the multi-national logging corporations that were employing most of the village men. (Shiva 1988).

[14] Two concrete examples of attempts to achieve environmental justice are through 1) administrative fiat, and 2) new applications of existing civil rights law. According to a law review article by Bradford Mank (1999:3-13), "On February 11, 1994, President Clinton promulgated Executive Order 12,898 requiring all federal agencies to promote environmental justice 'to the greatest extent practicable and permitted by law.' However, Section 6-609 of the Order limits the ability of citizens to enforce its provisions by specifically stating that it is not intended to create a right of judicial review against the United States. Additionally, the presidential directive issued simultaneously with Executive Order 12,898 requires that federal agencies providing funding to programs affecting human health or the environment ensure that their grant recipients comply with

the anti-discrimination provisions in Title VI of the Civil Rights Act of 1964. However, the directive is not judicially enforceable and does not enlarge existing Title VI rights." Mank notes that Title VI may provide a legal avenue through which to ameliorate environmental racism, but while promising, this means of legal maneuvering remains uncertain. "Because plaintiffs have been unsuccessful thus far in winning environmental discrimination claims under the Equal Protection Clause, advocates have turned the focus to Title VI of the Civil Rights Act because it allows claims based on proof of unjustified disparate impacts. In fact, a major goal of Title VI and the EPA's Section 602 regulations is to prevent recipients of federal funds from engaging in practices that cause disparate impacts. Pursuant to Title VI, federal agencies may not provide funding to grant applicants that discriminate on the basis of race. Section 602 of the statute requires every federal agency to issue regulations that delineate the manner in which the agency will resolve this issue of whether grant applicants or recipients are pursuing policies that have discriminatory impacts. It also mandates that federal agencies establish a framework for investigating and assessing complaints of racial discrimination filed with the agency Since Congress enacted Title VI in 1964, the government has consistently interpreted Section 602 to allow federal agencies to deny funding to applicants that engage in practices having discriminatory effects. Under Section 601 of Title VI, the Supreme Court has required plaintiffs to prove a recipient intentionally discriminated. However, it has also held that an agency may promulgate implementing regulations pursuant to Section 602 that prohibit recipients from engaging in practices causing disparate impact discrimination. The confusing and unconvincing distinction between these two sections continues to cause difficulties for Title VI plaintiffs."

[15] Space here prevents a full discussion of the rich and provocative article in Westra and Lawson (2001:73-91) by philosopher Charles W. Mills entitled "Black Trash" in which he engages Hobbes' notion of the Leviathan-ian 'body politic' as being the "Artificiall Man" [sic]—a metaphorical embodied person whose aspects (nerves, memory, health, soul, sickness, strength)—correspond to political states such as concord, war, etc., in order to show how black people have been conceptualized by political philosophers and

philosophy as corresponding to the "baser" "lower" bodily parts and functions such as excretion and excrement. Mills then ties the dominant cultures' conceptual linking of black people with the body, pollution, animality, and shit with the contemporary reality of spacial racial segregation and the viewing of places and spaces occupied by blacks as repositories for environmental pollution and waste. Such an analysis adds another layer to the claim that critical race theory can enhance the aims of EJ advocates.

[16] Central to feminist projects of all sorts are discussions of dualism: conceptual pairings which posit radical separation as well as radical opposition between members of a disjunct, privileging one side while simultaneously subjugating its companion. Feminist writers find that such dichotomies as male/female, reason/emotion, white/colored, transcendent/material, culture/nature, mind/body, human/animal and theory/practice tend to appear frequently within the process of dualism. Such pairings are gendered, in which the first term is associated with maleness and masculinity, thereby subordinating the female-identified second term. According to many feminist theorists (see Hartsock 1998, MacKinnon 1989, Warren 1990), dualism is the process by which "difference gets construed as domination," suggesting that dualistic thinking depends on notions of dominance and superiority in which gender and sex become sites of struggle for social and institutional power. One of ecofeminism's greatest theoretical strengths is in its analysis of the way in which the more-than-human world is also subjected to the subordinating process of dualism, that nature is perhaps the ultimate "Other" upon which the human self gets constructed.

[17] For a very readable argument concerning the ways that environmental and labor movement activists are not at odds but are political allies who are victims of the same economic and corporate structures in the context of the issue of old-growth forest logging, see Bari 1994.

[18] For an elaboration of the links between global capitalism, colonialism and imperialism, racism, gender discrimination, and environmental harm, see Shiva 1988.

[19] A large number of grassroots antitoxics/environmental justice groups are founded and populated by women who organize themselves around their roles and identities as mothers. One such group currently operating is MOSES (Mothers Organized to Stop Environmental Sins). The group is based in a rural East Texas town of 500 called Winona, where an oil company placed a large untreated toxic waste facility within close proximity to a working-class white, Latino, and African American community. When women of the community began noticing numerous health problems, especially to children, they organized the group and attempted (successfully) to get the facility shut down. According to a photographer who agreed to chronicle in pictures the plight of the residents of Winona,

> "The community was originally told that Gibraltar [later named the American Ecology Environmental Services toxic-waste facility] would install a salt-water injection-well facility and plant fruit orchards on the remaining land. Instead, trucks and trains from all over the U.S. and Mexico came to Winona to dump toxic waste into the open-ended wells. No fruit orchards were ever planted.
>
> It was not until 1992, when the residents began to fear the long-term effects of the various emissions and odors emanating from the facility, that Phyllis Glazer formed Mothers Organized to Stop Environmental Sins (MOSES). In March 1997, the facility announced its shutdown, citing continued opposition by MOSES as the reason. Winona children suffer numerous health problems: birth defects, rare tumors and cancers, stunted growth, brain and liver damage, kidney malfunction and failure, skin discolorations, immune deficiencies, and chromosomal abnormalities (genetic mutations). Most residents attribute many unexplained illnesses and some deaths to the American Ecology facility." (Cromer-Campbell 2000)

This case raises another issue: the identification of women with motherhood in the context of environmental activism is very problematic for ecofeminism. Some theorists, such as Catriona Sandilands (see Sandilands 1999), dismiss such appeals as "motherhood environmentalism" and say such rhetoric dangerously essentializes women as 'natural' caretakers or reproducers. Others such as Noel Sturgeon (see Sturgeon 1997) say that such actions can be seen as a "strategic essentialism" in which women play on the currency of social expectations of women and motherhood as a tool in the struggle for

ecological health. It is interesting to note that MOSES seems to contain an explicit (although not theoretical) critique of patriarchy: one link on their website takes one to pictures and names of various governmental and industry officials considered to be complicit in the deception of the community, and is aptly and ironically titled, "Sins of the Fathers." (The group is still active and is seeking reparations for the harm done to residents' health and economic base as a result of the dumping).

[20] See Steingraber (1997), Williams (1992).

[21] See fn #19 on "motherhood environmentalism."

[22] See MacKinnon1989, Higgins 1995, Rhode 1993.

[23] Examples include the affective and reproductive labor involved in such traditionally feminized tasks as caring for children and performing housework, as well as the sexual services provided by women in the context of heterosexual relationships. Yet another interesting example of the connections between women's oppression and the oppression of the natural environment can be seen in the way that capitalism devalues the labor performed by both women and nature in sustaining life. At a 2003 environmental law conference in Eugene, Oregon, Lois Gibbs, the "activist housewife" who is now a renowned leader in the EJ movement, reported how Hooker Chemical, the company responsible for the contamination at Love Canal, determined the monetary damages to be paid to each family. Utilizing a common formula, compensation was based on the loss of potential future earnings due to health problems for each resident exposed to the toxic substances. Her husband was a blue-collar worker, and it was assumed their son would pursue similar employment, so they were compensated for calculated future earnings in such a profession. It was also assumed that Lois Gibbs' daughter would follow in *her* footsteps as well, and become a housewife. Since household labor is "unproductive" in dominant Keynsian free-marketeconomy capitalism, both Gibbs and her daughter were determined to not contribute economically to the family nor suffer potential monetary loss due to health problems from the pollution. Accordingly, Gibbs and her daughter's

life and health were determined to be valueless, monetarily, in Love Canal reparations. The life-sustaining work done by natural systems in filtering, cleaning, providing, and producing food and materials is also requisite for human and non-human life and yet can only be deemed '"valueless" under standard economic theory as well. For further explication of this point, see the work of feminist economist Marilyn Waring (1988; 1995).

[24] See, for example, Forell & Matthews 2000.

[25] For a basic background of critical legal studies, see Balkin 1987, Stick 1988, Goodrich 1993. John Stick (1988:408-9) identifies two major strains of CLS, which he calls a "dominant" tradition and a "countertradition". The dominant tradition "is held together by a common background story...[about the America legal system that states that] it retards progressive political change by making the existing institutional structure of the country seem 'natural rather than contingent (or socially chosen)". The second major strain, according to Stick, includes writers who have more overt political motivations and projects such as ending racism and sexism. It is this latter strain that is more useful to environmental justice advocates, and the vision of law that I am relying on throughout.

[26] However, at least one legal scholar has looked at potential links between feminist theory, ecofeminism, and environmental justice. Robert Verchick (1996:32) argues how the "feminist tools of unmasking, contextual reasoning, and consciousness raising" are able to specifically come to the cause of environmental justice advocates, by applying ecofeminist principles and perspectives. After reviewing several instances in which communities (led by women activists) believed themselves to be negatively affected by local polluting industries and sought governmental help only to be rebuffed or patronized with responses indicating that they "didn't understand the science" and that scientific risk-assessment indicated that the communities were within "acceptable risk" categories," Verchick writes that feminist methods and perspectives can be very useful to "question the assumption that scientific inquiry is value-neutral", and to bring about the realization

that "Western science may be infused with its own ideology, perpetuating, in the view of the ecofeminists, cycles of discrimination, domination, and exploitation." Verchick writes that

> Debates about scientific risk assessment and public values often appear as a tug of war between the 'technicians' who would apply only value neutral criteria to set regulatory standards, and the 'public'.... Environmental justice advocates...argue convincingly for the latter position....
>
> A feminist critique of the issue, however, suggests that the debate is much richer and more complicated than a bipolar view allows. For feminists, the notion of value neutrality simply does not exist. The debate between technicians and the public, according to feminists, is not merely a contest between science and feelings, but a broader discussion about the sets of methods, values, and attitudes to which each group subscribes. Furthermore, feminists might argue, the parties to this discussion divide into more than two [dualistic] categories (Verchick, 32).

Therefore, both Verchick and I are in agreement, an explicitly feminist perspective is necessary to tackle problems of environmental injustice.

[27] Balkin, p. 408; on the potential of law as an agent of social change, see also MacKinnon 1989, Cornell 1991.

[28] This last statement regarding the law's tendency (by design, some argue) to maintain the epistemic and material power and privilege of dominant groups is largely representative of the central argument of much feminist jurisprudence. For explications for how this tendency appears in such matters as sex, employment, motherhood, and violence against women, see Smith 1993 and Maschke 1997.

[29] Robert W. Collin and Robin Morris Collin, "The Role of Communities in Environmental Decisions: Communities Speaking for Themselves" *13 J. Environmental Law and Litigation 37* (University of Oregon) 1998, p. 39. "In communities," these environmental law scholars further note, "the interaction of the environment and human health are inextricably, inescapably intertwined. Yet communities and their residents are

often the least involved in making environmental decisions that affect their immediate well-being" (p. 39).

[30] Collin and Patricia Hill Collin, 1998.

[31] Stated during a guest visitation and lecture in my course on "Ecofeminism" at the University of Oregon in the Winter of 2001.

# CHAPTER V

# THE POWER AND THE PROMISE OF AN ECOFEMINIST LEGAL THEORY;

## OR

## SKETCHES TOWARD 'ECOFEMJ'

*(This paper will be submitted to* Feminist Legal Studies*)*

**"(E)cofeminism contains an inherently democratic political vision, even if that vision is not stated as explicitly as it might be....Ecofeminism needs to be located in the context of contemporary democratic theory more generally in order to understand both how ecofeminism might be enriched by a conversation with democratic political principles and how it might contribute significantly to this ongoing conversation."**

Catriona Sandilands, *The Good-Natured Feminist: Ecofeminism and the Quest for Democracy* (1999, xvii)

**"I believe that progressive workers in both the law and the feminist movement can do more...If as feminists we seek real justice, democracy, and community, we will need to develop plans for consciously prying ourselves and the rest of society away from past addictions to the concepts and practices of formal equality, [women's] movement orthodoxy, and liberal individualism so as to make room for the embrace of the dignity of needs, the authenticity of difference, and the inevitability—indeed beauty—of interdependence..."**

Maivân Clech Lâm, "Feeling Foreign in Feminism" (1994, 889)

**"Feminists have always considered the law a key factor in reproducing, and obscuring gender inequality. Feminists have also relied on law to relieve women's oppression and to improve women's social and economic positions."**

Ava Baron, "Feminist Legal Strategies: The Powers of Difference" (quoted in Grana 2002, 40)

## Introduction

I have chosen these quotes from feminist legal and political theorists to open this article because of the way that each one highlights the way that feminism is simultaneously a facet of and a challenge to traditional modes of political theorizing. Each statement additionally highlights the importance of using democratic structures and discourses (such as law) to bring about the call for justice, equality, and liberation sounded so fervently for so long by feminists. In this paper, I offer the modest—but potentially revolutionary—proposal that those engaged in feminist analyses and applications of law ought to be involved in ecofeminist political projects, including the effort endorsed by some ecofeminists to construct better models of political and legal representation for the more-than-human world. To this end, this article effects a bringing together of the political projects of both ecofeminism and feminist jurisprudence through 1) an analysis of the way that each of these feminisms locates oppression in particular features of western political discourse, particularly in discourses of dualism and related discourses that validate and valorize the ecosocial ontological autonomy of the liberal political/legal subject, and 2) the way that the central categories of the law interpolate into political discourse false universals that efface or render voiceless oppressed groups and mask the specificity and particularity of dominant groups that make, apply, and police the law. On one level, what I present here focuses on a shared critique by both ecofeminism and feminist jurisprudences of dominant ideas held by patriarchal institutions such as law. There are important similarities between ecofeminism and

feminist legal theory that feminists of any stripe ought to be aware of. But on another level, this article also embraces the long-standing feminist project, enacted so well by feminist jurisprudences, of looking to the law and political praxis more generally to ameliorate oppression, through the revelation of the way that the law's own fissures and inconsistencies can be reflexively re-deployed in order to make the law more just, more equal, and more liberating for all.

## Feminist Jurisprudence and the Masculinism of Liberal Law: Ontological Assumptions

I'll begin by sketching some of the major features of feminist jurisprudence. As many know, the major critical project of feminist jurisprudences—feminist analyses of the underlying theories and assumptions upon which law, legal reasoning, and judicial decision-making is based—is to expose the ways in which Anglo-American legal discourses[1] and the institutions they uphold are a) masculinist (and/or patriarchal);[2] b) often do not adequately serve the interests of women; and c) operate so as to create and reinforce gender inequality in society (Smith 1993, introduction). Three decades of feminist legal scholarship has exposed key assumptions about "human nature" contained by dominant understandings of law, assumptions that are basic to the general liberalist ideology upon which law in western society is founded. Specifically, law in our society contains certain ontological assumptions, and liberal political philosophy of the sort which characterizes the received view of major "canonical" figures in Anglo-American political thought[3] carries and reproduces the ontological belief that human society is comprised of discrete, atomistic, isolated individuals, relating only externally and more or

less at will, who because of this purported atomistic individuality possess certain economic and personal entitlements which can best be expressed, defined, and protected through liberal political tools such as rights-talk and the social contract. This belief, which I call the *thesis of ontological separatism*, holds that humans are essentially separate from one another and especially from the natural environment we inhabit.

Before continuing on I must insert an important disclaimer that situates the perspective from which I am presenting this critique of liberalism. When I discuss "modern" or "liberal" philosophers/ies I am not referring here so much to what these historical thinkers actually said or engaging in my discussion in light of alternate interpretations as I am talking about the *received view* of modern philosophies that repudiate (feminine) dependency and celebrate (masculine) objectivity. So even while I accept and take up the critique of figures such as Descartes, Hobbes, Locke, et al. that has appeared in much feminist theorizing, I wish to acknowledge the way such critiques are sometimes founded on distortions of the actual theories and/or fail to pay sufficient attention to important differences and disputes among the theorists and their contemporary interlocutors. However, I engage in this critique because I am in agreement with Susan Bordo and others who have produced feminist "re-readings of the canon" that it is the *way* that certain political figures have been read and used, i.e. *received*, that has proven problematic for women, nature, people of color, and other oppressed groups.[4]

Returning to the discussion of feminist jurisprudence, one particularly central claim, and a claim with which I agree and provides the basis for my argument here, is that underlying the law is a normative concept of rationalism which privileges and reifies a belief in epistemic and moral universality and objectivity. For example, the feminist

legal scholar Catharine MacKinnon, in her classic *Toward a Feminist Theory of the State*, states that it took a feminist political consciousness to expose "a relation between one means through which sex inequality is produced in the world and the world it produces: the relation between *objectification*, the hierarchy between self as being and other as thing, and *objectivity*, the hierarchy between the knowing subject and the known object. Epistemology and politics emerged as two mutually reinforcing sides of the same unequal coin" (MacKinnon 1989, xi). Here MacKinnon highlights what many other feminists have remarked upon as well, that the "objective" standard so touted in science, law, and politics as the means to discovering "truth" in actuality is not a value-free method employed by the neutral, objective, dispassionate and detached Cartesian observer but rather a method deployed to mask the situatedness of the observer while simultaneously casting the "object" as existing for the sake of the one doing the observing. Hence, for MacKinnon, the etymological closeness between "objectification" as the process through which women are sexually subordinated by men and "objectivity" as a term which connotes a knowledgeable and powerful subject who "discovers" and reports on, and ultimately commands the passive and mute "object" shows the unequal power relationship –i.e. the politics—that is exposed through the law's claim to neutrality. Since women's unequal power with men is produced by and reflected in women's sexual subordination, law, when it takes a "gender-neutral" "objective" stance is in actuality taking the point of view of the already powerful, in ways that ensure the maintenance of that power. Let's consider an example.

Feminist jurisprudentialists argue that law premised on what I am calling the thesis of ontological embeddedness would produce better and more inclusive methods of legal decision-making than the conventional legal standard of applying in rote fashion abstract and depersonalized legal rules, a method which is considered "fair" and "objective" simply because the rules purport to be neutral and universalizable. The problem with conventional legal approaches, say feminist scholars, is that such standards (based on what is usually termed an "ethic of justice") ignore legally-relevant differences between the situations of men and women, especially difference that is itself constructed by unequal power relations, and assume that all "normal" experience is congruous with the experience of the racially and gender unmarked "average" man. The paradigmatic example of this occurs within rape and sexual-harassment law, where it is precisely because women within patriarchal society are perpetually vulnerable to sexual victimization (MacKinnon notoriously argues that this is a large part of the definition of "woman" itself, under patriarchy), that women need legal protection, and yet the law, fixated on enforcing an abstract notion of neutrality, is unable to provide the needed protection because to interpret the law from the perspective of the woman who is harrassed and violated would be, according to traditional jurisprudence, "biased" and thus "unjust."[5] Thus the viewpoint that claims to be the view that putatively all "reasonable persons" would agree upon (it is telling that this has until recently been called the "rational man" standard),[6] is in actuality privileging the perceptions and social reality of dominant groups.

The belief in atomistic individualism and epistemic objectivity, according to many feminists, is a patriarchal[7] viewpoint which, say feminists directly excludes the

perspectives of women as a group,[8] who, as a diverse range of feminist work has shown,[9] instead tend to experience themselves as embedded and entangled in webs of relationships with concrete others. This perspective I call the *thesis of ontological embeddedness*, and such an ontological assumption has important implications for the development of a jurisprudence able to take into account the needs and interests of the more-than-human world. [10] Feminist legal theorists draw upon this basic feminist insight to analyze how the law makes assumptions about the ontological status of persons in ways that are frequently contrary to the ways that people—especially women—experience their lives. Thus one of the main goals of feminist legal theory is to explain this difference in the way that women and men experience themselves in the liberal state, [11] and to persuade legal institutions that they will be more just and socially efficacious if they take account of the particularities and specificities which make up women's (and men's) experience.

**Ecofeminism, Feminist Jurisprudence, and Ontological Embeddedness**

Thus far I have only provided a broad overview of the basic arguments and claims of feminist legal theory, focusing especially feminist jurisprudence's critique of autonomy, rationality, and objectivity and its normative and epistemological commitment to ontological separateness. I'll now begin to paint with soft brushstrokes my own view regarding the usefulness of feminist critical understandings of law to ecofeminism, and of ecofeminism's usefulness to feminist jurisprudence. Such a view of the shared ontological assumptions of feminist jurisprudences and critiques of rationality, I show,

offer not only an account of how the two projects can fruitfully engage, but also, I suggest, indicate ways that feminist jurisprudences will comprise an enlarging compliment to ecofeminist political philosophy. Let's look further at the similarities regarding the character and qualities of humanness and human locatedness in an ecosocial world (a social world embedded in, and interacting with, the ecological one) assumed by both ecofeminism and feminist jurisprudences.

Analogous to the feminist challenge to the notion that human beings are fundamentally separate from one another, ecofeminists and other environmental philosophers challenge the assumption that human beings are fundamentally separate *from the rest of nature*. In mounting such a challenge, ecofeminists simultaneously interrogate the widespread belief in a natural hierarchy[12] of beings, arguing that this assertion of "natural fact" has conveniently served to posit humanity as ontologically and ethically primary. In a manner similar to the way that men in patriarchal culture enjoy male privilege at the expense of women, or white people consciously or unconsciously benefit from historical accretions of racism and beliefs in white supremacy, human beings view themselves as superior to and entitled to dominate beings and entities in the more-than-human world.[13] This, in environmental philosophy, is the problem of *anthropocentrism*— seeing the world from a human-centered point of view and believing persons to be superior to or "above" nature.[14]

As I have already indicated, there are profound similarities between the masculinist (or what at least one ecofeminist author has called the androcentric—"male centered"[15]) viewpoint of law and the anthropocentrism that riddles our systems of value and ecosocial practice. Therefore, eradicating the multiple structures of oppression

requires that a jurisprudence be constructed which addresses gender and environmental issues simultaneously. Ecofeminism, because it maintains that there is no way to escape anthropocentrism without also overcoming androcentrism, [16] is the discourse through which this project can best be extended. Feminist jurisprudence would, on this account, benefit from exposure to the insights of ecofeminism. Concomitantly, constructing a transformative environmental jurisprudence will require that attention be paid to the ways in which gender oppression focuses and propagates harms to the natural world.

To make my argument for the foregoing, the remainder of this article will be structured as follows: First, I'll begin by asking *why does feminist jurisprudence need ecofeminism?* The answer will lie in understanding 1) that the cultural forces that perpetuate anthropocentrism intensify androcentrism; 2) that women and nature are both objectified, exploited, and dominated by these cultural forces; 3) that the thesis of the ontological embeddedness of human beings in contexts of physical, psychological, political, and affective relationships embraced by feminist jurisprudences does not end with the human, but extends into the more-than-human world; and 4) that the principle of justice that feminists legal theorists argue is violated through social and legal practices of sexism, namely that those whose lives and possibilities for flourishing are deeply affected by law are not allowed sufficient opportunities for self-representation and to be heard in the development and implementation of the law; is *also* violated in the case of beings and entities in the natural environment.

Second, I explicate the reasons why *ecofeminism is benefited from engagement with feminist jurisprudence*. These reasons involve showing 1) how the law systematically effaces the presence and welfare of the beings it affects. The way in which

this functions is a species (I use this term advisedly) of the false universality discussed earlier that feminist jurisprudences identify as perpetuating the exclusion and oppression of women within life and law, and ecofeminism will benefit from the analysis and remedies provided by feminist jurisprudences.

Lastly, I end with a preliminary presentation of what a feminist legal theory that takes ecofeminism seriously might look like and *not* look like. This will occur through a critique of the well-intentioned but ultimately counterproductive attempt by legal scholar Christopher Stone to achieve rights for "natural objects" and an exploration of the alternate model for human-nature interactions articulated by ecofeminist philosopher Karen Warren.

## Feminist Jurisprudences' Need for Ecofeminism

Let's look in detail at the four reasons outlined earlier concerning why feminist jurisprudence, in order to truly achieve its' aims of ending the use of law as a tool of oppression and deploying law, legal reasoning, and legal practice as a liberatory force for change, must incorporate ecofeminist understandings of the co-linked subordination of women, nature, and other oppressed groups into its analysis.

### *Ecofeminism and Value-Hierarchal Thinking: Linking the Oppression of Women and Nature*

What are the cultural forces that maintain androcentrism that will continue if feminist jurisprudence fails to take account of ecofeminist insights? Consider some of the

basic analysis of oppression presented by ecofeminist philosopher Karen Warren in her landmark and much-anthologized essay, "The Power and the Promise of Ecological Feminism"(1990). In this well-known article, Warren offers a helpful discussion of "oppressive conceptual frameworks," that impact women, the "feminine identified" (those persons and beings who in western thinking are associated with the body/materiality and/or the non-rational), and the natural world. According to Warren, an oppressive conceptual framework is way of viewing the world in which "reality" is stratified and ordered hierarchically in such a way that some being or entity (e.g. humans or men) are placed "above" and are entitled to exploit and/or disregard whatever is "below" (nature and women). Such systems depend on the "logic of domination," a reasoning that holds that first of all there is indeed something which is "above," and secondly that whatever occupies this position is then entitled to physically/sexually/economically dominate whatever exists "below." According to Warren and of course many others, women and nature have both been conceptually linked with the realm of the physical/corporeal, whereas men and maleness are assigned to that which is "mental," "rational," and/or "spiritual." Many who have studied the traditional western philosophical canon have noted the repudiations of corporeality and valorization of the cognitive present in influential thinkers stemming from Ancients such as Plato and Aristotle, medievals like Augustine and Aquinas, through moderns including Bacon, Locke, and Descartes.[17] Thus a persistent goal of philosophy, is to "transcend" the physical in order "ascend"—figuratively, to the realm of pure, abstract thought.[18] Any political, social, or cultural system which carries and reproduces this belief in the essential dangerousness/deceptiveness of nature and the feminine and the superiority of

culture and masculinity must therefore suppress actual women and repudiate its ontological connections to material nature.

The effect of this sense of disregard and contempt of nature produced by enduring western philosophical legacies such as these is denial of the fact that humans are embedded in and dependent upon our ecosocial connections with the more-than-human world—in other words, it they effectively deny of the fact of ontological embeddedness. Such an attitude manifests in the material practices that contribute to ecological crisis—the depletion of fish stocks and habitats so severely that a recent study indicates that in 40 years there may be no harvestable fish left in the ocean, the near-elimination of old-growth forests, factory farming and meat-eating practices, the release of cancer-forming toxins such as dioxin and PCBs in air and waterways, anthropogenically-caused global warming…—the list is dismayingly endless. But to do this, to deny that we are embedded in, dependent upon, and deeply affect and are affected by the ecosphere is, as the current ecological crisis reveals, acutely hazardous as well as profoundly immoral. Through our destructive industries and practices and capitalist consumerist behaviors we imperil not only our own lives but the survival of countless other entities on the planet. Because ecofeminism insists that there are deep connections between the social domination of women and other oppressed groups and the material degradation of nature, that these are actually twinned manifestations of an oppressive patriarchal conceptual framework based on value-hierarchical thinking, ecofeminists contend that any attempt to end sexism must also address environmental issues, and simultaneously any self-consistent brand of environmental ethics must also be feminist.[19]

If one accepts the ecofeminist account of the conceptual, historical, and material links between women and nature, then the import of this for feminist jurisprudences is that at a minimum all feminisms and feminists, including feminist theories of law, should pay attention to ecological concerns, should care about the conceptual and material links between the oppression of women and nature and the political ramifications that follow. Beyond simple solidarity and conceptual consistency, however, my position is that those engaged in the production of feminist legal theory in particular are positioned in such a way to most forcefully and efficaciously address the ways that gender, race, and ecological oppressions are intertwined and co-constituitive, precisely because of their well developed critique of conventional masculinist approaches to fundamental political conceptions of justice, equality, and representation, as well as prefigurative look to the law as a tool for liberatory change.

*Women, Nature, Objectification, and Exploitation*

Let's continue with the ways in which the projects embraced by ecofeminism and feminist jurisprudence are conceptually tied, by asking, how does the feminist legal analysis of the way in which women are sexually exploited cohere with ecofeminism's analysis of the ways in which environmental destruction gets sanctioned in industrial capitalist culture? MacKinnon famously writes that women are socially constructed to be weak, passive, unresistant to male power, that which is fuckable.[20] The state figures largely in this construction. One sentence in *Toward A Feminist Theory of the State* says, "Socially, femaleness means femininity, which means femininity, which means

attractiveness to men, which means sexual availability on patriarchal terms" (1989,110). Carolyn Merchant, in the ecofeminist classic *The Death of Nature* (1980, ch. 1), explains that because early medieval Europeans viewed nature and the earth as their "mother," when the proto-machinery of the modern era first began ripping ore from the hillsides in large-scale mining operations, to the popular imagination it was as though "she" were being raped. If ecofeminists are right that in the present patriarchal culture women and nature are inextricably linked, that nature is perceived of as essentially female and women are essentially natural (whereas men are cultural) and both then, are of course known to patriarchal epistemology as the "other," then in terms of an ecofeminist theory of law we might adapt MacKinnon's sentence in the following way: "Culturally, nature is female. Socially, femaleness means femininity, which means attractiveness to men, which means sexual or economic or material availability on patriarchal terms, which means that nature is both feminine and attractive because we have made sure through the logic of domination to culturally construct nature as weak and passive and available/exploitable/violable on male terms."

The value of the analogous comparison I have just made is that it explicitly links the sorts of ecological harms perpetuated by the human species to the sorts of harms visited upon women by the state when it is dominated by patriarchal values, thereby enabling feminists and others interested in ending oppression to better understand the political ideologies with which they grapple. When it is recognized that what lies at the root of environmental degradation is a set of historically-developed values and beliefs that have conceptually located human beings as the overlords of nature, it can be readily seen that to place women in a similar subservient position is both logically consistent[21]

and ecologically dangerous. If through our collective and personal actions both "large" (our political institutions and practices, modes of discourse) and "small" (our individual lifestyle decisions and the foods we choose to eat) humans continue to behave as though literally everything else is here exclusively for the satisfaction of our capitalistically-distorted wants, then we are contributing to the unsustainability of the earth's life-processes, endangering our own selves, and immorally contributing to the demise of other beings, entities, and processes in nature. This is where feminism and ecofeminism become so useful for political analysis, for they tell us that our ethics serve us best when they are contingent and contextual, not universalistic and abstract. They are useful because we are embedded in context, and intricately and inextricably tied to one another and all of material nature. We exist in relationship, with other humans, with animals, with the more-than-human world, and our interest in survival and flourishing is tied to the survival of other entities on the planet in a way strikingly similar to the manner in which men's flourishing is tied to the liberation of women.

*Ecofeminism and the Thesis of Embeddedness*

Continuing with our depiction of the ways that the cultural forces that foster anthropocentrism also foster androcentrism, let's look at the ways that feminist jurisprudences' analysis of oppression is extended through engagement with ecofeminism and specifically the thesis of ontological embeddedness elaborated earlier.

Environmental philosophers, drawing on empirical information about our world from the science of ecology as well as experiential/phenomenological lived knowledges

regarding the human/nature co-interaction, recognize the ethical importance of the biological fact that we live in webs of relationality to other creatures and processes in the biosphere. Ecofeminists know that women have largely been culturally conditioned to experience themselves as fundamentally connected, and that this sense of connectedness can be liberatorily extended to the natural world. Like feminist jurisprudentialists, ecofeminists readily recognize that such moral and legal concepts as "rights" and "the social contract" often are inadequate, are based on faulty and exclusionary premises, or simply do not apply to those whose experience is *not* one of atomistic individuality and ontological separation, such as children, or mothers, or partners, or the disabled, or beings in the more-than-human world. Thus we begin to really appreciate the bridge between and the deeper relatedness of these projects, ecofeminism and feminist jurisprudence. But while the take home point, that we are not only embedded in webs of relationships with other humans but with a vast, deep, and diverse ecosocial world, is simple to grasp in theory, to acknowledge this truly will revolutionize feminist legal praxis.

*Violation of the Principle of Representative Justice*

My final point regarding the reasons that feminist jurisprudences need to incorporate an ecofeminist analysis has to do with their shared recognition of exactly what it is that is wrong with the sexist exclusion of women and women's voices from the political and legal affairs and proceedings that affect them. Put forcefully, it's a form of tyranny—a taxation without representation, if you will.[22] When women are not allowed sufficient and authentic participation in law and legal reasoning, then women are unjustly

effaced and oppressed by one of the most influential and lifeworld-structuring institutions in society, one whose reach we cannot escape and to whom we must often turn in order to achieve redress to alter existing states of oppression. Feminist legal theorists rightly point out the way this deeply offends one of our most important principles of justice, the principle that states that those whose lives are affected by particular proceedings ought have a say, ought to be given sufficient representation, in the way those proceedings occur.

By the same token, when law—including, but not limited to, property law and environmental law—makes decisions that affect the well-being of myriads of non-human beings and entities without taking the perspectives of the more-than-human world into account, and without getting them meaningfully involved in the political process, then law is excluding the voices of those whose power and authority it touches. Inuit First Nations People living in the legally-protected Alaska National Wildlife Refuge that profit-driven oil companies wish to have access to in order to produce what the best estimates say are 10 years worth of oil at present rates of consumption can testify before congress on behalf of themselves, but not on behalf of the caribou whom they regard as belonging to their community (so much so that their identity as a people is dependent on the migration and return of the caribou—without them they are not a people).[23] This means that the caribou, whose calving grounds, and thus their ability to reproduce themselves, are in peril from the proposed new drilling, are not permitted a voice in the proceedings which for them mean life or death. Since at least the time of the struggle for women's suffrage and abolitionism, feminists and anti-racists in America have

recognized the profound injustice of such practice of legal exclusion for women and blacks. It is time that human beings also began to recognize the concomitantly unjust exclusion of the *more-than-human world* in legal life. Feminist Jurisprudences must see the struggle to include nature in our political and legal processes as a continuation of their concerns.

The foregoing has been the reasons I maintain that feminist jurisprudences need to incorporate an ecofeminist perspective. More discussion of rights, and the possibilities and limits thereof, will occur in the next section, which will present an explorative model of what a new model of law that incorporates ecofeminism—EcoFemJ—might look like and *not* look like.

## Why Ecofeminism Can Benefit from Feminist Jurisprudence

### *The Shared Critique of Rights*

To provide a more direct example of the shared critique of ontological separatism held by ecofeminism and feminist jurisprudences, let's look at each theory's critique of legal rights and rights-talk as the preferred method of obtaining moral and legal standing for disenfranchised groups. Feminist legal theorists argue that the concept of rights is overly masculinist in that it is founded on the thesis of what I have called ontological separatism, and that such a legal/political device presumes that human beings are fundamentally individualistic and potentially in perpetual conflict. From an environmental ethics standpoint, one early objection launched by feminist animal rights theorists such as

Mary Midgley[24] and Mary Anne Warren[25] to rights-talk centered on the emphasis on what is called "moral autonomy" –the familiar Kantian notion that in order for a being to receive moral consideration said being must be capable of reciprocating moral respect and duties. The criticism these theorists raised early on in debates about the moral and legal standing of non-human animals of conventional animal rights theories as overemphasizing the capacity to reason resonates with the feminist and ecofeminist positions: if one embraces an ontology of connectedness then rights language is not appropriate when applied to the moral interests of animals, or more-than-human natural entities, because the language of rights is predicated on the liberalist political ontology of atomistic individualism which supposes that we (all those morally relevant) are able to freely negotiate with other rational, self-aware individuals in regard to which of our "inalienable" rights we are willing to modify or forego in exchange for other benefits. This is what Mary Anne Warren means by "moral autonomy" explaining that,

> Moral autonomy is the ability to act as a moral agent, that is, to act on the basis of an understanding of, and adherence to, moral rules or principles.... [But] if moral autonomy...is a necessary condition for having moral rights, then probably no nonhuman animal can qualify.... But why, we must ask, should the capacity for autonomy be regarded as a precondition for possessing moral rights? Autonomy is clearly crucial for the exercise of many human moral or legal rights, such as the right to vote or to run for public office. It is less clearly relevant, however, to the more basic human rights, such as the right to life or to freedom from unnecessary suffering. The fact that animals, like many human beings, cannot demand their moral rights (at least not in the words of any conventional human language) seems irrelevant." (Hargrove 1992, 194)

Thus Warren points out the limits of conventional anthropocentric masculinist reasoning regarding the capacities one must possess in order to exercise one's legal rights in regard to what are called animal rights. Feminists too, especially feminist legal and political theorists, have criticized the prerequisite characteristic of autonomy—envisioned as patterned after male experience-- presumed and demanded by liberal political theory. Political theorist Christine Di Stefano writes that "The 'malestream' concept of autonomy captures, in an especially compelling and efficient way, the modern discovery and valuation of freedom, reason, and agency housed within a conception of the self as an independent and reflexive rational chooser" (Hirschmann & Di Stefano 1996, 198-199). What it is that both feminist political theorists such as Di Stefano and ecofeminist animal rights theorists such as Mary Anne Warren are drawing our attention to is the way in which the central political categories and capacities for the exercise of political agency (such as autonomy) are founded in the liberalist ontology of separation. Emancipating both women and beings and entities in nature will require a radical re-thinking of what we unquestioningly take to ground representation in legal political life.

A second objection, alluded to by Mary Ann Warren in the earlier passage regarding the limits of rights-talk focuses on the assertion made by many that in order to possess rights one must be able to assert them in recognized ways and in accepted political sites, such as courts and legislatures and the like. The problem with such a requirement is that it excludes non-humans from moral consideration because beings in the more-than-human-world do not possess the type of being that would allow them to participate in identifiable political discourse, presumably the only arena where rights are

made intelligible and meaningful. Again, an appropriate response to this objection, say ecofeminists, would be an ethic based on what ecofeminist animal welfare theorist Carol Adams (1990) calls "embodied knowledge"—the ethical intuition based on shared sentience that killing animals, without strong justification, is wrong; as opposed to an appeal to a depersonalized, rational, "neutral" principle of moral rights founded on the notion that we are fundamentally individual rational actors concerned with our own welfare, and in conflict with others in the ecosocial world.

Ecofeminist political philosopher Val Plumwood shares this view that philosophies which present their ideas in a mode of discourse which privileges the masculinist valuation of the rational, abstract, and universalizable—modes which focus on "rules" that on a political level become "rights"—are part and parcel of what has led to ecosocial crisis. Regarding rights talk for nature, observes that

> Rights [such as "rights for nature"] seem to have acquired an exaggerated importance, and their status as ethical focus, as part of the prestige of the public sphere and the masculine, and the emphasis on separation and autonomy, on reason and abstraction. A more promising approach for an ethics of nature, and also one much more in line with the current directions in feminism, would be to remove rights from the center of the moral stage and pay more attention to some other, less dualistic, moral concepts such as respect, sympathy, care, concern, compassion, gratitude, friendship, and responsibility. (Warren 1996, 160)

These sorts of considerations are "much less problematically extended" to nature than are concepts such as rights, argues Plumwood, because they view the self as,

Plumwood and I agree, embedded in relationships with others, instead of either being radically separate or completely subsumed. So perhaps rights talk is not the correct way to go in order to establish a meaningful feminist theory of law that is able to address the needs, welfare, and right of representation of the more-than-human world.

## Christopher Stone and the Extension of Rights: Humans and the Guardianship of Nature, or, Is Nature an Imbecile?

So at a minimum, the feminist and ecofeminist critique of rights-talk rests upon the revelation that rights, as they have been conceived in the liberal state, depend for their deployment on an ontologically-separate individual rights holder who requires rights to protect "him" from those with whom he is in perpetual conflict— the Hobbesian war of "all against all" that under standard liberalist jurisprudences is the pre-political state that the existence of government power mitigates and manages. But many have, and continue, to propose the use of the language of rights in order to protect beings and entities in the more-than-human world. Aren't their beneficial uses of legal rights that can used to improve the standing of the more-than-human world? I'll explore these questions by examining a proposal for rights for nature articulated by a legal theorist explicitly *sympathetic* to environmental concerns and the well-being of non-human entities.

In 1972 Law Professor Christopher Stone penned a law review article entitled "Should Trees Have Standing: Toward Legal Rights for Natural Objects,"[26] oft-reprinted in textbooks on environmental ethics and environmental policy, Stone traces our thinking regarding the granting of moral and legal rights to those regarded as subordinate. Stone

opens his treatise by noting that not every group now considered to be unquestionably entitled to moral and legal standing has always been considered so.

> Take, for, example, children. We know something of the early rights-status of children from the widespread practice of infanticide—especially of the deformed and female. (Senicide, as among the North American Indians, was the corresponding rightlessness of the aged.)…
>
> The legal rights of children have long since been recognized in principle, and are still expanding in practice…We have been making persons of children although they were not, in law, always so. And we have done the same, albeit imperfectly some would say, with prisoners, aliens, women (especially of the married variety), the insane, Blacks, foetuses, and Indians. (DesJardins 1999, 203)

One of Stone's key intentions in his opening section is to expose how "unthinkable" it was each time that it was suggested that a previously disenfranchised group—e.g. blacks, women, Indians, children—was entitled to moral and legal rights. This, states Stone, is because "we are inclined to suppose the rightlessness of rightless 'things' to be a decree of Nature, not a legal convention acting in support of some status quo" (DesJardins, 1999, 204). Stone describes the legal status of non-human entities such as rivers and trees under current law as being regarded as mere objects and things for the use of humans, and notes that a serious obstacle to environmental protection is that attempts to assert the entitlement of a thing to exist must be couched in terms of the competing rights of the *humans* who have an interest in the natural entity's continued existence, and can't be expressed in language (not in law, anyway) that suggests that the

entity has a right *in-and-of itself*, that is, with something akin to intrinsic worth which our moral and political systems are obligated to recognize. He observes that

> Almost everywhere there are doctrinal qualifications on riparian 'rights ' to an unpolluted stream. Although these rules vary from jurisdiction to jurisdiction, and upon whether one is suing for an equitable injunction or for damages, what they all have in common is some sort of balancing. Whether under language of 'reasonable use,' 'reasonable methods of use', 'balance of convenience,' or the 'public interest doctrine' what the courts are balancing, with varying degrees of directness, are the economic hardships on the upper riparian (or dependent community) of abating the pollution vis-à-vis the economic hardships on the lower riparians. *What does not weigh in the balance is the damage to the stream, its fish and turtles and 'lower' life. So long as the natural environment itself is rightless, these are not matters for judicial cognizance*. (DesJardins 206, emphasis added)

Stone then famously goes on to argue that although it may seem "unthinkable" in the present historical moment to consider what he calls "natural objects' to possess legal rights of their own accord, and to have legal standing, that such a move has historical precedent in the granting of rights to Blacks, women, etc.; and furthermore, that the granting of legal rights itself is part of the process by which a previously non-legally (and morally) recognized thing becomes "seen and valued for itself" (DesJardins, 1999, 204).[27]

Stone's account, to my knowledge, remains the most radical and explicit appeal by a legal scholar for the legal and political recognition of the intrinsic worth of the more-than-human world and is one of the most influential attempts—to those engaged in the

practice of environmental philosophy anyway—to bring nature into our legal community as a being(s) with moral worth in its own right. And to my knowledge, Stone's argument for legal rights for nature has only limited and incomplete recognition within the current state environmental law—in 2006 we still have a long way to go to get to the place Stone suggested in 1972. Since Stone is arguing for the legal recognition of the moral standing of nature, why would an ecofeminist environmental jurisprudence oppose it?

The answer lies in Stone's formulation of the solution to the problem. Because he is arguing quite seriously for the extension of legal rights to natural objects, Stone's strategy also remains within existing law and legal reasoning. When Stone considers the inevitable objection that natural objects cannot have rights that are politically meaningful because they can not "assert" or articulate them in anthropocentrically –recognizable ways (note the similarity here with Mary Ann Warren's view regarding rights-talk for animals), he points out that corporations cannot speak either, and yet the law recognizes *their* rights, as well as the rights of other beings that cannot speak in conventional ways and thereby express their desires, needs, and interests in traditional discursive terms. Such beings include "estates, infants, incompetents, municipalities, and universities" (DesJardins 207). We ought, argues Stone, pattern our legal approach to recognizing the rights of the more-than-human-world after the way that we handle the legal problems of "legal incompetents—human beings who have become vegetables." Stone expands on his reasoning: "If a human being shows signs of becoming senile," he observes, "and has affairs that he [sic] is de jure incompetent to manage [someone else] is designated by the court with the authority to manage the incompetent's affairs" (207). Labeled the *guardianship approach*, this approach, while well-intentioned, from an ecofeminist

perspective has certain problems, problems that are already recognized by feminist jurisprudences to be problems when one applies such reasoning, as has been done historically, to attempts at the protection of the interests of women.

The foremost problem with the guardianship approach lies in its designation of the more-than-human world as possessing the same status as "human incompetents" –the comatose, children, imbeciles, the insane, etc. Like feminist objections to the degradingly paternalistic notion that women are, from the standpoint of the law, child-like and incompetent to manage their own affairs (historically, this was the justification given for such social phenomena as women being prohibited from owning or inheriting property, contracting independently to sell their own labor (i.e. work—unless, of course, they were poor or black), vote, and consent independently to various medical procedures). An ecofeminist perspective is a perspective that analyzes environmental degradation and exploitation in terms of the unequal power relationship between humans and nature, understands anthropocentrism to serve speciesism the way that sexism serves male dominance, and recognizes connections between the way that women and other human groups have been subjected to patriarchal practices of domination and control. Such a perspective makes visible the connection between the justification for the exclusion of women and nature in legal affairs and discourse as being rooted in her/its "natural" inferiority and lack of rationality, and notes that the solution proffered by Stone, while well-intentioned, is founded in the same premises that feminist jurisprudentialists have shown as supporting the subjugation of women and therefore actually reinforces, rather than overcomes, the root problem of the exclusion of the more-than-human world.

A second problem with Stone's guardianship model, one related to the above objection, is that such a model, by positing particular human beings as the proper "spokespersons' for nature (since nature is putatively unable to speak) actually casts us back anthropocentrically to the notion that human beings are the only possible political actors, that only human beings can engage in political speech, and that law and legal discourse need not be changed on any fundamental level. As I hope to have been indicating throughout this article, I believe that our legal system *should* be reconfigured to acknowledge the participation of beings and entities in nature and to construct a political subject-position for the more-than-human world.

And a third issue regarding Stone is that the guardianship approach permits no space for an open conversation between humans and the more-than-human world. By casting persons as the "speakers" for nature, as though nature were imbecilic, or something terribly incapacitated with a feeding tube down its throat[28] requiring the human to step in and speak for that which clearly is unable to speak on its own. At the best, this is paternalistic, as I've said, and at its worst it's tyrannical. A feminist sensibility sees the dangers inherent in such an approach, despite Stone's laudable intentions and the creativeness of his reasoning.

I have shown that the rights-based approach to achieving moral and legal standing for nature is problematic from an EcoFemJ perspective. But I have yet to provide a positive vision for what an EcoFemJ would look like. Since the kind of jurisprudence I am envisioning is a feminist jurisprudence, let's take seriously feminist jurisprudence's advocacy of storytelling as method[29] and consider two narratives. The first is provided by

Karen Warren in "The Power and the Promise of an Ecological Feminism." The second is my own story of a close woman friend I knew in college who loved to surf. Both narratives demonstrate a different way of knowing nature than the stance of epistemological objectivity espoused by modernism that lies at the root of liberalism, as well as a different way of appreciating how a feminist perspective can help us to foster an ethics located in ontological embeddedness.

*Climbing Out of Oppression: Befriending Rocks and Mountains*

In her famous article Warren does not only cleanly parse out the logic of domination with arguments strictly syllogistic. Warren also explores the use of first-person narrative as a means of transforming the relationship between humans and nature, from one of dominator/conqueror to one of conversationalist and friend.

Warren tells her [30]story of rock-climbing by recounting her first attempt at scaling its surface. At first, she focuses intense energy and determination on "getting to the top." After a failed attempt after which she falls, finding herself dangling in mid-air, she finds the renewed "confidence and determination" to make it to the top, exhausted but happy that she has "overcome" the obstacle of the rock face which lay between her and her goal. The second day of climbing, Warren has a different experience. After rappelling to a spot where she could see no other humans but was intensely aware of her more-than-human surroundings, which included the voices of birds, trickles of water, and the lapping of waves under an intense blue sky, Warren narrates:

> I closed my eyes and began to feel the rock with my hands—the cracks and crannies, the raised lichen and mosses, the almost imperceptible nubs that might provide a resting place for my fingers and toes when I began to climb. At that moment I was bathed in serenity. I began to talk to the rock in an almost inaudible, child-like way, as if the rock were my friend. I felt an overwhelming sense of gratitude for what it offered me—a chance to know myself and the rock differently, to appreciate unforeseen miracles like the tiny flowers growing in the even tinier cracks in the rock's surface, and come to know a sense of *being in relationship* with the natural environment. It felt as if the rock and I were *silent conversational partners* in a longstanding friendship…Gone was the determination to conquer the rock, to forcefully impose my will on it; I wanted simply to work respectfully with the rock as I climbed…I felt myself *caring* for this rock and feeling thankful that climbing provided the opportunity for me to know it and myself in a new way (DesJardins 545, first emphasis added).

After this first-person narrative, Warren then goes on to explain how the use of such stories can help us to re-envision our ethical response to nature. Stating that the narrative shows that in such a case it is the climber's *relationship* with the rock that has moral significance rather than the object of the rock or the status of the human climber, Warren continues by stating that such a narrative gives expression to attitudes and behaviors often overlooked in conventional western ethical practice, and provide "a way of conceiving of ethics and ethical meaning as *emerging out of* particular situations moral agents find themselves in, rather than as being *imposed on* those situations (e.g. as a derivation or instantiation of some predetermined abstract principle or rule" (DesJardins, 546). Warren's parenthetical example demonstrates the alliance between ecofeminist

perspectives and the critique of androcentric legal reasoning critiqued by feminist jurisprudences.

*Earth-Mamas and Dominators: Riding the Waves of Relation*[31]

Before analyzing the foregoing case further, let's consider another. This one comes from my own experience; my experience of close friendship with, and thus intimate knowledge of the life of, a woman friend in Santa Cruz, CA who loved to surf the Pacific. As anyone familiar with the coastal American West knows, Santa Cruz is a big surfing town, and on any given day when the "surf 's up" there are more people eager to get their boards in the water to take a long ride on some of the Pacific Ocean's best breakers than there is room in the water along the two mile stretch along West Cliff Drive for all who want to catch a wave to do so with enough room to dip, duck, dodge and maneuver as this exhilarating activity requires. Surfing as practiced on the west coast is a consummately masculine sport, dominated by men, and surfers are known for their fierce territoriality surrounding favorite surfing spots, as well as their aggressiveness and competitiveness toward other surfers. My friend, who had grown up on a different part of the California coast, had early in her life broken the unspoken gender qualification for membership in this elite club, and was an accomplished surfer, spending many hours each week in the water.

One particularly challenging wave break in Santa Cruz in the 1990's was at the Stockton Avenue Beach. Only the best and surfers were "allowed"[32] to surf there, and the territory was zealously policed by "insiders" who guarded against "outsiders", whom

they saw as looking to encroach upon "their" territory. Because of the way the inlet was shaped the waves rolled in quickly and broke suddenly and rapidly, and it was a mark of status and pride for anyone able to ride at this particular spot. Most surfers thought that the only way to ride the waves at Stockton at all was to approach swiftly and aggressively; to "conquer" the ocean with strength and agility. One exception to this was my friend, who was able catch a ride frequently enough at Stockton that she was deemed able and thus was accepted by the other surfers. My friend was an exception because of her surfing style, which rather than being aggressive and forceful was graceful, loping, and slow, more of a dancing on the waves than a fierce, singular, determined attack. She grinned through every ride, and emerged with a laugh after every encounter with the white water following a fall. My friend's style on the waves earned her the nickname from her fellow surfers of "Earth Mama." Because she was able to surf Stockton, the other (male) surfers had to grudgingly admit that her way of riding the waves had something to it.

In our frequent talks on gender and gender dynamics (we were both raised by feminist mothers, and had been attuned to the way gender deeply orders everyday life early on. Both of us also were majoring in fields—she, Latin American Studies, me Philosophy and Legal Studies—that explicitly interrogated such categories as race, class, and gender) we would sometimes talk about her "gender exceptionalism" on the waves. My friend talked openly and insightfully about the difference in attitude that she and her male companions had toward the ocean while surfing. Her comportment was one of working *with* the water, following it, bending with it, letting go when necessary and laughing when she tumbled, as though she and the ocean were dancing and playing

together—much like Karen Warren's attitude when she came to see the rock as a friend and companion rather than a foe to overcome. The comportment of the male surfers who, as the lingo put it, "dominated" on the waves at Stockton Ave, was one of hostility, anger, and the need to "triumph" over the ocean. A fall was humiliating; necessitating a redoubled effort to phallogocentrically "get up" and "get on." The ocean was an obstacle, not a playmate. My friend knew that these differences in style had a lot to do with gender conditioning, and she was also sharply aware that *her* attitude toward the ocean was an aberration in the surfing community.

So what do these two narratives tell us about how an EcoFemJ might provide a liberatory alternative to conventional white supremacist anthropocentric legal reasoning and political practice? Well if we are to take feminist jurisprudence's method of storytelling (sometimes called "consciousness raising") seriously, then there are many narratives we can tell about the human-nature interrelation. Some of these narratives, which are founded in legal liberalism's genealogical commitment to modernism's ontology of separation, belief in the "objecthood" of nature, understanding of nature as something to dominate, dissect, and control and belief in the inferiority of both women and nature, are already well-represented in current law. Other stories can be told, however. If the approach revealed in these (and similar) narratives of encounters between humans and the more-than-human world were to animate law and legal reasoning, we would have different ethical and epistemological resources to draw on to re-fashion our political treatment of beings and entities in nature. Law would have more voices, and better voice the claims of *all* those who are oppressed.

# Conclusion

**"Women have been the nature, the matter, the acted upon to be subdued by the acting subject seeking to embody himself in the social world."**

Catharine MacKinnon, *Toward a Feminist Theory of the State* (1989, 124)

Just as feminist jurisprudence sees patriarchy as the root source of social injustice and entangled with all social problems, ecofeminism sees the patriarchal values of domination and control as at the root of all environmental problems. Thus these two doctrines share a similar point of analysis. So the minimal connection between ecofeminism and feminist legal theory is that they each critique ontological separateness, especially as it appears in rights-talk. Further, ecofeminists and feminist legal theorists share a commitment to ontological embeddedness. And while both recognize that we exist in relation to others, ecofeminists have reminded us that this includes a more-than-human world. We live in a world populated by other beings. Law forms and informs ou relationships with others, it defines who "counts" as being recognized. Thus, when the law does not recognize environmental problems as social problems (as, for example environmental justice advocates insists it must) or addresses them with inadequate tools it insinuates that nature, and what we do to it, does not matter, doesn't count.

The discourses and praxes of feminist jurisprudence and ecofeminism both identify false dichotomies such as culture/nature, public/private, male/female, mind/body, freedom/necessity as being base on flawed metaphysics, and both point out that such dualistic categorizations actually underscore the most damaging features of patriarchy.

Presently, however, feminist jurisprudence only goes as far as identifying the way in which *human beings* have been subject to these false but pervasive dichotomizations. Ecofeminism agrees with this dominant feminist analysis, but recognizes one further, overarching dualism: the nature/culture split; or the assumption that human beings, male and female, fundamentally operate outside of and separately from the rest of nature. The ontology of ecofeminism suggests that we are embedded within a cultural/natural matrix, and it may be women's unique epistemic and phenomenological position which allows for this recognition. While not an "essential" trait of women, at this juncture in historical reality, this ontological perception may well indeed be a "female" way of seeing things. "A jurisprudence," to return here in closing to MacKinnon, "is a theory of the relation between life and law. In life, 'woman' and 'man' are widely experienced as features of being, not constructs of perception, cultural interventions, or forced identities. Gender, in other words, is lived as ontology, not as epistemology. Law actively participates in this transformation of perspective into being" (1989, 237). Therefore if nature is perceived of as a passive, objectified, feminized other, then the law actually helps to make this so by dialectically reinforcing the conceptual framework of sexism and anthropocentrism upon which oppression is based. Thus one of the goals of EcoFemJ would be to examine the underlying assumptions regarding nature and the relation of human beings to it that are contained and instantiated by law, just as feminist jurisprudence looks at the underlying view of women that is normatively implied by law. Only by working to end all forms of oppression, no matter how and where in society they manifest themselves, can the emancipatory goals of both feminism and the environmental movement be realized.

## Notes

[1] The theories, theorists, and issues I focus on here are primarily American, but because much of American law and jurisprudence is founded in English common law, I have included the appellation "Anglo-American."

[2] Throughout this article the terms *masculinist, patriarchal, and androcentric* more or less function synonymously; however, ***masculinism*** generally refers to collective perspectives and experiences that are encouraged through the construction of male bodies and subjectivities around contemporary western notions of hierarchical status-seeking masculinity, while *patriarchal* refers to the system that is founded on notions of the domination and control of women, people of color, non-heterosexuals, and nature, and which tends to privilege men. *Androcentric,* used less frequently, is a term which refers to the centering of male perspectives and maleness.

[3] Such philosophy is epitomized in the works of classic modern/political philosophers such as Locke, Hobbes, Hume, and especially Descartes who many contemporary theorists read as each claiming (although they reach different conclusions regarding the implications for the structure of government and society of this "fact") that the individual is prior to the community or the state, that humans possess a pre-cultural essence that includes the exclusive ability to think and act according to one's own "rational self interest." On feminist critiques of *Cartesianism*, or the way in which a radical distinction between mind and body, subject and object, and humans and nature has been drawn and normatively applied to ecosocial affairs, see Bordo (1987); also Bordo (1999) (see also next note); and Merchant (1980).

[4] Thus Susan Bordo, in the introduction to her edited book *Feminist Interpretations of Descartes,* responds to the charge that feminism by not 'correctly' reading Descartes engages in a 'caricature' of his beliefs by stating that one such accuser had to admit that it " 'is a caricature that has been current since the seventeenth century.'" Bordo continues,

"This is to acknowledge in grudging terms what the feminist critique has maintained all along—that it is the dominant cultural and historical renderings of Cartesianism, not Descartes 'himself,' that are the object of our criticisms." (1999, 2).

[5] On this point, see generally MacKinnon (1989, Ch. 9); also see Estrich (1987).

[6] For a more recent book that discusses the "rational man" standard and other aspects of law from a feminist perspective, see Forell & Matthews (2000).

[7] That patriarchy/masculinism as the set of practices and beliefs that justify a program of sex/gender dominance and subordination that privileges those persons, practices, and attitudes that are considered to be "male" is a system, and not a set of intentional and deliberate practices enacted purposefully by individual men (and women) is hopefully obvious to those with some exposure to feminist theory, but perhaps bears mentioning here. For a good introductory treatment of this notion, see Alan Johnson, "Patriarchy, the System, an It, Not a He, a Them, or an Us" from Johnson (1997).

[8] For critiques of scientific positivism and fruitful deconstructions of the concept of epistemic objectivity— the notion that the knower is a singular, detached, neutral spectator separated from the object of knowledge and whose perspective is sufficiently universal that it can be accessed undistortedly by any other epistemic agent—,see Alcoff & Potter (1993), especially Lorraine Code's article, "Taking Subjectivity Into Account."

[9] Showing the way in which women's ethical epistemologies are founded on experiences of interconnection forms a central portion of the task of psychoanalytic feminism, feminist existentialism and phenomenology, feminist care ethics, and ecofeminism.

[10] The seminal work which demonstrates the pervasiveness of the experience of connectedness for women.is Harvard social psychologist Carol Gilligan's *In a Different Voice* (1982). Although this work has been criticized for perhaps reinforcing the stereotypical notion that women are "naturally" selfless, caring, and nurturing, this work and others which stem from its investigations into the differences between male and

female perceptions of morality remain central to most feminist explorations and arguments for are conceiving and revaluing of the concepts traditionally associated with femininity. Gilligan's concept has come to be called an *ethic of care,* and has been widely used by ecofeminist and non-ecofeminist theorists alike. Other important works include Dorothy Dinnerstein,*The Mermaid and the Minotaur: Sexual Arrangements and Human Malaise* (1977); and Nancy Chowdorow, *The Social Reproduction of Mothering* (1978), Sara Ruddick's *Maternal Thinking* (1995), and the work of philosopher Eva Kittay (1999, 2002). For an ecofeminist application of an "ethic of care" see Dean Curtin, "Toward an Ecological Ethic of Care" in Warren (1996).

[11] Much has been and continues to be written on the question of whether this difference between women's and men's experience of the self is "natural;" i.e. biologically based, and thus "essential;" or is "culturally constructed," meaning inculcated in some way through culture and society. I take the stance that while there may be some biological basis for women feeling connected to concrete others, many experiences which encourage this, such as care-giving, bodily labor, physical intimacy, maintenance of the body through cooking, cleaning, and nurturance and even the phenomenological experience of reproduction are not inaccessible to men except insofar as society does not deem this work appropriate for the male gender. Thus men's bodies too contain this "essential" capacity for the experience of interconnection.

[12] Regarding the notion of hierarchy in relation to ecology and feminism, ecofeminist philosopher Judith Plant remarks, in an early ecofeminist essay,

> "Within human society, the idea of hierarchy has been used to justify social domination; and it has been projected onto nature, thereby establishing an attitude of controlling the natural world. The convergence of feminism with ecology is occurring because of an increasing awareness that there are, in fact, no hierarchies in nature. A belief in the virtues of diversity and non-hierarchical organization is shared by both views." (Diamond & Orenstein1990,156).

[13] See Salleh (1997), and Warren (2000).

[14] This is the central term in environmental philosophy which identifies and describes the attitude of human superiority which justifies human privilege that pervades western thinking. Anthropocentrism is often described as being analogous in meaning to *racism* or *sexism* , and *speciesism* is sometimes used as a synonym. The original development of the concept of the anthropocentric/non-anthropocentric distinction in ecophilosophical literature occurs in Regan (1981,19-34); Rolston (1975, 93-109); and Callicott (1989).

[15](Salleh 1984, 339)

[16] *ibid.*

[17] Many of the key historical philosophical writings that reject the physical world and/or cast beings and entities in nature as subordinate have been collected and analyzed from an explicitly environmental perspective in Goldin & Kilroe's (1997). See also Bordo (1987, 1999).

[18] For example, any reading of the allegory of the Cave in Plato's *Republic* or the *Phaedo* acknowledges that for Plato, the goal of philosophy and the philosopher is to shed the epistemological constraints of temporal, imperfect, and changing bodily existence in order to exist in the realm of the "forms" where "true knowledge" is possible precisely because the cogito is unencumbered by the changing, deceitful sensible world. For an extensive exegetical account of the way in which Platonic Idealism and Plato's philosophy (esp. in the *Timaeus)* opposes nature to the human (thus leading to a view of human nature as alienated from the natural world), links women to the irrational and the inferior, and legitimates social relationships founded on the model of master/slave, see Plumwood (1993, especially 69-103). The reader may also wish to review the *Politics*, where Aristotle expounds upon how it is that "plants are for the sake of animals, animals are for the sake of humans, children are for the sake of parents" and each are slaves "by nature," setting up both a clear association among plants, animals, slaves, and women as

well as establishing the right of rule by those who properly belong to the realm of the "mental."

[19] For a formative account of the way that ecofeminism strengthens and enhances feminist understandings of the nature and scope of oppression, see Victoria Davion, "Is Ecofeminism Feminist?" in Warren (1994).

[20] Concerning the link between scientific positivism, political liberalism and women's oppression, MacKinnon notes that, "Objectivity is the methodological stance of which objectification is the social process. Sexual objectification is the primary process of the subjection of women. It unites act with word, construction with expression, perception with enforcement, myth with reality. Man fucks woman; subject verb object" (1989, 124). MacKinnon further remarks, "I know no nondegraded English verb that elides the distinction between rape and intercourse, love and violation, the way this term does." (252, n. 2) My own comment on this that confirms both MacKinnon's and my own intuition is that it interesting that we often describe extreme ecological destruction as "environmental rape."

[21] The way in which economic rationality leads directly to environmental destruction, is the subject of ecofeminist philosopher Val Plumwood's latest book, *Environmental Culture: The Ecological Crisis of Reason* (2002).

[22] My thanks to John Lysaker for this characterization of the problem.

[23] Keynote talk given by Chief Evon Peter, Tribal Chief of the Gw'iichin Indians, at the 34th Public Interest Environmental Law Conference in Eugene, OR March 5, 2004.

[24] Mary Midgley, "The Mixed Community" in Hargrove (1992).

[25] Mary Anne Warren, "The Rights of the Non-human World," in Hargrove (1992).

[26] I am here referencing the re-printed version that appears in DesJardins (1999). Although this piece, like Warren's, is heavily re-printed in environmental ethics

compilations, the original publication was in 1972 in the *California Law Review*. In the book by the same name (1974), Stone recounts the story of how he, a young law professor at the University of Southern California, knew that the case of *Sierra Club v. Morton* (1972) was going to go before the Supreme Court, a case in which environmental enthusiasts were hoping to prevent the construction of a ski resort on a pristine mountain slope. At that point, the only legal means of determination of the relative merits of building the ski resort or leaving the mountain intact had to be based on an anthropocentric economic cost/benefit analysis. As far as the court was concerned, only the economic interests of the Disney subsidiary proposing the resort and backpacking members of the Sierra Club who argued, disingenuously but for good purpose, that the mountain remain as it is so they could enjoy an aesthetic nature experience. The trouble was, such an argument, besides being lamely anthropocentric, would clearly lead to a loss by the Sierra Club. Stone knew Justice Douglas was going to review the submissions to the USC law review before the case was heard, so he rushed the article to print to try to influence the court's reasoning. Although the plaintiffs lost the case, Douglas authored an interesting dissent that acknowledged that nature ought to be able to make its own claims under the law. I provide this context because it shows the contortions and subterfuges those with ecological sensibilities have to go through under conventional anthropocentric politics.

[27] Although I am not arguing it here, other of my work-in-progress shows how legal subjects are constructed by law, and political subjectivity emerges through legal recognition. Such an argument has relevance for the ecofeminist political project of gaining better methods of political and legal representation for the more-than-human world. See " 'Natural Subjectivity: Nature, Law, Gender, and the Discursively-Constituted Subject' (Chaone Mallory, unpublished manuscript).

[28] Thanks again to John Lysaker for this particular metaphorical understanding of the problem with paternalism.

[29] For explanations and justifications of the use of first-person narrative as a method within legal scholarship for exposing and rectifying oppressive practices, see Wing (1997); also MacKinnon (1989, Ch. 2).

[30] Although Warren does not claim the story as her own in the article, she does in her on-camera appearance in Greta Gaard's video *Ecofeminism Now!* (1996).

[31] This section I lovingly dedicate to the memory of my dear friend and former housemate Cathy Oretski, who is the subject of this narrative. Cathy died in a mountain biking accident (another activity she loved) in 1995.

[32] Of course there were no formal rules stating who could and could not surf at Stockton Ave. Such rules were by convention, and enforced by the community through such actions as slashing violators' car tires, threats and other forms of harassment. Physical violence sometimes erupted as a result of these territory disputes.

# Chapter VI

# CONCLUSION

In this dissertation I have intended to raise and begin to answer these questions: 1) What is the political status of the more-than-human world? 2) How can law be deployed to resist and contest the systems of power that construct nature as subordinate? 3) How can liberatory theories (e.g. critical race theory, queer theory, and feminism) contribute to the ecological project of ending anthropocentric domination of the natural world? 4) How might our political institutions and practices be reconfigured to acknowledge and include the more-than-human as something(s) with political subjectivity? 5) How can/do theory and praxis intersect to effect this reconfiguration? I'll address each individually.

**Question 1**: Nature's political status. The first question is addressed most strongly in Chapters 2, 3, and 4. Chapter 2, which looked toward feminist phenomenological theories of embodied (human) subjectivity as a means of establishing the political subjectivity of the more-than-human world, found such theories and theorists both promising and lacking in important ways. In this chapter I argued that acknowledging the embodied character of being human requires that we also acknowledge the fundamental

relationality between self and world, and that we admit that we are ontologically embedded in, continually interacting with, and developing our subjectivities, political or otherwise, in concert with the natural environment. I also argued that all feminist work is inherently political, and thus ecofeminist projects are political projects too, political projects that call for the consideration of nature as a political subject. Chapter 3, which provided an report and philosophical analysis of a concrete form of environmental activism, that of women's and transgender direct action in forest ecosystems in the U.S. Pacific Northwest, determined that for activists, the oppression of women, transgender and queer folks, people of color, and nature were bound together, and that such conjoined oppressions were visible both within the direct action movement and in the dominant cultural imaginary at large. These activists recognize that women and other subordinated groups are enmeshed in political solidarity with nature as a result of their intertwined oppressions. Chapter 4 examined the way that ecofeminism enhances the analysis of the ways that people of color and the poor are oppressed along with natural environments, showing that the conceptual reasons that allow for the degradation of the more-than-human world are similar to the ones that have sanctioned racism and classism. Therefore, this chapter can be understood to be establishing that nature is a category of being whose liberation is[1] sought in environmental justice struggles, along with the liberation of people historically subordinated on the basis of race, gender, and class. What each of these chapters shows is that although beings and entities in the more-than-human world are not ordinarily considered to be subjects that should be included in political processes, when it is understood that the degradation of nature is conceptually and materially tied to forms of human oppression, then political struggles and discourses that aim to end

anthropocentric subjugation founded in categorization by gender, race, sexuality, and class must also seek to liberate the more-than-human world. The political fate of oppressed human groups and that of nature is entangled.

**Question 2** considers how law can be deployed to resist and contest the systems of power that construct nature as subordinate. This question, key to the development of an ecofeminist political philosophy, is most obviously addressed by chapters 4 and 5, look to law and jurisprudence as a forces for transformation of ecosocial practices of exclusion and oppression. Since chapter 4 takes up the issue of environmental justice, an established area of both civil rights and environmental jurisprudence, it views law as a powerful and recognized tool for bringing about liberatory change in attitudes and practices toward women, communities of color and/or the poor, and the natural world. In chapter 5, I explore the potential and promise of a merger between the critiques of rationality and ontological separatism offered by feminist jurisprudences with ecofeminism's understanding of the way that the structure of dualism privileges those beings (e.g. humans and men) regarded as belonging to the realm of the "rational" and the "cultural" (as opposed to the "non-rational" and "natural"). Like chapter 4, chapter 5 looks to the law and legal reasoning and analysis, especially feminist legal analysis, for its potential to change demeaning and ecosocially unjust conceptions of women and nature echoed and produced through law. However, although they both discuss the law as a site for liberatory change that can be enhanced through the inclusion of ecofeminist perspectives, chapter 5 differs from 4 in that it looks at the conceptual underpinnings of anthropocentric masculinist law that must be confronted in order for law to effect the sort

of change in the human/nature relation envisioned by ecofeminists. These are the chapters that argue most directly for the deployment of law to resist and confront the social practices and ideologies that construct nature as subordinate.

**Question 3** explores how particular liberatory theories, including feminism, critical race theory, and queer theory, contribute to ending environmental oppression. I'll say the least about this question here, because I have said the most about this, quite explicitly, throughout the rest of the dissertation. Every chapter has drawn on ideas, authors, and actors that work in these areas of scholarship and activism in order to show how ecofeminist analysis bolsters other sorts of struggles against white supremacist heterosexist anthropocentric patriarchy[2] as well as how the work being done in feminist, anti-racist, queer studies arenas is extremely helpful to ecofeminist political projects like the one here.

**Question 4**: How might our political institutions and practices be reconfigured to acknowledge and include the more-than-human as something(s) with political subjectivity? This question, although it animates the entire dissertation, receives the least direct attention. Let me take this opportunity, therefore, to say something about what I have in mind regarding the political subjectivity of nature. In chapter 2 I argued that feminisms are always liberatory projects that seek to end the oppression of women and others caught up in the chain of signifiers that link oppressed groups together, the "embarrassed etceteras" to again use Judith Butler's phrase. I claim, (hopefully) non-controversially, that ending oppression is political work. Furthermore, I argue that

feminism deals with fundamental political categories like equality, authority, justice, fairness, and representation; and that among other things, feminism attempts to change both beliefs and practices that limit women's full and equal participation in the possibilities of (eco)social life. Feminism has always adhered to the injunction that nothing is outside of the political, that power relations inhabit all aspects of life. At a minimum, the political involves the production, distribution, and use of power; feminism argues that women's subordination is the result of the unjust and alterable exercise of male dominance and power, not natural fact. Subjectivity, this chapter showed, is something that emerges through sensuous interaction with a receptive and responsive more-than-human world. Understanding subjectivity to be a function of somatic interactions with nature means that not only *human* embodiment confers the capacity for subjectivity—if feminist phenomenological accounts are correct, then *all* embodied beings must contain the capacity for political subjectivity. Furthermore, as I imply in chapters 3, 4 and 5, law, activism, and other forms of political practice helps to produce subject positions other than that occupied by the "rational man" descendent of the Enlightenment that has sexistly and anthropocentrically served to truncate the possibilities for political subjectivity and agency for others. These political practices and institutions can and should be reconfigured to admit beings and entities in nature as political actors and interlocutors, with claims, perspectives, interests, and subjectivities that demand recognition and representation. They can start by acknowledging and acting on the understanding that feminist issues are environmental issues, and vice versa.

My final question, **Question 5**, wonders how theory and praxis intersect to bring about the sorts of changes in the political status of non-human subjects advocated for here. Chapter 3 addresses intersections of theory and praxis most explicitly, through an analysis of the women's and transgender direct action forest defense movement in light of particular ecofeminists concepts. Women and transgender "forest defenders" in the U.S. Pacific Northwest, this chapter explains, organize and execute all-women's actions for both practical and philosophical reasons. In so doing forest defenders have made explicit links between the oppression of women, queer and transgender folk, people of color, the poor, and the non-human world both within and outside of activist communities. Such activism potentially exemplifies the intersection of theory and praxis advocated by ecofeminists and other ecoliberatory theorists. Furthermore, viewing women's forest activism in light of the theoretical analysis provided by ecofeminism advances the liberatory goals of feminists and others by contributing to the development of a robust, efficacious ecofeminist political theory that does not reinscribe a theory/activism dualism. Chapters 4 and 5 also should be read as effecting an integration of theory and praxis, through their call for the use of law and legal practice as a tool for ecosocial change. However, following most feminist theorizing, I understand theory, especially "engaged theory" such as that utilized to execute the ecofeminist political project of this dissertation, to be a form of practice: through action and practice we generate new meanings, discourses, and knowledges that of the sort that constitute theorization. In what I have just now said I hope it is plain that I resist the notion that theory and praxis are two totally separate sorts of activities; and in fact, I think that ecofeminism prompts a joining of theory and praxis more effectively than many other

forms of academic and activist labor, because it confronts real-world ecological exigencies alongside the relations of power and domination that construct both women and nature and mark the nature/culture interaction, producing ecosocial crisis. I'll briefly repeat my claim at the chapter 3 that Nöel Sturgeon's notion of "direct theory" is especially useful here, for through this idea she helpfully shows how theorists are always "inside the political relations they simultaneously analyze and critique; they are participant observers themselves" who cannot be understood as being dualistically separated from the world that demands that people act.[3]

To conclude, then, this dissertation, which taken as whole signifies a gesturing toward the establishment of political subjectivity for nature as well as the production of an ecofeminist political philosophy, has engaged in four distinct areas of importance to both feminist and environmental philosophy: feminist phenomenology, environmental activism, the environmental justice movement, and feminist jurisprudence. Tying them all together, besides the obvious application of an ecofeminist perspective to each of the four areas, is a commitment to 1) anti-dualism, 2) an interrogation of the ways that dominant definitions of rationality have been used to justify the domination and exploitation of women, beings and entities in nature, and other subordinated groups, and 3) a call for all those committed to the liberatory political projects articulated by feminists, civil rights advocates, legal theorists and practitioners, and phenomenologists to take nature—and the beings and entities who there belong—seriously.

## Notes

[1] If one takes seriously the ecofeminist critique of the culture/nature dualism, and takes EJ's notion that advocating for human and environmental health are part of the same struggle for justice and equality, then it seems plain (although perhaps unrecognized by some) that nature's liberation *is*, in the present, also what is being sought in attempts to alleviate the environmental burdens foisted on communities of color. Robert Figueroa's account of "environmental identities" supports this claim (Westra and Lawson 2001, 168-169).

[2] Tip of the hat to bell hooks, who coined the term "white supremacist capitalist patriarchy" [*Feminism is for Everybody* (Cambridge, MA: South End Press, 2000, p.4)].

[3] Noël Sturgeon, "Theorizing Movements: Direct Action and Direct Theory," in Marcy Danalovsky, Barbara Epstein, and Richard Flaks (eds.), *Cultural Politics and Social Movements* (Philadelphia: Temple University Press, 1995).

# APPENDIX A

## FIRE ECOLOGY OF THE CASCADIA BIOREGION

Proponents of "salvage logging"—removing the commercially valuable big trees from burned areas—argue that the burned trees increase risks of future fires and do not contribute ecologically to the health and regeneration of the forest ecosystem and, therefore (using economic logic), should be harvested and sold. However, such views are in direct contradiction to the available research on forest ecology. According to fire ecologist Timothy Ingalsbee, "Scientific opinion is in consensus that dead, dying, and damaged trees are some of the most valuable components of old-growth forest ecosystems, because they are prime structures for wildlife habitat (especially for rare and endangered species), and when dead trees fall to the ground, they continue to serve as critical fish and wildlife habitat structures, and aid soil fertility and slope stability. Large snags and logs are prime features that actually define a forest stand as 'old-growth.'" (Timothy Ingalsbee, Ph.D., Director, Western Fire Ecology Center, Eugene, OR. Email communication.)

# APPENDIX B

## THE POLITICAL AND LEGAL CONTEXT OF THE CASCADIA FOREST DEFENSE MOVEMENT

In response to heavy industry lobbying, the current Bush administration was able to pass the Orwellianly-named Healthy Forests Initiative that allows for a drastic increase in logging in National Forests in the name of "fuels reduction." Activists involved in the Biscuit campaign have asserted that the U.S. Forest Service decision to open these portions of the Siskiyou National Forest, which burned in a 500,000-acre wildfire in 2002, to logging are in direct violation of the Forest Services' own policies and administrative mandate. Judge Michael Hogan of the 9th Circuit refused to grant an injunction halting the logging while lawsuits filed by environmental organizations are waiting to be heard, which precipitated much of the activism surrounding the Biscuit. Protesters are attempting to stop the logging until the lawsuits challenging the decision to salvage-log the forest can be heard in court. (For a discussion of other Bush administration actions to undo U.S. environmental laws, see Andrew Austin and Laurel Phoenix, "The Neoconservative Assault on the Earth: The Environmental Imperialism of the Bush Administration," *Capitalism Nature Socialism*, 16, 2, 2005.)

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