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This article explores the connection between Therapeutic Jurisprudence (TJ) and the environment. It's vital to recognize the presence of laws that regulate how we interact with natural spaces. Legal disputes involving matters of nature and the environment are often challenging to litigate due to the strict criteria that the judicial analysis employs to determine standing.¹ The most important mechanism to handle environmental controversies is the legislative due process. These legal frameworks are significant because our relationships to the environments profoundly affect not only the ecosystems themselves but also the well-being of the human species.

TJ is the study of the role of law as a therapeutic agent. TJ proposes the exploration of ways in which, consistent with principles of justice and other constitutional values, the knowledge, theories, and insights of the mental health and related disciplines can help shape the development of the law. When discussing this, it is important to consider that how cases are managed is going to determine if something is either 'Therapeutic' or 'Antitherapeutic'. Legal rules, legal procedures, and the roles of legal actors (such as lawyers and judges) constitute social forces that, whether intended or not, often produce therapeutic or antitherapeutic consequences. The way we relate to nature is going to be determined by our legal scaffolding which is going to set the stage for our society to relate to nature and produce therapeutic or antitherapeutic results. When taking in consideration if something is Therapeutic or Antitherapeutic and element that must be considered is 'Dignity', which is grounded in an inherent right to be free of harm to one's person or property. The government can be both a violator and protector of dignity. Unchecked power can lead to abuses of power. This is a very important component because the definition of dignity can be manipulated to fit one's personal

¹ Fundación Surfrider, Inc., *Capítulo de Rincón*; León J. Ritcher, *Peticionarios v. Administración de Reglamentos y Permisos*; *Jennymar Corporation, Recurridos*, 178 D.P.R. 563, 569; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 557

needs. This is why there is a struggle between two interests, there may be people who own private property may want more autonomy over what they consider their property. On the other hand, if there is property being developed in a place with natural benefits, it may affect the dignity of all the people that benefit from it. Finally, ‘Compassion’ is understood as a sensitivity to and concern for the suffering of others and a commitment to alleviating and preventing it. The “other” in the context of TJ is any person upon whom the law acts as actor within the legal process. The second element of compassion is a felt need to try and alleviate that sensed suffering from others. The way we establish our laws concerning our environment is going to determine which type of compassion is admissible.²

When considering Environmental Law, it's nearly impossible to avoid discussing Property Law, as the two intersect closely. Property is a general term for rules governing access to and control of land and other material resources. Strictly speaking, ‘property’ is a general term for the rules that govern people’s access to and control of things like land, natural resources, the means of production, manufactured goods, and (on some accounts) texts, ideas, inventions, and other intellectual products. There are different types of property, in a *common property* system, resources are governed by rules whose point is to make them available for use by all or any members of the society. A tract of common land, for example, may be used by everyone in a community for grazing cattle or gathering food. A park may be open to all for picnics, sports, or recreation. The aim of any restrictions on use is simply to secure fair access for all and to prevent anyone from using the common resource in a way that would preclude its use by others. Then there is *Collective property*, here the community determines how important resources are to be used. These determinations are made based on the social interests

² Yamada, David. “Therapeutic Jurisprudence: Foundations, Expansion, and Therapeutic Jurisprudence: Foundations, Expansion, and Assessment.” *University of Miami Law Review* *University of Miami Law Review*, vol. 75, no. 3, 14 June 2021, pp. 678–682.

through mechanisms of collective decision-making. Finally, there is *Private property*, in this system property rules are organized around the idea that various contested resources are assigned to the decisional authority of particular individuals.³ It's crucial to recognize that the inherent nature of property itself doesn't inherently generate positive or negative effects on the environment; rather, it depends on those in control to make such determinations.

When discussing property, it's crucial to acknowledge that it stands as one of the most significant concepts in the social imagination of United States of America citizens. It's a concept backed by the Constitution, in the Amendment XIV, Section 1 where it says that No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.⁴ Significance lies in the fact that within the jurisdiction of the United States of America, one can exercise control over a specific space. How we govern our actions in that space can yield either therapeutic or antitherapeutic outcomes, impacting both the owner and those directly or indirectly influenced by the manipulation of the environment. Recent news on land development have highlighted how this has created unequal access to natural spaces.⁵

This holds great significance because preserving nature brings forth numerous benefits. Without being mindful of its impact on us, we might inadvertently create circumstances that negatively affect our health. According to the World Health Organization (WHO), health is a

³ Waldron, Jeremy. "Property and Ownership." The Stanford Encyclopedia of Philosophy, Metaphysics Research Lab, Stanford University, 2023, plato.stanford.edu/archives/fall2023/entries/property/.

⁴ U.S. Constitution, Fourteenth Amendment, Section 1.

⁵ Waters, M. (2023, September 28). America has a private-beach problem. The Atlantic. <https://www.theatlantic.com/family/archive/2023/09/private-beach-state-laws-public-access/675292/>; Howe, B. R. (2022, November 26). It's public land, but the public can't reach it. The New York Times. <https://www.nytimes.com/2022/11/26/business/hunting-wyoming-elk-mountain-access.html>

state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity; mental health is a state of well-being in which a person realizes their abilities, can cope with the normal stresses of life, work productively and is able to contribute to their community.

When delving into Environmental Law, it is crucial to note the health benefits associated with green spaces. According to the World Health Organization, in general, most green space types yielded positive effects on both short-term and long-term mental health outcomes. For all green space types, there were positive effects on affect. With few exceptions, most green space types also yielded beneficial effects on perceived stress, restorative outcomes, and severity of mental disorders. For long-term mental health, most green space types yielded positive effects on overall mental health, quality of life and subjective well-being. Dense vegetation and shrublands were the only green space type that appeared to have no or even negative effects on mental health. Then there are blue spaces which provide other health benefits. According to WHO, among blue spaces, benefits of the coast were found across all studies. Studies looking at direct effects of coastal exposure, as opposed to just coastal availability or proximity, showed in general more consistent positive results on mental health. There are positive associations with mental health appeared less clear for inland waters than for coastal blue space. Across blue space categories, the most pronounced effects were found for affect and affective disorders.⁶

In Japan they realized a comparative study of the physiological and psychological effects of forest bathing (Shinrin-yoku) on working age people with and without depressive

⁶ Green and blue spaces and mental health: new evidence and perspectives for action. Copenhagen: WHO Regional Office for Europe; 2021. Licence: CC BY-NC-SA 3.0 IGO.

tendencies. “Forest bathing” (Shinrin-yoku) was first advocated by the Japanese Forestry Agency in 1982, identified as a form of recreation involving walking and inhaling the fragrant substances released by trees. The act of “forest bathing” has been regarded as a natural remedy that brings about improvements in terms of human physical and mental health. Studies have found that “forest bathing” (Shinrin-yoku) has positive physiological effects, such as blood pressure reduction, improvement of autonomic and immune functions, as well as psychological effects of alleviating depression and improving mental health. This study of young males walking and sitting for short periods reported the physiologically relaxing effects of walking in forested areas compared to urban cities. Emotions such as fear, anger, and disgust initially appeared in the bodies and expressions of humans upon contact with nature, followed by a prompt reaction of recovery from these negative emotions. After the negative emotions dissipated, positive emotions such as joy were subsequently found to gradually increase.⁷

There have been studies pertaining to the design of institutional environments and its impact on physical and mental health and overall well-being focuses on environmental elements such as natural light, light quality, acoustics, thermal comfort, the inclusion of art, building scale, colour, the sensory nature of the environment, air quality, connection to the natural world, symbolism, and individual control. Every environmental component holds significance; even when implemented independently of external influences, it seldom alters the well-being of individuals inhabiting spaces with these elements. In order for an environment to reduce stress (better physical, mental health and overall well-being) it has to take in consideration that it has to be familiar, legible, meaningful, responsive, and controllable and congruent to ‘fit’ with the behaviour, personal needs, social norms, customs and beliefs of the

⁷ Furuyashiki, Akemi, et al. “A comparative study of the physiological and psychological effects of forest bathing (Shinrin-yoku) on working age people with and without depressive tendencies.” *Environmental Health and Preventive Medicine*, 22 June 2019, pp. 1–2, <https://doi.org/https://doi.org/10.1186/s12199-019-0800-1>.

users in order to eliminate negative environmental stressors, promotes positive social interactions, has sensory elements and allows high levels of individual control. Overall, this has shown to contribute to the well-being of people who occupy these spaces.⁸

The way we address environmental law is through public policy. Once there is a legal framework and established precedent for managing controversies related to the environment, there emerges a systematic approach to a continually evolving phenomenon that affects the entire planet in ways our political institutions may not be adequately prepared to handle. TJ perspectives can and should inform the substance and process of legislative and administrative law-making in at least two ways. The first is public policy development, applying a TJ lens to existing and proposed public law, by analysing the therapeutic or anti-therapeutic impacts of the measures in question upon policy stakeholders. The second can be labelled “legislative due process,” examining whether policy deliberations give key stakeholders a genuine opportunity to be heard during significant decision-making steps. Both considerations relate to Wexler’s Therapeutic Design of the Law, inquiring whether public policy formulations and the legal frameworks to deliberate upon it are therapeutic or anti-therapeutic in nature. A focus on policy making processes further opens a related, new line of potential TJ inquiry, namely, how public policy stakeholders engage those processes, thereby invoking Wexler’s Therapeutic Application of the Law.⁹

Legislative and administrative law-making must consider Sustainable Development (SD) to establish a legal framework that yields remedial outcomes in addressing environmental

⁸ Grant, Elizabeth. “Ravenhall Correctional Centre: The Master Planning and Architectural Design of a Multifaceted, People-Oriented Prison for Men with Complex Physical and Mental Health Needs in Victoria, Australia.” *Advancing Corrections Journal*, vol. 9, 2020, pp. 158–160.

⁹ Yamada, David. “Therapeutic Jurisprudence: Foundations, Expansion, and Therapeutic Jurisprudence: Foundations, Expansion, and Assessment.” *University of Miami Law Review* *University of Miami Law Review*, vol. 75, no. 3, 14 June 2021, pp. 678–682.

controversies. SD is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. In establishing SD Goals, the United Nations (UN) recognizes that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for SD. These goals seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of SD: the economic, social, and environmental.

The other development goal is 'People', the UN is determined to end poverty and hunger, in all their forms and dimensions, and to ensure that all human beings can fulfil their potential in dignity and equality and in a healthy environment. Considering poverty is essential because our collective approach to the environment disproportionately impacts individuals living in poverty, given the circumstances associated with this socioeconomic context. The next goal is 'Planet' in which the UN is determined to protect Earth from degradation, including through sustainable consumption and production, sustainably managing its natural resources, and taking urgent action on climate change, so that it can support the needs of the present and future generations. The UN is determined to ensure that all human beings can enjoy prosperous and fulfilling lives and that economic, social, and technological progress occurs in harmony with nature. Considering the benefits of the natural environment is crucial as it paves the way for therapeutic results that contribute to a prosperous life. The UN is determined to foster peaceful, just, and inclusive societies which are free from fear and violence. There can be no sustainable development without peace and no peace without sustainable development. The last goal is 'Partnership', the UN is determined to mobilize the means required to implement this Agenda through a revitalized Global Partnership for SD, based on a spirit of strengthened global solidarity, focused particularly on the needs of the poorest and most vulnerable and with

the participation of all countries, all stakeholders, and all people.¹⁰ It's important to take in consideration that it must be a global effort to be effective.

Ensuring that the environment is in optimal conditions for enjoyment is integral to access. This underscores the importance of addressing Climate Change as a societal concern to preserve the benefits nature offers. Climate change has adversely affected physical health of people globally and mental health of people in the assessed regions according to the International Panel on Climate Change (IPCC). Climate Change produces Hot Extremes that include heatwaves which have intensified in cities, where they have aggravated air pollution events. Climate change has also increased observed heat-related mortality and contributed to the observed latitudinal or altitudinal range expansion of vector borne diseases into previously colder areas. Climate variability and change contribute to food insecurity, which can lead to malnutrition, including undernutrition, overweight and obesity, and to disease susceptibility in low- and middle-income countries. According to the IPCC Mental Health falls under projected risks and its impacts are expected to arise from exposure to extreme weather events, displacement, migration, famine, malnutrition, degradation or destruction of health and social care systems, and climate-related economic and social losses and anxiety and distress associated with worry about climate change.¹¹

¹⁰ UN General Assembly, Transforming our world : the 2030 Agenda for Sustainable Development, 21 October 2015, A/RES/70/1, available at: <https://www.refworld.org/docid/57b6e3e44.html> [accessed 26 November 2023]

¹¹ Cissé, G., R. McLeman, H. Adams, P. Aldunce, K. Bowen, D. Campbell-Lendrum, S. Clayton, K.L. Ebi, J. Hess, C. Huang, Q. Liu, G. McGregor, J. Semenza, and M.C. Tirado, 2022: Health, Wellbeing, and the Changing Structure of Communities. In: *Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1041–1170, doi:10.1017/9781009325844.009.

The International Panel on Climate Change (IPCC) has established that SD, a central framing issue in this Assessment Report, is intimately connected to climate change. SD is variably conceived as development that preserves the interests of future generations, that preserves the ecosystem services on which continued human flourishing depends, or that harmonizes the co-evolution of three pillars (economic, social, environmental). First, the climate threat constrains possible development paths, and sufficiently disruptive climate change could preclude any prospect for a sustainable future. Second, there are synergies and trade-offs between climate responses and broader SD goals, because some climate responses generate co-benefits for human and economic development, while others can have adverse side-effects and generate risks. Third, at a more fundamental level, the capacities underlying an effective climate response overlap strongly with capacities for SD and designing an effective climate policy involves ‘mainstreaming’ climate in the design of comprehensive SD strategies and thinking through the general orientation of development.¹²

When taking in consideration who is affected by Climate Change its important to recognize the racial disparities in climate-related health outcomes. The impacts of temperature on racial health disparities have been examined in more than a dozen states across the country and in many nation-wide studies. Wildfire studies were concentrated in the Western USA, whereas studies focused on hurricanes were concentrated in the Southeast and Atlantic Coast.

¹² Fleurbaey M., S. Kartha, S. Bolwig, Y. L. Chee, Y. Chen, E. Corbera, F. Lecocq, W. Lutz, M. S. Muylaert, R. B. Norgaard, C. Oker- eke, and A. D. Sagar, 2014: Sustainable Development and Equity. In: Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Edenhofer, O., R. Pichs-Madruga, Y. Sokona, E. Farahani, S. Kadner, K. Seyboth, A. Adler, I. Baum, S. Brunner, P. Eickemeier, B. Kriemann, J. Savolainen, S. Schlömer, C. von Stechow, T. Zwickel and J.C. Minx (eds.)]. Cambridge University Press, Cam- bridge, United Kingdom and New York, NY, USA.

Racial disparities in climate related health impacts have been much more widely studied in coastal states than in those in the interior.¹³

Climate change also disproportionately affects people of certain genders, according to a United Nations report on gender inequality and climate Change, women are more vulnerable to the effects of climate change than men—primarily as they constitute the majority of the world’s poor and are more dependent for their livelihood on natural resources that are threatened by climate change. This is due to the consequences of the increased frequency in floods and droughts are far reaching, particularly for vulnerable groups, including women who are responsible for water management at the household level. An increase in prevalence of diseases will likely aggravate women’s caregiving of family and community members who are ill. These diseases include malaria, onchocerciasis, schistosomiasis, and diarrhoea. With the onslaught of aggravated environmental changes, women are likely to continue spending long (perhaps even longer) hours fetching firewood, drawing water, working the land, and grinding cereal crops.¹⁴

It's crucial to focus on both, having access and protecting nature to maintain its positive benefits. Many studies have shown evidence that being surrounded by nature and biodiversity provides that contributes to overall positive physical and mental health benefits and our overall well-being. Notably, in prisons, having access to nature has led to improved well-being among inmates.

¹³ Berberian, Alique G., et al. “Racial Disparities in Climate Change-Related Health Effects in the United States.” *Current Environmental Health Reports* , 28 May 2022, pp. 451–452, <https://doi.org/https://doi.org/10.1007/s40572-022-00360-w>.

¹⁴ United Nations Women Watch. (n.d.) Women, Gender Equality and Climate Change. United Nations. https://www.un.org/womenwatch/feature/climate_change/downloads/Women_and_Climate_Change_Factsheet.pdf

We need to consider this because people with lower incomes and certain underrepresented minorities, like certain races and genders, are more affected if we take away access to nature or make its conditions worse. That's why we should embrace Sustainable Development—it's a way to make things fairer in a world where changing the environment has caused uneven disadvantages. Achieving this via the legislative due process because that is how environmental controversies are going to be determined will provide therapeutic results and provide a more dignified and compassionate legal landscape.