



Australian Peoples' Tribunal For Community and Nature's Rights

Charter and Operating Rules

Contents

1. Creation of the Australian Peoples' Tribunal for Community and Nature's Rights	2
2. Acknowledgement of First Nations Peoples	2
3. Objectives	2
4. Powers and Duties.....	3
5. Jurisdiction.....	3
6. Tribunal Panel Members	4
7. Tribunal Advocates	4
8. Tribunal Hearings and Reports to be publicly accessible	5
9. Tribunal Reports and Recommendations	5
10. Right of reply of accused parties in Ecological Justice Cases.....	5
11. Secretariat	5

1. Creation of the Australian Peoples' Tribunal for Community and Nature's Rights

- (1) The Australian Peoples' Tribunal for Community and Nature's Rights (hereafter 'the Tribunal') has been created by the Australian Earth Laws Alliance (hereafter 'AELA') to act as a forum for ecological and social justice in Australia.
- (2) The Tribunal is established as a Regional Chamber of the International Tribunal of Mother Earth Rights under Article 13 of the **Statute of the International Rights of Nature Tribunal**.¹
- (3) This statute therefore should be read as being consistent with the Statute of the International Tribunal of the Rights of Nature.
- (4) The Tribunal operates as an independent civil society body, separate from any government, corporate or other interests, and is guided by the expertise of its civil society Tribunal Panel Members and Tribunal Secretariat.

2. Acknowledgement of First Nations Peoples

- (1) AELA and the Tribunal acknowledge that the sovereignty of the First Nations people of the continent now known as Australia was never ceded by treaty nor in any other way. The Tribunal proceedings acknowledge and respect First Nations peoples' laws and ecologically sustainable custodianship of Australia over tens of thousands of years through land and sea management practices that continue today.

3. Objectives

- (1) The Tribunal has been created as a permanent civil society institution, to
 - a. enable people to share their concerns about the destruction of the environment,
 - b. amplify calls for social and ecological justice by communities who have not had their concerns adequately heard and/or addressed by the legal system or government agencies,
 - c. enable people to articulate their vision and recommendations for ecological justice and law reform, and
 - d. hear and collate ideas for protecting and restoring ecosystems, bioregions and human communities.
- (2) The Tribunal provides an educative and culturally transformative forum in which to present an alternative process for addressing environmental justice in Australia. In hearing Citizens' Inquiries and Ecological Justice Cases, the Tribunal seeks to:
 - a. highlight the causes and impacts of violations of the rights of nature,
 - b. highlight the causes and impacts of violations of human rights and community rights to defend their local ecosystems and communities,
 - c. highlight positive alternatives and community created solutions,
 - d. explore the development and application of earth laws,
 - e. support the human communities who are working to protect the non-human world and their own families and communities;
 - f. amplify the voices of non-human beings excluded from our present legal system.

¹ See - <http://therightsofnature.org/rights-of-nature-tribunal/>

4. Powers and Duties

- (1) The Tribunal may hear Ecological Justice Cases and Citizens' Inquiries.
- (2) To hear Ecological Justice Cases, the Tribunal may:
 - a. Agree to hear a case brought before it by any individual or organization,
 - b. Bring cases on its own motion,
 - c. Conduct investigations into alleged violations of the Universal Declaration of the Rights of Mother Earth, thereby investigating alleged violations of the rights of nature and the rights of affected communities, environmental defenders, their communities and others;
 - d. Determine whether a case is within the objectives of the Tribunal and should be heard,
 - e. Invite people to submit written and oral testimonies
 - f. Issue appropriate notification to individuals, organisations or other entities named as defendants in the Ecological Justice Case,
 - g. Hear an Ecological Case in a public forum, inviting people to give oral testimony
 - h. Issue a written summary of its analysis and recommendations,
 - i. Present and publicise its recommendations to the parties and general public.
- (3) To hear a Citizens' Inquiry, the Tribunal may:
 - a. Agree to hold a Citizens' Inquiry on an issue brought before it by any individual or organization,
 - b. Hold a Citizens' Inquiry on its own motion,
 - c. Conduct investigations into issues relevant to the Terms of Reference, with a view to investigating alleged violations of the rights of nature and the rights of environmental defenders and their communities,
 - d. Develop and make public the Terms of Reference for the Citizens' Inquiry,
 - e. **Accept and review written and oral submissions** from affected local communities, wider Australian community and/or experts such as scientists and lawyers, who respond to the Terms of Reference,
 - f. **Invite people to give Oral Testimony at Public Hearings,**
 - g. Issue a written summary of its analysis and recommendations,
 - h. Present and publicise its findings and recommendations to the parties and general public.

5. Jurisdiction

- (1) The Tribunal has jurisdiction to hear Citizens' Inquiries and Ecological Justice Cases about alleged violations of the rights, or breach of the duties, established by the **Universal Declaration of the Rights of Mother Earth**,² (hereafter referred to as "The Declaration") committed by any individual, organisation, corporation, government or other entity in Australia, including its maritime zones and overseas territories.
- (2) In applying the Declaration, the Tribunal:
 - (a) Will have regard to the Earth Laws defined in article Article 27(1)(c) of the statute of the International Rights of Nature Tribunal.
 - (b) May have regard to:
 - (i) international human rights law, including the Universal Declaration of Human Rights³ and the United Nations Declaration on the Rights of Indigenous Peoples⁴;
 - (ii) commonly accepted and emerging principles of law, morality and justice reflected in judicial decisions and/or the writing and teachings of respected jurists;
 - (iii) international law including treaties and customary international law;

² See - <https://pwccc.wordpress.com/programa/>

³ See - <http://www.un.org/en/universal-declaration-human-rights/>

⁴ See - <https://en.unesco.org/indigenous-peoples/undrip>

- (iv) statements and declarations made by civil society groups and experts, including The Earth Charter⁵ and the IUCN World Declaration on the Environmental Rule of Law⁶;
 - (v) statements, decisions and recommendations made by Peoples Tribunals around the world, including the International Tribunal for the Rights of Nature, and the Permanent Peoples' Tribunal;
 - (vi) existing and emerging laws around the world, including Constitutions, national, provincial and local legislation, and cases articulating the Rights of Nature and the law of ecocide;
 - (vii) Laws of Australia, where relevant.
- (3) In giving content to these laws the Tribunal may hear evidence from scientists, First Nations Peoples' representatives, persons with intimate knowledge of the ecological community and other experts that the Tribunal decides would be appropriate to receive evidence from.
- (4) The Tribunal may hold Citizens' Inquiries and/or Ecological Justice Cases that involve:
- (a) Australian individuals,
 - (b) Australian organizations,
 - (c) Any government of Australia, including the Australian (Federal) and any State or Territory government;
 - (d) An Australian corporation, or a foreign corporation operating within the borders of Australia (land or sea),
 - (e) Any other entity connected to Australia, whose actions are alleged as a breach of Earth Laws within the Commonwealth of Australia,
 - (f) An Australian individual, organization, corporation or government agency operating outside of the Commonwealth of Australia.

6. Tribunal Panel Members

- (1) The Tribunal will invite up to 20 lawyers, scientists, First Nations representatives and other experts to be listed on the Tribunal Panel Members Register, so these experts can be available to hear Citizens' Inquiries and Cases.
- (2) Each time the Tribunal proceeds with a new Citizens' Inquiry or Ecological Justice Case, the Secretariat will invite the most appropriate experts from the Tribunal Panel Members Register to hear the Inquiry or Case and will appoint one of the experts to be the Chairperson of the specific Inquiry or Case.
- (3) Between four and six Tribunal Panel Members on the Tribunal List will be invited to hear each Inquiry or Case. The Secretariat can invite additional experts to join the Panel for an Inquiry or Case, if people with the specific expertise required for an Inquiry or Case are not available.
- (4) Tribunal Panel Members are responsible for hearing cases and delivering judgments or recommendations about each case.

7. Tribunal Advocates

- (1) The Tribunal must appoint a Tribunal Advocate or multiple advocates, for each Citizens' Inquiry and Ecological Justice Case, to represent the interests of the non-human world and community groups who have petitioned the Tribunal.

⁵ See - <http://earthcharter.org/discover/the-earth-charter/>

⁶ See -

https://www.iucn.org/sites/dev/files/content/documents/english_world_declaration_on_the_environmental_rule_of_law_final.pdf

- (2) The Tribunal Advocate will be a person with legal training, who will introduce the case/s, lead evidence and advance arguments concerning the violations of community and nature's rights, including the calling of witnesses.

8. Tribunal Hearings and Reports to be publicly accessible

- (1) Tribunal Hearings, comprising Citizens' Inquiries and Ecological Justice Cases, shall be public, unless exceptional circumstances lead the Tribunal Panel to decide to close all, or part, of a hearing.
- (2) The Tribunal will publish its decisions, judgments and opinions, the Tribunal members' individual votes and opinions and any other information that the Tribunal considers appropriate, on the Tribunal's public website.

9. Tribunal Reports and Recommendations

- (1) Each Tribunal Panel selected for a Citizens' Inquiry or Case hearing, will produce an Interim Statement after each Inquiry or Case, followed by in-depth Final Reports and Recommendations.
- (2) The Secretariat will publish all Tribunal Reports and Recommendations on the Tribunal website, for public access.
- (3) The Secretariat will, wherever possible, work with reputable journals and other outlets, to publish Tribunal Reports and Recommendations.

10. Right of reply of accused parties in Ecological Justice Cases

- (1) Where the Tribunal hears Ecological Justice Cases, the Tribunal will invite any parties accused of violating community and nature's rights to defend their case. If a written statement is supplied by an accused party, this will be read to the Tribunal.
- (2) If an accused party declines to give a reply or remains silent, the Tribunal will appoint a proxy representative to represent their interests.
- (3) In recognition of the asymmetric power imbalance between the parties, including the fact that many violations are legitimised and facilitated by Australia's governments and legal system, the Tribunal is committed to amplifying voices that have previously been left out of the legal system. A right of reply from the accused will therefore be qualified by a consideration of whether the accused has had adequate opportunities to put their case in other forums.

11. Secretariat

- (1) The Australian Earth Laws Alliance will provide Secretariat Support for the efficient management of the Tribunal.
- (2) The Secretariat will:
 - a. Be the main point of contact for community groups who petition the Tribunal
 - b. Assist community groups who wish to create a Steering Group to run their Ecological Justice Cases or Citizen's Inquiries
 - c. Liaise with Tribunal Panel Members, to secure their involvement in the Tribunal and support their work
 - d. Support communication of Tribunal activities to affected communities, government agencies, members of Parliament, the general public and other stakeholders
 - e. Receive and manage any donations made to support the work of the Tribunal.

For all correspondence and questions about the Australian Peoples' Tribunal for Community and Nature's Rights, please contact: tribunal@earthlaws.org.au

For more information: www.tribunal.org.au