

2021 Harmony with Nature – Theme: Earth Jurisprudence

By Caroline Regad – Earth-centered Law

1. What would the practice of Earth-centered Law look like from an Earth Jurisprudence perspective? How is that different from how Earth-centered Law is generally practiced now? And, what are the benefits of practicing Earth-centered Law from an Earth Jurisprudence perspective?

In 2019, the experts of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) sounded the alarm: “Nature is declining globally at rates unprecedented in human history - and the rate of species extinctions is accelerating, with grave impacts on people around the world”. Taking into account that the evidence is conclusive, they consider nevertheless that it is not too late to make a difference, but only if we start now and to this effect is required to make “transformative changes”. In many ways, the law can become the most suitable vector of the new approach to the world by amending the manner to consider The Living.

The law can envisage The Living in different manners. First, by concentrating solely on the human (anthropocentrism). Second, by considering the animal (zoocentrism) with criteria such as the sensitivity (pathocentrism), the intelligence (cognitocentrism) or consciousness. Third, it can encompass every living being (biocentrism). At present, the legal anthropocentrism appears to be gradually shaken in the context of the advances of the zoocentrism and biocentrism around the world, which probably open a new era. Although only the future can confirm this, we believe that this is only the beginning of a larger trend destined to gain momentum and to intensify.

In the era of anthropocentrism, humans can no longer act as if they were the only inhabitants of a planet with unlimited resources. Other kinds of relationship with the world need to be envisaged and proposed. Earth Jurisprudence contributes to this. Indeed, it accompanies the paradigm change required for the future of our planet.

2. What promising approaches would you recommend for achieving implementation of an Earth-centered worldview for Earth-centered Law? (Note: depending on the discipline, approaches could also be theoretical, although practical approaches should be prioritized).

The involvement of The Living criteria can be a promising track. One science has attracted particular attention: phylogenetics, the science that classifies living organisms. Until then, we had a pyramidal representation of life with humans at the top. This is no longer the representation that prevails today. Phylogenetics, on the contrary, now proposes the arborescence of life, the bush of life, the tree of life, the tree of living beings. At the centre, there is LUCA (*Last Universal Common Ancestor*), the oldest known universal common ancestor. Man is on a branch among the others.

This new representation of life implies a reversal of the traditional paradigm and the end of the human-based hierarchy. Above all, it confirms the importance of talking about

"non-human persons" and not "animal persons", since humans are biologically animals. To speak of the "animal person" when referring to animals other than humans is therefore to link up with an approach to the world that science no longer supports. The expression "non-human person", in line with biological reality, is therefore preferred.

The change of the paradigm caused by the phylogenetic will have legal implications. Certain branches of the bush of life may fall into the law domain ([The Bush of Life at the origin of the Law of the Living](#)). The legal personality resulting from this, notably relating to the animals, would support the idea of Earth Jurisprudence. Indeed, wild animals are particularly well-connected to Nature.

In any case, it is certain that "Reflection on biodiversity and the future of the planet must include non-human persons. / In this manner, the link with the community of living beings is underscored ; a legal interpretation can and must be established." ([The Toulon Declaration](#)).

3. What key problems or obstacles do you see as impeding the implementation of an Earth-centered worldview in Earth-centered Law?

However, certain reservations still do exist. The reason for this is that the increase of knowledge about animals or Nature is ignored or even denied. The main challenge is, therefore, to reach progressively general awareness.

It should be noted that the coherence of the law is also a source of concern. This is a point that is often ignored by non-lawyers, but in order to hold rights, one must be a legal person. Therefore, from the strict point of view of legal theory, animals or Nature cannot have rights today.

Debating reform proposals aimed at guaranteeing so-called additional rights for animals, for instance, without first granting them legal personhood is, to use a metaphor, like adding extra floors to a building of which the foundations are unstable. In other words, it is like constructing the legal edifice before laying the foundations, which is incoherent.

4. What are the top recommendations for priority, near-term action to move Earth-centered Law toward an Earth Jurisprudence approach? What are the specific, longer-term priorities for action? (Note: give 3 to 10 priorities for action).

In the short or medium terms, the actions should be combined. The reason is that humans no longer have a lot of time to stem the sixth mass extinction and the accompanying squandering of the planet's resources. The question whether this is even still possible is open.

The following main recommendations could be envisaged with a view to supporting the Earth Jurisprudence :

1. To (re)conciliate environmental and animal approaches using the concept of legal personality of wild animals.

Depending on the particular legal systems, advancement of this concept could be ensured through legislative reforms. In common law systems, this could be achieved through jurisprudence. At the international level, a treaty signed and ratified by the states and having a binding force, or even a non-binding convention could be an adequate instrument capable of granting a legal personality to the animals or to certain elements of Nature.

2. To de-compartmentalise knowledge: it is essential that different branches of science could establish a dialogue.
3. To spread knowledge : the public should be informed about animals and Nature.