

2021 Harmony with Nature – Theme: Earth Jurisprudence

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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?

Most of the world's legal systems adopt an anthropocentric perspective in which humans appear at the center and Nature is considered an object that can be used and (over)exploited to satisfy humans' needs and desires. Even environmental law and governance have adopted this human-centric approach; as a result, these have been criticised for having legalised environmental harm instead of preventing it. This instrumental and utilitarian view of Nature has deepened the disconnection of human beings from her and has contributed to the current environmental and climate crises.

Adopting an Earth-centered perspective would help overcome anthropocentrism and to re-establish respectful and harmonious interrelationships with all living beings. It would promote a paradigm shift in the way humans perceive, treat and protect Nature or Mother Earth, acknowledging her not as an object, but as a living entity to whom we are intimately connected and depend on. More precisely, in envisioning a new, integral form of environmental protection, an Earth-centered Law would entail an explicit recognition of Nature as a subject of rights deserving protection for her intrinsic value regardless of human needs. Thus, Nature – including her ecosystems and communities – would be recognized as a rights-bearing subject into legal systems. Therefore, her rights and interests should be heard, defended, protected and taken into account in decision-making processes affecting them.

Furthermore, the practice of Earth-centered Law through the recognition of the Rights of Nature provides a powerful legal and institutional framework to challenge existing (social, economic, political, technological...) systems in order to create new governance systems based on the respect for and responsibility towards all forms of life (human and non-human) and the defence and full implementation of inherent rights of all (human and non-human) beings. By creating and implementing laws and governance systems in which Nature and her rights are central, the overall well-being of all life and of future generations is also placed at the core.

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).

In my opinion, shifting to an ecocentric paradigm and recognizing Rights of Nature – such as the rights to exist, to diversity of life, to be maintained and to restoration - contribute to achieving the implementation of an Earth-centered worldview. The

recognition of Nature – including her ecosystems and communities – as a subject of rights can occur through different legal forms: through constitutions (as in the case of Ecuador) and national and local legislation (as in the cases of Bolivia, New Zealand, Spain and Mexico City), as well as through litigation before Courts (as in the cases of Colombia and India). In addition, once recognised by legal systems, appropriate measures should be put in place to promote and enforce Nature’s rights.

Take the case of Bolivia, for instance. Bolivia adopted a new Constitution and statutory regulations that, drawing on indigenous concepts and principles, such as *Vivir Bien* or *suma qamaña*, made possible the construction of a new legal structure for the protection of Mother Earth based on her intrinsic value. Although the Bolivian Constitution does not explicitly entrench the rights of Mother Earth, as the Ecuadorian Constitution does, it provides for an environmental right of the population and extends its protection to “other living things” so “they may develop in a normal and permanent way” (art. 33).

The Law of the Rights of Mother Earth (*Ley de Derechos de la Madre Tierra, 2010*) is the world’s first statutory law recognizing Rights of Nature – such as the right to life, to maintain and regenerate her life cycles and structures, and to be restored (art. 7). In this sense, the law defines Mother Earth as “a collective subject of public interest” (art. 5) and establishes that the State and all Bolivian people have the legal duty and responsibility to enforce Nature’s rights on her behalf (art. 8-9). Importantly, in order to promote effective compliance and enforcement of these rights, the Law also orders the creation of an institutional framework: an Ombudsman of Mother Earth (*Defensoría de la Madre Tierra*). More than 10 years later, this office is not yet operational.

When an Earth-centered worldview is applied and Rights of Nature are recognized, such rights need to be respected, protected and enforced. To do so, awareness and training on Rights of Nature and Earth-centered Law should be offered to lawyers, prosecutors and judges, as well as to civil society. Also, at universities and other education centers, research and teaching on the Earth-centered Law should be promoted, sharing experiences and best practices in this regard.

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

Two main obstacles to the implementation of an Earth-centered perspective based on the recognition of Nature’s rights can be identified. The first one is linked to the fact that the traditional approach of legal systems considers nature as human property, supports her exploitation and grants rights only to humans and human-created entities (organization/corporations). This legal formalism that reserves subjective rights to humans is opposed to an ecocentric approach of legal systems that, in contrast, centers legal decisions around Nature's rights and interest. We need a revolution in law and legal thought to protect Mother Earth and to protect ourselves; fortunately, this revolution has already begun– with ups and downs - in some legislative and judicial spheres, providing important lessons.

The second obstacle is linked to the dominant economic system based on economic growth and prioritizing profits over humans and Mother Earth needs. Bolivia's case exemplifies that the existence of new visionary ecocentric laws recognizing Rights of Nature is only the first step and more efforts – including political will and public awareness – are needed to promote real changes in policies and practices, especially for countries relying on an extractive economy. Thus, in a scenario in which demand for natural resources is increasing, corporate power and state extractivist policies hinder the effective implementation and enforcement of Nature's rights, giving rise to the emergence of socio-environmental conflicts around extractivist projects and activities, such as mines, gas extraction and hydroelectric megadams.

In this sense, the Earth-centered perspective needs to gain space not only in the legal community, but also in the public and private sectors and in society as a whole. In addition, its practical implications (especially in terms of obligations and responsibilities) need to be properly examined and disseminated to close the gap between discourse and reality. Similarly, in order to recognise, protect, implement and guarantee the Rights of Nature (and of human beings) systemic changes are needed; for instance, the traditional capitalist development model that promotes the domination and exploitation of Nature and people has to be overcome. It is not an easy task and will require great transformations of societal systems. This is likely to face resistance, especially from interest groups (such as businesses). Yet, non-anthropocentric alternatives to the dominant paradigm of development – such as the concepts of Rights of Nature or *Vivir Bien* in harmony with Nature - will also lead to changes in regulation and institutions and spur shifts in human behaviours and lifestyles. These are urgently needed to tackle the climate and environmental crises.

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).

Near/medium-term priorities:

- Promote a shift to a non-anthropocentric legal system through the adoption of ecocentric laws (in all spheres) that recognize Nature as a subject of law with rights and the creation of normative and institutional frameworks for the implementation and enforcement of those rights.
- Promote interdisciplinary research on the Earth-centered approach and spread awareness and knowledge about it among the legal and non-legal communities.
- Revise the SDGs' current human-centric approach in order to include an ecocentric perspective.
- Create, reinforce and expand networks of experts, academics and civil society actors (from both the North and South) who work together to defend and support the implementation of an Earth-centered worldview.
- Spread knowledge in all sectors of society (public and private) about the meaning of the Earth-centered worldview as well as about the practical implications of adopting this approach in policies, regulations and judicial decisions (for instance, in the energy sector).

- Building alliances between the Rights of Nature movement and the environmental and climate justice movements in order to address environmental and climate challenges through an Earth-centered approach.

Long-term priorities:

- Explore and promote non-anthropocentric alternatives to the current paradigms of economic growth and development (and related extractivist practices), such as *Vivir Bien/Buen Vivir* in harmony with Nature approaches. International cooperation will be essential in this regard.
- Decolonizing curriculum in education institutions (at all levels) to challenge and move away from anthropocentric notions of Nature and to reorient education, towards the culture of respect for and protection of all forms of life (human and non-human).