

## Harmony with Nature - 2018

### Theme: Earth Jurisprudence

#### By Hugo Echeverría - Earth-centered Law

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

Should an Earth-centered perspective be in place, Environmental law would totally change.

Law is based upon an anthropocentric perspective. Hence, an Earth-centered perspective, upon which Rights of Nature are based, poses profound legal challenges that Environmental law has not been able to effectively address.

Human beings are at the core of legal principles and rules. Subjects of law. Animals, plants and other beings of Nature have historically been considered as natural resources. Objects of law. Although Environmental law has been able to *elevate* the legal status of Nature to an *object of protection*, it is evident that this has not been enough to stop her destruction. Therefore, an Earth-centered perspective emerges as an alternative to achieve this goal. One that aims at *respecting* Nature, the same high-level of respect that humanity granted to a mother, that is, mother earth-Pachamama. This, however, requires change at the very foundations of Law.

But change is never easy, nor immediate. Nevertheless, an Earth-centered perspective has already achieved reactivation of this debate, at a global level. This is a benefit. Perhaps the main benefit to apply this new perspective lies upon aiming, and hopefully achieving, the legal effectiveness that Environmental Law has not been able to achieve.

**2. What promising approaches do 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).**

I recommend three promising approaches:

The first is to acknowledge that Nature can be recognized as a subject of rights. If legal fictions, such as corporations, are legal persons, why not Nature? This recommendation is based upon the Ecuadorian experience: in 2008 the south American country became the first in the world to recognize constitutional rights to Nature: respect to her existence and restoration. Constitutional recognition, however, should be regarded as an end-result but as the first step towards achieving implementation of an Earth-centered legal perspective. Such recognition should be complemented with adoption of a legal framework (laws and by-laws) to ensure effective enforcement of rights to Nature. An institutional framework, such as the *Nature's ombudsman*, should also be set in place.

The second reflects on recent legislative and judicial decisions from New Zealand to Colombia, regarding expansion of the concept of legal personhood. Traditionally associated to human beings and corporations, this concept has recently been applied to rivers and mountains. This conceptual expansion is based upon legal interpretation of old concepts to be able to apply to new challenges.

The third refers to effective enforcement. It is not enough to have laws and institutions. For this, a capacity-building program needs to be put in place. One that reaches lawyers, judges, prosecutors and all the main actors of law enforcement.

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

From a legal perspective, the Earth-centered perspective urgently needs to be seriously addressed by the legal community, at the global level. At present, it is one belonging to other disciplines (Politics, Philosophy, Ecology) but not Law. This topic is not yet being examined at law conferences of leading Law Schools.

This even happens in Ecuador, where Nature has already been granted constitutional rights: There, RON are regarded by leading scholar as merely symbolic, with no different applications as to existing (human) environmental rights. This really impedes the implementation of an Earth-centered perspective. Hence, to overcome this obstacle, this emerging perspective needs to be further examined from a legal perspective. This is a task for RON advocates: to find the practical and concrete effects of implementing this new perspective.

### **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).**

- To strengthen the Harmony with Nature Initiative
- To promote the adoption of UN General Assembly Resolutions on an Earth-centered perspective of Law.
- To work on a Universal Declaration of Rights to Nature that include legal scholars and other members of the legal community
- To promote international inter-university cooperation and networking to enhance institutional capacities through knowledge sharing and collaborative work through the creation of "Earth-centered chairs". The current [UNESCO chair program](#) can be taken as a model.