

## 2018 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?**

The anthropocentric bases, under which the foundations of Western cultures were formed, driven by the exploratory, extractive and consumerist logic, left a legacy of destruction and disrespect for human and nonhuman life, and promoted a rupture with the practices and values worshiped by the native people.

The Western model of society, although it seeks to overcome the anthropocentric paradigm, it still does so in terms of the scientific knowledge and epistemological foundations of the North.

The discourse of sustainability (environmental, economic and social), skillfully conducted in the last decades and with some good results, operates on a horizon that cannot arise as a new *ethos* in the speed and *chronos* needed to contain the several problems caused by predatory consumerism.

Thus, practicing Earth-centered Law, based on sustainability, although it was an important step in raising awareness and establishing a more respectful proposal in relation to the planet, it suffers from the incompleteness created by the segmented point of view which sees the man-nature relationship as disconnected one, focused in a scientificist, economicist and atomized epistemology. Furthermore, this proposal still remains in need of the holism and the interdisciplinarity indispensable to architect a brand new form of learning, pointed to the production of an authentic Earth Jurisprudence, in which a set of knowledge works toward the harmony with the nature.

The benefits of practicing Earth-centered Law from an Earth Jurisprudence perspective, through which nonhuman beings and the nature itself have the same treatment before the Law and before the Justice, are themselves the consequences of the struggle for the consolidation of a new model of society, more holistic and more harmonic, and less hierarchical, where all forms of existence have dignity. Earth Jurisprudence wants to achieve a broader perception of the importance of the entire Earth community

**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).**

Nature must have fundamental rights recognized in the same way that human beings have and, as a consequence, it needs to have the legal capacity to defend those rights in lawsuits. Hence the importance of the recognition of the Earth-centered Law, as an instrument to guarantee to nature its right to existence, protection, prosperity and evolution.

We consider promising this special kind of legal treatment that promotes Earth Jurisprudence, which indicates new paths, recognizing new subjects of rights, such as rivers; lakes; ecosystems threatened by destructive human action; animals; forests etc. Every new successful case in the courts consolidates a modern viewpoint in which nature has no instrumental value for human life, that is, nature has value in itself, requiring the recognition of the same links between nature rights and human rights.

The Earth-centered worldview seeks to overcome the idea of a purely ethical commitment and likewise underlines the legal responsibilities of humanity regarding the protection of the Earth, aiming to improve man-earth relations and intergenerational justice, raising awareness of the need to live in harmony with nature, in order to reflect the understanding of a community as a member of the Earth community.

The special applications of the Earth Jurisprudence change from society to society, sharing common points in order to embrace: the recognition that Earth Jurisprudence is shaped and influenced in its operation by a broader context; the identification that nature rights derive from the universe and therefore cannot be conditioned or abolished by human jurisprudence; that Earth justice wants what is best for the earth community as a whole and aims at ensuring the dynamic equilibrium for the system as a whole; a focus on the analysis of human conduct, based on the fact that it strengthens or softens the ties that bind us together with the Earth community; the pursuit of recognition of the rights and roles of human beings and nonhumans of the earth community; and the detachment of the anthropocentrism that neutralizes that pursuit and promotes the exploitation of nature

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

There are several problems and they include the difficulty of overcoming the economicist-extractive-exploratory model that treats nature as a source of inexhaustible and instrumental resources for human beings, without considering the dignity of all forms of existence and life and the need for harmony with nature. In short, there are difficulties in promoting mechanisms of interaction beyond anthropocentrism.

There are also institutional barriers created by the political logic of structuring nations. Those barriers are demarcated by artificial borders that break up collective actions and articulations against indifference.

The economic obstacles are countless: developmentalism, at best, filtered by an attenuating sustainability, but without rupture with the neoliberal horizons; citizenship built on the basis of consumerism; neo-extractivism; economic policies of austerity to accentuate historical inequalities, among other difficulties.

The implementation of an Earth-centered worldview in Earth-centered Law faces resistance because of the negative impact of legal formalism on some topics such as: classical orientation on subjects of rights; conservatism in the perception about the legal capacity in court; limits on national jurisdiction; normative dispositions with character of soft law; non-recognition of alternative forms of jurisdiction (outside the traditional quadrants of the State); besides the problems related to the dogmatic formation of the jurists who do not easily accept the main postulates of the Earth Jurisprudence

**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).**

Indicating short-term priority actions is not easy, however, we risk signaling that investments are necessary in:

- building mechanisms of approach, creation and strengthening of networks among communities that share the worldview of harmony with nature;
- promoting and publishing the results of strategic litigation in the area of Earth Jurisprudence;
- encouraging research and construction of knowledge about the Earth Jurisprudence.

With regard to specific long-term priorities for action:

- stimulating and organizing conferences based on the Earth Jurisprudence;
- revising International Treaties under the base of the Earth Jurisprudence;
- establishing development indices based on the Earth Jurisprudence.