

2019 Harmony with Nature – Theme: Earth Jurisprudence

By Jessica den Outer – 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?

One of the core principles of Earth Jurisprudence states that the Earth Community and all its beings have fundamental rights, including for example the right to exist, thrive and evolve. The theory of law of Earth Jurisprudence translates into rights of Nature. Rights of Nature are fundamentally different from current laws on Nature or the environment. Current laws can barely be regarded as Earth-centered, as these are in and by itself anthropocentric. Nature is regarded as an object to exploit (often for economic gain). By granting Nature an independent legal status through rights, the intrinsic value of Nature is recognized without the need for a human valuator. One would say these are not contingent rights, but primal, natural laws that ought to be recognized, honored and enforced. These rights vary in different local contexts. The increase in countries recognizing rights of Nature in the last decade demonstrates the goodwill of countries in recognizing legal personhood of natural entities. Rights of Nature incorporates Earth Jurisprudence perspectives in that it becomes an instrument for life in harmony with Nature and contributes to a change in paradigm where humans realize they are part of Nature; and not separate from it.

Current environmental governance systems and the concept of sustainable development have not ensured that global challenges have been prevented or sufficiently mitigated. It is important to note in this context that recognizing rights of Nature would not stop economic activity. However, recognizing the rights of Nature would grant natural entities a voice, which can be used to cooperate in conflicts and find solutions that satisfy all pillars related to sustainable development. Earth Jurisprudence in this regard facilitates systemic change in legal systems towards a more ecocentric paradigm that is respectful of all forms of life and address challenges from a holistic point of view.

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 most prominent approach to implement an Earth-centered worldview in law is to recognize the rights of Nature on an international level. However, this movement is yet too young to be recognized as a binding obligation. It is key to gain more momentum before rights

of Nature are enshrined in a binding international instrument. The different approaches to rights of Nature should therefore be promoted as examples on how to implement Earth Jurisprudence in legal and governance systems. The Ecuadorian constitution for example has already inspired many other rights of Nature movements around the world. However, rights of Nature are to be implemented in different contexts. The Whanganui river in New Zealand for example was granted legal personhood after the local Maori tribe fought for its recognition for over 140 years. Many rights of Nature approaches take into consideration indigenous people's relationship with Nature, and this is different in each local context.

Something that seems feasible at this moment in time is the international recognition of the increasing movement of rights of Nature across the world, just as the Rio+20 '*the future we want*' outcome document reaffirmed in 2012. Therefore, the role that rights of Nature can play should be more often recognized in international (soft law) conferences, without necessarily attaching a binding obligation to it. This would not just apply to international conferences regarding the preservation of Nature or sustainable development, but also topics such as wildlife trade or climate change. This increasing awareness may spark more rights of Nature movements around the world.

Even though recognizing rights of Nature arguably plays the biggest role in implementing an Earth-centered worldview, the relevance of other disciplines should not be overlooked. One of the most important disciplines in this regard is education. Lawyers, judges and other practitioners of law should be educated on what rights of Nature entail and how to give meaning to these provisions. This study should be a comparative one; as rights of Nature are practiced differently across the world. Besides the focus of education on practitioners of law, more attention should be paid to future leaders: the youth. They should be inspired to a different relationship with the natural world and have access to information on how to change course for a more sustainable future. In this regard, academic platforms should be encouraged such as study groups in universities on this topic. Youth initiatives, such as the Youth Circle Rights of Nature (Global Alliance for the Rights of Nature) should be supported to create more awareness among the youth. With rights of Nature increasingly recognized around the world, young leaders may use these developments in the future to lobby for an Earth-centered worldview in international law.

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

- The current economic system with a focus on (eternal) economic growth;
- Laws that might work against rights of Nature, such as trade law or property law;
- Conservative (Western) politics, along with the denial of climate change evidence;
- The general lack of a voice for future generations;

- Post-colonialist systems: the lack of engagement of indigenous people in decisions that impact Nature or their livelihood. Recognizing rights of Nature on the basis of indigenous people's relationship with Nature is a great way to incorporate Earth Jurisprudence perspectives.

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-term priorities

- Advance and promote rights of Nature in all disciplines and specifically in education for the reasons I have mentioned under Question 2, because increased awareness will eventually lead to legal reform;
- With a specific focus on youth participation and education: see for example initiatives such as the Youth Circle Rights of Nature;
- Recognize and promote research on the role that rights of Nature can play in various contexts, especially in addressing global challenges: see for example my [article](#) on rights of Nature as a tool in climate change litigation;
- For follow-up conferences and outcome documents on environmental law to promote rights of Nature and embrace Earth-centered terms to gain international momentum.

Longer-term priorities

- Design and evolve the Sustainable Development Goals for +2030 to be more Earth-centered: incorporate Earth Jurisprudence terms such as planetary boundaries, the intrinsic value of Nature and the recognition of rights of Nature as a tool to achieve sustainable development;
- For the United Nations to adopt the Universal Declaration of Rights of Mother Earth;
- Further advance the International Rights of Nature Tribunal.