III TARRAGONA INTERNATIONAL ENVIRONMENTAL LAW COLLOQUIUM

Ecological Justice and Environmental Law in the Anthropocene.
A new Paradigm for Earth Community

ABSTRACT PROCEEDINGS

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III TARRAGONA INTERNATIONAL ENVIRONMENTAL LAW COLLOQUIUM

ECOLOGICAL JUSTICE AND ENVIRONMENTAL LAW IN THE ANTHROPOCENE. A NEW PARADIGM FOR EARTH COMMUNITY

According to contemporary scholarship, the ecological crisis cannot be understood as something temporary, but, rather, as a matter of definitive and irremediable change, with a devastating impact on the environment. These already identified changes in the earth system are longstanding, and include: the loss of biodiversity, alterations in the nitrogen and phosphorus cycles, the high level of CO_2 in the atmosphere, or the acidification of oceans. All of these produce changes in almost all ecosystems and species of the planet.

The notion of the Anthropocene connotes a shift in the conceptual framework of natural and social sciences in order to approach this new planetary situation. Since geologist Paul J. Crutzen first outlined the concept in 2000, it has spread throughout the scientific community, not only in within natural sciences, but also within social sciences and humanities. Meanwhile, efforts have been made to understand the methodological and substantive challenges and opportunities that this new vision of humankind as a geological force could bring about.

Particularly in legal and political sciences, this notion is likely to pose important challenges to already well-established categories like justice, social contract, responsibility, legal personality, common goods, property, and democracy, among others. In addition, if we consider the global concern for environmental problems within these disciplines, adopting the Anthropocene as a new paradigm has even more possibilities of affecting the way in which environmental problems are addressed.

ABOUT THE ORGANIZERS

The III Tarragona International Environmental Law Colloquium (TIEC) jointly organized by the Tarragona Centre for Environmental Law Studies (CEDAT-URV) and the Tarragona Environmental Law Students Association (AAEDAT) will be held on 17 – 18 May 2018 at the Faculty of Legal Sciences of the Universitat Rovira i Virgili, in Tarragona, Spain.

The CEDAT has gradually become a reference point for environmental law in Spain and Europe. Its objectives are to generate and socialize knowledge in the field of environmental law. In 2014, it hosted the 12th edition of the Annual Colloquium of the IUCN Academy of Environmental Law, which gathered researchers and academics from 56 countries across all regions of the world. At present, the CEDAT is involved in several national and international research projects.

The AAEDAT is an association founded in 2009 by students and ex-students of the LL.M. of environmental law in Rovira i Virgili University. It promotes activities within the university community in order to further environmental and social values and create spaces for debate, reflection and exchange with other universities and research groups.

The III TIEC aims to provide a forum for junior and early-career researchers with different backgrounds in which to present and discuss their research and works-in-progress. In addition, this event seeks to create a friendly environment for meeting fellow students and colleagues that share a common interest for environmental law.

The III TIEC is an activity carried out under research project ‘Constitución Climática Global: Gobernanza y Derecho en un Contexto Complejo’ funded by the Spanish Ministry for Economy and Competitivity (DER2016-80011-P).

KEYNOTE SPEAKERS

SASKIA VERMEYLEN is a chancellor's fellow at the Strathclyde Centre for Environmental Law and Governance at Strathclyde University's law school. She is interested in the normative dimension of environmental law and her research focuses specifically on the connection between international environmental law, justice and ethics.

Inspired by her empirical fieldwork in Southern Africa, Saskia's research explores the relationship between global and local law and has introduced a post-colonial and emancipatory understanding of legal pluralism and 'informal' law in the area of property theory and resource frontiers. She has studied the meaning of property through the eyes of communities and peoples who have experienced dispossession, leading to the development of a new property theory based on the work of Emmanuel Levinas and Jacques Derrida. She formulates in her work a bold critique of our current property regime but also reconstructs a new approach towards property through epistemological and ontological explorations and application of nomadic ethics to decentre western and hegemonic understandings of property.

She also focuses in her work on establishing a better understanding of the meaning of an ontological turn in environmental law in the Anthropocene. In her most recent work she draws upon the concept of the post-human condition to establish a dialogue between theories of Natural Law and Speculative Realism and proposes that an epistemological-ontological-ethical framework can bring a new understanding to the legal condition in the Anthropocene.

THE ANTHROPOCENE AND ENVIRONMENTAL LAW: GEOLOGICAL STRATA AND ONTOLOGICAL REVISIONS OF NATURAL LAW. Saskia Vermeylen, University of Strathclyde.

Our ecological footprint on Earth is at such a scale that we find ourselves in a geological epoch called the Anthropocene. At the basis of this environmental crisis lies the long held belief that humans consider themselves to be different from nature, the latter a resource for human use and consumption. An intricate system of property rights has provided the tools to appropriate and commodify nature. Environmental law and rights discourses often re-emphasise and arguably solidify the old dichotomy

between culture and nature. Despite hundreds of environmental laws, nature is still in decline. One way of subverting nature as the subject of property is to establish rights of nature. However, the legal recognition that ecosystems have the right to exist is still embedded in a discourse that privileges anthropocentrism over the realities of these ecosystems. But the 'reality' of climate change forces us to tackle head on the tension that exists between normative human governance systems and metaphysical realisms. This paper will draw upon the concept of the post-human condition to establish a dialogue between theories of Natural Law and Speculative Realism. Drawing upon a diffractive methodological approach, as conceptualised by Karen Barad, Donna Haraway and Rosi Braidotti, this paper develops a legal manifesto proposing that an epistemological-ontological-ethical framework can bring a new understanding to the legal condition in the Anthropocene. Through a close reading of traditional and speculative philosophical tractata, mind and matter merges in order to come to a better understanding about the nature of nature and the (post-)human condition within it.

LOUIS KOTZÉ is Research Professor of Law at the Faculty of Law, North-West University, South Africa where he also teaches in the post-graduate LLM programme in Environmental Law and Governance. He is also Visiting Professor of Environmental Law at the University of Lincoln, United Kingdom and a Horizon 2020 Marie Curie Research Fellow at that institution.

His research focuses on the Anthropocene, environmental constitutionalism, human rights, and global environmental governance. He has published over 100 publications on these themes. Recent books include: Research Handbook on Human Rights and the Environment (with Anna Grear-Edward Elgar, 2015); Global Environmental Constitutionalism in the Anthropocene (Hart, 2016); Environmental Law and Governance for the Anthropocene (Hart, 2017). He is co-editor of the Journal of Human Rights and the Environment.

In 2016 he obtained a second PhD at Tilburg University, Netherlands, and has been awarded the prestigious European Commission Horizon 2020 Marie Curie Fellowship to lead a research project during 2018-2019 at Lincoln University entitled: Global Ecological Custodianship-Innovative International Environmental Law for the Anthropocene.

A GLOBAL ENVIRONMENTAL CONSTITUTION FOR THE ANTHROPOCENE?. Louis Kotzé, NorthWest University.

International environmental law (IEL) has been unable to sufficiently and effectively respond to the Anthropocene's global socio-ecological crisis, which is a critically existential one requiring radical interventions and regulatory reforms, including of IEL. One possibility through which to accomplish such deep radical reforms could lie in the global environmental constitutionalism paradigm. While global environmental constitutionalism has become a popular topic of research, scant attention has been paid to the issue of whether a global environmental constitution exists or should exist as part of such reform endeavours. This article argues that the World Charter for Nature of 1982, which seems to have slipped off the radar of states' concern and that of academic interest, could play a pivotal role as part of an evolving body of global constitutional environmental law. A case is made out in support of its reanimation with the specific objective to serve as a global environmental constitution for the Anthropocene.

JORDI JARIA I MANZANO is Serra Húnter Fellow of Constitutional and Environmental Law at Universitat Rovira i Virgili (Tarragona, Catalonia, Spain), developing his research at the CEDAT (Tarragona Centre for Environmental Law Studies). His academic qualifications are BA (Philosophy and Sciences of Education) at the Universitat de Barcelona, 1994; LLB at the same University, 1996; PhD, with European Doctorate Mention, at the Universitat Rovira i Virgili, 2004; Master in Environmental Law, at Universitat Rovira i Virgili, 2004.

He has taken part of different research projects, as EJOLT (*Environmental Justice Organizations, Liabilities and Trade*), European Commission (2011-2015); or *Business & Human Rights challenges for cross border litigation in the European Union* (2014-2016), European Commission. By now is leading the project CONCLIMA (*Global Climate Constitution: Governance and law in a complex context*), Spanish Ministry of Economy and Competitiveness (2017-2019), with Professor Susana Borràs.

He has presented papers to different international conferences as the following: the 8th, 10th, 12th, 13th and 14th Colloquia of the IUCN Academy of Environmental Law (2010, 2012, 2014, 2015 and 2016); the Conference *The Ways of Federalism and the Horizons of the Spanish State of Autonomies* (2011); the 11th and 13th Spanish Conference on Political Science (2013 and 2017); the 13th Conference of the Spanish

Constitutional Law Association (2015); and the First World Environmental Law Congress (2016). He has recently published different articles in journals: "El constitucionalismo de la escasez (derechos, justicia y sostenibilidad)", *Revista Aranzadi de Derecho Ambiental* 30, 2015; "La independència com a procés constituent. Consideracions constitucionals sobre la creació d'un estat català", *Revista d'Estudis Autonòmics i Federals* 22, 2015; "Constitución, desarrollo y medio ambiente en un contexto de crisis", *Revista Catalana de Dret Ambiental* 8(1), 2017. He has also edited some collective books: *Derecho penal constitucional*, Tirant lo Blanch, Valencia, 2015 (with Gonzalo Quintero Olivares); and *Energy, Governance and Sustainability*, Edward Elgar, Chentelham-Northampton, 2016 (with Nathalie Chalifour and Louis J. Kotzé).

CONSTITUTION AS CULTURE (IN THE ANTHROPOCENE). Jordi Jaria i Manzano, Universitat Rovira i Virgili.

The enhancement of the anthropic transformation of the Earth System has reached a state of human shaping of the biophysical basis of social reproduction, which has been described through the Anthropocene narrative. This situation has created a new framework to think about the global governance, a topic of growing momentum since the collapse of the Soviet Union and the end of the Cold War. The discussion about global governance during the last two decades has generated the discourse of global constitutionalism, an emerging field of research.

Global constitutionalism has merged with the Anthropocene narrative in recent times, in order to provide a conceptual framework for global governance confronting the civilizational crisis implied by the scope of anthropic transformation of the Earth System. It seems reasonable to establish a constitutional framework for governing the global polity, and channelling human action provided that it has escalated to have geological impact.

However, the constitutional tradition, which is clearly shaped within the cultural parameters of the West, has been constructed through hierarchical and utopian conceptions, based in a secularization of the Christian tradition. Sovereignty and rights are the traditional basis of the constitutionalism. The first implies the translation of God to liberal politics encapsulated in the idea of pouvoir constituant. The second implies the definition of a discourse of redemption through a state of personal welfare and self-determination of individuals, solved into the rights paradigm and the concept of development.

Even accepting that a constitutional global discourse is required to govern the global polity within the Anthropocene, both fundamental conceptions should to be revised. From the point of view of sustainability, any utopian view, based only in individual self-fulfilment, should to be discarded, opting for a pragmatic approach, having into account the limitation and vulnerability of the biophysical basis of social reproduction. From the point of view of justice, any hierarchical and ethnocentric framework should to be substituted by a horizontal and pluralistic approach.

Accordingly, the Constitution of the Anthropocene should to be open, intertextual and evolving, far away from the idea of the Constitution as a sacred book which has been dominant since the liberal revolutions of the 18th century. To sum up, I think that the traditional conception of the Constitution as a document should to be substituted by the conception of the Constitution as culture. The texture should take the place of the text.

ORAL PRESENTATIONS

ANTHROPOCENE AND LAW: TOWARDS A NEW LEGAL PARADIGM?

ECOLOGICAL JUSTICE IN THE ANTHROPOCENE: FROM LEGAL THEORY TO JUDICIAL PRACTICE. Teresa Vicente Giménez & Eduardo Salazar Ortuño, Universidad de Murcia

The researchers propose, through the present contribution, new socio-ecological ethics that, from the actual social movements, require a paradigm change in the Theory of Justice, given the situation of environmental emergency described in the Anthropocene concept. Both environmental justice as a mechanism for the disappearance of the inequalities underlined in the environmental conflict, and climate justice which is driven by the urgency of climate change, represent an expression of the new paradigm of ecological justice that seeks to expand the issue of justice and that of human relations to ecosystemic relationships and to advance their ethical-juridical development. From an ecocentrism approach, which is based on the concept of ecosystem and the replacement of individualism by solidarity, the new paradigm seeks to build a new ethical, political and legal basis capable of reviewing positive law and demanding its conformity with the ecological principles that underpin the environmental law.

Far from posing merely theoretical ideas, the authors aim to translate these new ethics into the full application of environmental law, reviewing the reasons for their application deficit and providing mechanisms for its implementation, based on the exercise of human right to a healthy environment. Thus, through democratic guarantee rights, it is intended to give individuals and their groups the possibility to defend the ecosystem through citizen participation and access to justice. This last aspect opens the door to a debate about litigation to promote change in the performance of public authorities regarding the current challenges such as climate change. From the study of jurisprudence and the current jurisdictional situation, the contribution aims to highlight the legal steps that must be taken to resolve the absence of obstacles, which persists in a legal system based on individual subjective rights and reciprocity, and guarantee the socio-ecological rights to citizens.

DIVERSITY OF DISCOURSE AT CBD NEGOTIATIONS: EXPLORING NORMATIVE PLURALISM THROUGH STAKEHOLDER PARTICIPATION WITHIN INTERNATIONAL CONSERVATION FORUMS. Mika Schröder, University of Strathclyde

International environmental law has largely embraced the notion of stakeholder participation within matters affecting them. Within international conservation law, all major conservation treaties endorse, to varying extent, stakeholder participation within conservation decision-making and management. This research project explores how participation here is framed and structured according to dominant human-nature

discourses (founded upon Cartesian dualism), and how this impacts models of genuine stakeholder participation.

For instance, Convention on Biological Diversity (CBD) includes Indigenous Peoples and Local Communities into conservation frameworks and calls for their participation at its international negotiations. Yet, despite these inclusive approaches within international conventions, current practices and stakeholder experiences still highlight instances of displacement and marginalisation, resulting in frustration at the lack of genuine participation within decision-making processes.

In response, a growing number of critical legal and environmental scholars are exploring the role of participation through the lens of dominant discourses found within decision-making processes. These discourses influence conservation policies by endorsing particular perspectives of human-nature relations, leading to the formulation of ecological concerns and solutions in ways that accommodate main actors, often by excluding local stakeholders. As we enter the Anthropocene, addressing these environmental injustices, not to mention reversing human impacts on the environment, requires a move away from anthropocentric discourses that conceive nature as a commodity for our benefit. A first step could be to ensure space for a plurality of perspectives from diverse actors at the highest level of regulatory negotiations.

As part of a larger project exploring the issues raised above, my presentation will discuss preliminary findings of ongoing analysis of CBD provisions on conservation and participation, in light of contemporary scholarship on dominant nature discourses, addressing the question of whether and to what extent the CBD accommodates models of normative pluralism to reflect the diversity of its stakeholders as actors.

INDIGENOUS WORLDVIEW AND IMPLEMENTATION OF ENVIRONMENTAL RIGHTS IN THE INTER-AMERICAN COURT OF HUMAN RIGHTS. Gabriela Cristina Braga Navarro, Johann Wolfgang Goethe Universität

The central objective of this paper is to trace the development of a systemic vision of natural resources protection in the Inter-American Court of Human Rights, exploring the relationship between such evolution and indigenous world view. Even though the Court has jurisdiction ratione materiae only for violation of rights ensured in the American Convention of Human Rights, which are broadly individual guarantees, environmental protection, inherently collective, is faced through the re-interpretation of individual rights, or, in other words, the so-called greening of the Inter-American Convention. The Court has recognized the particularity of the indigenous culture and, in order to fulfill the right to cultural diversity, has shifted its interpretation of various rights, such as property, life and human treatment. The recognition of rights of the nature through indigenous world view has also occurred in domestic legislation, being one of the central elements of a paradigmatic change that occurred in some Latin American countries in the last two decades (meanly Ecuador and Colombia). The

comprehension of the Court decisions evolution plays a central role to understand the environmental protection in the continent. It offers also a new perspective that could improve the domestic legislation in the field. It is expected to demonstrate that the recognition of environmental rights in the international sphere is a determining factor to tackle the ecological crisis of the Anthropocene. In order to achieve the proposed objective, the methodology used is bibliographical review of primary sources (Court decisions and international treaties), that are analyzed qualitatively.

RIGHTS FOR NON-HUMAN ENTITIES

TAKING RIGHTS OF NATURE AND HUMAN RIGHTS SERIOUSLY: ON BALANCING RIGHTS OF NATURE AND HUMAN RIGHTS IN AN EARTH-CENTERED LEGAL PARADIGM. Katarina Hovden, Københavns Universitet

Rights of nature are gaining traction. Several countries have adopted rights of nature laws (at constitutional, national, and local level) or recognised the rights of nature in court judgments. Born out of an Earth-centred or ecological paradigm, rights of nature (laws) present a fundamental challenge to the otherwise anthropocentric or human-centric system of law and governance. At a time when geologists argue that a new planetary epoch has emerged, the Anthropocene, characterised by the extent and pervasiveness of human (destructive) impact on the rest of nature – so much so that it may no longer be possible to identify an "environment" untouched by (and separate to) human beings – rights of nature present, perhaps, a renunciation of the status quo. Rights of nature, and the Earth-centred or ecological paradigm that produced it, demands that humanity charter a new path for the increasingly entangled and interdependent relationship between human beings and nature, one that strives for their harmonious and mutually beneficial coexistence.

Set against these developments, this paper problematises the adoption of rights of nature laws (which come from an Earth-centred, ecological paradigm) into an otherwise anthropocentric legal paradigm. In particular, it questions how the law deals with conflict situations between the two paradigms. With a focus on how rights of nature laws (and the legal systems in which they have been adopted) require the rights of nature and human rights to be balanced, a key question is whether this balancing exercise takes place according to an Earth-centred, ecological legal paradigm or according to an anthropocentric one?

RIGHTS OF NATURE IN THE EUROPEAN UNION: DO WE NEED AN EVOLUTION OR A REVOLUTION TO SAVE EUROPE'S REMAINING WILDERNESS? Hendrik Schoukens, Universiteit Gent

Anthropocentrism rests upon the centrality and privileged position of humanity vis-à-vis the rest of the world. Throughout the past decades, however, the concept of 'rights of nature' has emerged as a compelling eco-centric alternative for the prevailing

instrumentalist approach to nature. Making nature a subject of the law brings in a duty of care, obligations towards nature, a more liberal approach to standing in environmental cases and ecological governance that aligns with how ecosystems actually operate. In the wake of Christopher Stone's seminal article entitled 'Should Trees Have Standing? Law, Morality and the Environment', several countries have now undertaken concrete steps to implement nature's rights into their constitution and/or legislation.

By contrast, within the context of the European Union, this novel approach has received rather little attention so far. This might be partly explained by the presence of the EU Nature Directives, which are often labelled as the most effective examples of environmental regulation in the world. Also the EU's ratification of the 1998 Aarhus Convention, which grants broader standing for the public interest, could help to understand the reluctance in this regard.

Through a well-targeted review of the most recent rulings of the Court of Justice of the EU on the interplay between nature protection and standing in environmental cases, this contribution demonstrates that anthropogenic laws might indeed be helpful in partly implementing the transformative approach underpinning nature's rights. However, this analysis goes to show that the current EU's regulatory framework still falls short of effectively guaranteeing nature as a rights-bearing subject of the law equal to humans and corporations. Against this backdrop, it is further analyzed to what extent a new EU Directive on securing nature's rights, might serve as a viable alternative for the current piecemeal approach.

RIGHTS OF NATURE: WHY IT MIGHT NOT SAVE THE ENTIRE WORLD? Julien Bétaille, Université de Toulouse

The concept of Anthropocene underlines the idea that Humans are dominating the Nature, at least that their activities have a significant effect on the environment. On that basis, some argue that a way to readjust the relationship between Humans and Nature is to give rights to nature, as Humans have rights. Thus Nature should become a legal person.

Despite the undeniable development of the Rights of Nature (RON) in several part of the world, we defend, contrary to David R. Boyd (2017), that RON will not save the world. In particular, we propose to discuss RON in the European legal context, on a pragmatic and practical point of view. In other words, may be RON are relevant in some parts of the world, but, at least, we don't think it is in Europe. We won't pretend RON are not technically feasible. It is taken for granted since Christopher D. Stone showed it almost fifty years ago. This debate is outdated. However, we defend that RON are a miracle solution to improve environmental protection.

Firstly, we would show that RON are, in the end, nothing more than duties for humans. Thus it changes almost nothing on the legal ground as long as environmental duties

already exist in positive law. The problem is still the same, namely to implement and enforce environmental duties.

Secondly, we defend that, in the European legal context, RON are useless. The present context is widely different than the one of Christopher Stone. Access to justice accomplished a lot of progress, pushed by the Aarhus convention and EUCJ, even if it is not perfect. Because ENGOs were given legal standing, Nature found representatives in Courts. It doesn't need legal personality anymore. In addition, pure ecological damages are now recognized and compensated by judges, such as in France or recently by the international court of justice.

Lastly, RON might not be more effective than classic environmental law. Indeed, effectiveness depends on a lot of legal and non-legal factors. RON are not a miracle solution. It will also face several issues like the standard of proof, legal interpretation or the enforcement of courts decisions.

NEW TRENDS IN ENVIRONMENTAL AND ECOLOGICAL JUSTICE

ELEMENTS OF 'ENVIRONMENTAL JUSTICE' OR 'ECOLOGICAL JUSTICE' BEYOND THE CAPITALOCENE AND THE ANTHROPOCENE. Gregorio Mesa Cuadros, Universidad Nacional de Colombia

The anthropocene concept formulates an important idea to understand the role that humanity has been playing in the deterioration of nature and culture but leaves aside some key aspects to achieve a more concrete understanding of the ideas of 'environmental justice', in the measure that generalizes environmental responsibility to all humans, without taking into account the specific impacts that each human subject, each family, society, State, generation or model of life leave as an environmental footprint in the environment.

An environmental understanding in strict sense is necessary to avoid conceptual and substantive errors, to the extent that if the environment is understood as the set of dynamic interactions between the various natural and cultural elements that make it up, 'environmental justice' and 'ecological justice' they need to specify their concepts, content and meaning horizons for social, political and legal action that contributes to solving the global environmental conflict expressed materially in human and ecosystem injustices.

The contents of an idea of environmental justice must develop postulates of truth, justice, reparation and guarantee of non-repetition, as well as legal political mechanisms that allow the effective protection of rights to all victims of environmental conflict, including nature, together with peoples, communities, societies, regions, generations, countries, movements, organizations and leaders violated.

Our oral presentation includes a comprehensive vision of rights, the environmental

rights, that recognizing the material causes of environmental conflict and its agents in the capitalocene, promotes real limits to the appropriation of nature and humanity by a few and promotes concrete ideas of environmental justice, both material and symbolic, that allow us to overcome environmental indignity, both human and ecosystemic.

INTERGENERATIONAL JUSTICE IN THE ANTHROPOCENE. Marcos de Armenteras Cabot, Universitat Rovira i Virgili

The shift from one geological epoch to other demands an understanding of its impact in society and in the regulation of the social and natural order. Since the human being is considered a geological force -and the reason why the Holocene has come to its end- the modern legal system could be challenged in order to bring a new perspective in the dialogue between rights and responsibilities. The new approach to be considered, encompasses the relation between nature and humans, and, also, the interaction with the unborn that will populate the planet.

In this sense, the Anthropocene tackles the social reproduction to the extent that human being determines the future of its biophysical basis. So, given this paradigm shift and considering the necessity to bring, constantly, emerging solutions and structures to the permanent evolution of the social interaction, the idea of responsibility with the generations to come has an increasingly interest.
The consideration of the human being as a geological force means that the future of the planet and its habitants will be determinate by us. Consequently, the rights of future generations, reliant on the natural system, are, somehow, in hands of present generation. This intergenerational justice perspective, traditionally based in moral and ethical terms, comes to be a legal and institutional concern, where the anthropocentric and intragenerational perspective becomes insufficient to deal with the challenge derived from the Anthropocene. Based on this, the idea of responsibility regarding future generations cannot be seen only as an ethical claim, rather as a principle that may configure the relation between social systems, and, also, as one of the pillars of an alternative ecological legal theory.

EXPLORING AND CLARIFYING THE CONDITIONS OF ARTICLE 8 OF THE PARIS AGREEMENT. Linnéa Nordlander, Københavns Universitet

This presentation will aim to clarify what is meant by the notion of “loss and damage” as included in the Paris Agreement. The adoption of the Paris Agreement marked a significant step in addressing the adverse impacts of climate change by including a novel provision on loss and damage in Article 8, as it is the first recognition in a binding international treaty that climate change impacts risk resulting in “losses and damages”. The inclusion of the provision may indicate a legal recognition of the notion of climate justice, as the states which have most strongly advocated for the provision’s inclusion are those which are among the most vulnerable to the adverse impacts of climate change and have contributed only negligibly to the phenomenon. Nevertheless, the article remains relatively unclear in terms of content and legal implications. The

provision is the result of a political compromise between states with competing interests in international climate change regulation. This compromise has resulted in a lack of clarity surrounding the purpose of the provision, as some states view the provision as entailing rights to and obligations for financial assistance, whereas others view it as an expression of a need for greater risk management and insurance schemes.

In view of clarifying the loss and damage provision, this presentation will focus on delineating and defining the conditions of the provision. The conditions to be explored are fourfold, namely that loss and damage must be unavoidable, irreversible, intolerable, and attributable to human activity. Clarifying these conditions and thus the provision as a whole in crucial both to achieve clear and consistent law, as well as achieving effective implementation of the provision, so as to provide solutions for climate vulnerable states and individuals in practice.

NEW PERSPECTIVES ON ENVIRONMENTAL CONFLICTS

HUMAN RIGHTS RHETORIC IN CLIMATE CHANGE: TACKLING THE DIALECTICS OF THE ANTHROPOCENE IN LATIN AMERICA. Juan Auz, Fundación Pachamama

Human Rights in Latin America have long been the lingua franca among a diverse array of justice paradigms, specially after the times of dictatorships and foreign interventions. Its effectiveness as a widespread discourse lays partly in the creation of human rights institutions and in a mobilized civil society.

The protection of the environment in Latin America has slowly been introduced via Human Rights, expressly in the context of natural resources' exploitation that leads to local communities' collective rights encroachments. However, Climate Change is yet a complex phenomenon whose rendition under the paradigm of Human Rights is yet to be propelled, even if its dramatic impacts are already affecting the fundamental rights of millions of peoples in the region, particularly in marginalized and less-adapted communities.

In that vein, the Anthropocene poses several challenges to developing a synergy between Human Rights and environmental protection, being the most urgent one the prevention of devastating the ecological conditions upon which thousands of communities rely on, potentially conducive to an ontological catastrophe. In this sense, Human Rights rhetoric in Latin America has two options to address the issue: either it reinvents itself as to openly embrace the notion of a holistic eco-centric approach aimed at bridging the Human-Nature divide, or it recognizes its utilitarian inadequacy as a framework to deal with interconnected issues.

With that said, this article will explore the former scenario, by looking at different repertories from both civil society and the institutions that comprise regional human rights adjudicative bodies, who are already delineating a comprehensive perspective to

limit certain activities that are scientifically linked to the erosion of climate's integrity. Moreover, this article will analyze the pivotal role of said stakeholders in juxtaposing opportunities and shortcomings to address the Anthropocene's dialectic zeitgeist, which shall include relevant questions, inter alia: 'intergenerational justice', 'the rights of climate refugees', 'issues of equity', and the enforcement of a right to a healthy environment in the region.

CLAIMING ENVIRONMENTAL JUSTICE FROM COLOMBIAN CONSTITUTIONALISM: CONSTITUTIONAL COURT AND THE DEFINITION OF ENVIRONMENTAL LIMITS. Paulina Junca Maldonado & Luis Fernando Sánchez Supelano, Universidad Nacional de Colombia

Colombia is in a context of exponential growth of environmental conflicts, there are varied and multiple conflicts arising from those related to the extractivist model or other models of development, the entry of new actors to territories previously closed by the armed conflict, the construction of new infrastructure (road, energy, etc.), the needs of peacebuilding in the context of the implementation of peace agreements, the questioning of cultural practices related to the environment, among others.

These conflicts have strained the institutional capacity to fulfill people's basic needs and the extent of environmental sustainability with the consequent respect for other beings of nature. At the same time, these environmental conflicts have found in judicial scenarios, especially in constitutional jurisdiction, a way for their processing and discussion. This means that in the judicial scenario, substantial and procedural criteria have been defined for the establishment of environmental limits and the relationship with nature (culture-environment relationship), which ultimately implies the establishment of justice parameters in environmental terms.

Given the increasing judicialization of environmental conflicts, the presentation aims to i) problematize the concept of environmental justice in its dimensions of recognition (new subjects of rights), participation (effective and real), distributive (in terms of access, uses, distributions, exchanges of environmental and natural goods) and environmental limits to human actions (respect for nature and its limits), ii) evaluate the way in which the Colombian Constitutional Court has incorporated the concept of environmental justice in its decisions on environmental and environmental conflict iii) identify elements for the adequate resolution of environmental conflict and the effective enjoyment of rights in an integral and systemic environmental perspective.

CONFLICTS ARISING FROM RENEWABLE ENERGIES AS A RESULT OF INCREASING COMPLEXITY ON CHANGING EARTH SYSTEMS. Paula Galbiatti Silveira, Universidade Federal de Santa Catarina / Universität Bremen

Human interference on Earth's systems has reached a critical point, changing its geological time period to the Anthropocene epoch. Also, anthropogenic emissions of greenhouse gases have caused climate change, whose effects are currently felt. Both – the Anthropocene and climate changes – bring more uncertainties regarding human's life and existence, how Earth's systems will perform and what is the role of law and institutions. Earth's integrity and social and ecological systems resilience must be considered in the decision making, in order to mitigate and to adapt to negative impacts and to promote human responsibility and responsive relationship to nature. In order to discuss those concepts, this abstract focuses on climate change theory and law.

For many years countries have compromised themselves to protect climate through international and national law, mainly the UNFCCC and lately the Paris Agreement, aiming to reduce emissions and to keep global temperature increase well below 2°C. To achieve this goal, one of the main responses to mitigation and to reduce emissions is the promotion of renewable energies, shifting to a low-carbon society. However, renewable energy sources can themselves cause climate, nature and social damages. For example, large hydropower plants flood huge areas and reallocate whole communities; wind energy might kill birds and bats and causes also noise nuisance; biofuels take agricultural land and use a lot of fossil fuels in its whole production. Therefore, this research aims to study renewable energy law and policies to implement those compromises to a permanent and sustainable transition. Those conflicts show how complex it is to respond to the new challenges and the call for new legal perspectives and public debates. As a result, the conflicts arising from renewable energies and the energy transition as a lifetime challenge highlight the discussion and the role of law as regulating the human–environment interface.

POSTER PRESENTATIONS

COULD THEY BE PROTECTED? TO WHAT EXTENT DOES THE INTERNATIONAL LAW CONSTITUTE A POTENTIAL SOLUTION IN DEALING WITH THE PROBLEM OF THE ENVIRONMENTALLY DISPLACED PEOPLE? Fabio Massimo Battaglia, Universitat Rovira i Virgili

The international community has recognised without any doubts that climate is changing, it will result in negative consequences, and the human beings are widely accountable for it.

In the last decade, over 140 million people were forced to move because of the effects of climate change and the increasing weather-related disasters like droughts and devastating storms. Warming of the planet will lead to long-term environmental damage, sudden catastrophes and the increase of existing global inequalities. The UN believes that more than 300 million people could be displaced from their homes by the middle of this century.

Climate-induced migrations include not only international massive population migratory crisis but also concern internal displacements and movements on a long-term scale.

Climate change is devastating peoples lives and livelihoods and whole economies, and it is a growing concern for the governments for whom effective responses are now a fundamental issue of social justice and economic security. Despite this interest, people displaced from their homes have no legal status in international law, and they are recognised at least as economic migrants.

Admitting the importance of defending livelihoods, societies and human rights of environmentally displaced people, the purpose of this research study is to address this gap in the existing international law regime. The international agenda shows an increasing attention to this kind of migrants, so this thesis would evaluate if a potential status of refugees – or other solutions taken under the international law regime – could help them towards a greater protection.

THEORIZING A HUMAN RIGHTS-BASED APPROACH TO HEALTHCARE AND BIOMEDICAL PROGRESS IN THE ANTHROPOCENE: A EUROPEAN PERSPECTIVE. Simona Fanni, Università degli Studi di Cagliari

The era of the Anthropocene poses serious and unprecedented challenges to the international community and to the mankind, as the severe weather events affecting our Planet and the skyrocketing growth of world population. The proportions and the

complexity of these challenges require internationally concerted responses, that entail rethinking coordinated policies and resource management at all levels of governance, by also promoting a human rights-consistent approach and justiciability.
This study focuses on healthcare and aims to offer a bioethical perspective on the responses given by the European Union (EU) and the Council of Europe (COE). The architecture of the EU Treaties is analysed with regard to sustainable development, climate change and health, to subsequently consider the relevant EU secondary legislation and its impact on Member States' legal orders. Again, the experience of the Council of Europe in the fields of environment, health and biolaw is assessed. Under this premise, the strengths and the weaknesses of the human rights-based approach elaborated by the EU and the COE are taken into consideration, together with the use made by the Court of Justice of the European Union (ECJ) and the European Court of Human Rights (ECtHR) respectively of the Charter of Fundamental Rights of the European Union (CFR) and the European Convention on Human Rights (ECHR).

Moving from this analysis, several proposals are advanced to suggest an enhanced human rights-based approach to accessibility to healthcare and to the new therapeutic horizons offered by biomedical progress in the Anthropocene. Furthermore, viable ways to ensure justiciability before the ECJ and the ECtHR are explored, also by considering the possible use of the Convention on Human Rights and Biomedicine as a support to the interpretation of the CFR and the ECHR according to Article 31(3)(c) of the Vienna Convention on the Law of the Treaties.

CLIMATE OBLIGATIONS OF BUSINESSES IN THE ANTHROPOCENE. Beatriz Felipe Pérez & Daniel Iglesias Márquez, Universitat Rovira i Virgili

Climate change represents another evidence of the fact that we have entered the age of the Anthropocene, a new era understood as a product of the capitalist world-system. Oil, gas, coal and agricultural transnational corporations contribute substantially to the global warming through their greenhouse gas emissions, and thus play a relevant role in the climate crisis. According to scientific studies, it is estimated that 63 per cent of the industrial CO2 and methane emissions released between 1854 and 2010 were produced by 90 fossil fuel and cement producers such as Chevron, Exxon and BP. Meanwhile, the international community has widely recognized that the climate change affects the full enjoyment of human rights, particularly those of the most vulnerable. Against this background, it seems reasonably fair that corporations share with the States the moral and legal duty to avert climate change.

Notwithstanding the wide recognition of the corporate responsibility to respect human rights, the international climate change regime has so far focused on States' duties to mitigate as well as adapt to climate change, rather than private big polluters' duties.

Furthermore, the corporations most responsible for climate change have been accused of undermining global climate policy by interfering and obstructing UN climate talks.

Thus, the relationship between corporate responsibilities for human rights and climate change is unclear. In this regard, this paper addresses the climate obligations of corporations in accordance to their human rights responsibilities. It also analyses the existing instruments that clarify and articulate the obligations of corporations to take effective measures to prevent and redress climate impacts in line with the targets set out in the Paris Agreement. The paper focuses on different legal measures to engage corporations in climate justice. It concludes with some reflections on the next steps towards direct climate obligations of corporations under international law in the era of the Anthropocene.

CLIMATE LITIGATION AS A LEGAL EXPRESSION OF THE ANTHROPOCENE: ALLOCATING POST-HOLOCENE RESPONSIBILITY. Gastón Médici, Universitat Rovira i Virgili

According to contemporary academia, considering the Anthropocene as a new geological epoch has broader implications than those related to the formal decision of recognising it as part of the Geological Time Scale. Moral and legal issues arise from acknowledging that humans are capable of producing global systemic changes strong enough to make the Earth System (and Humankind with it) collapse. Global warming and resulting climate change are the most paradigmatic examples of this capacity and its consequences, as well as an important space of visibility for these new unresolved legal and moral questions. Responsibility is one of them.

This paper states that a clear link between the Anthropocene and climate litigation exists when it comes to the issue of responsibility. That is, climate litigation embodies the Anthropocene paradigm in courts, when trying to allocate (a broader understanding of) responsibility to main climate actors. This explains in part why it is so difficult to obtain positives outcomes and why plaintiffs suffer from substantive and procedural issues. Cases deal with old-fashioned legal orders, designed under the Holocene idea of the relationship between humans and nature, whereby humans are "constrained" by nature and have limited (local and short-time) capacity to modify the social and natural environment, being incapable of challenging the whole Earth system stability. In order to overcome these problems, academia and litigants are using and proposing new interpretations and applications of the traditional legal doctrines and tools to sustain responsibility. Nevertheless, courts are reluctant to consider this legal review, making climate litigation a tricky task. This proposal analyses this question and states that (a) a paradigm clash exists and that (b) it is necessary for the Anthropocene, as a conceptual framework, to be considered by courts and litigants when analysing and adjudicating upon climate legal matters.

THE DOMINANT PARADIGM IN THE ANTHROPOCENE AND ITS IMPLICATIONS IN THE SELF-DETERMINATION OF MINORITIES. Rudy Ariel Paco Ancalle, Universitat Rovira i Virgili

At first everything was part of the whole, there was a balance with the environment and without knowing it, all living beings knew this, which was nothing more than the idea of preserving their area of life, with the arrival of the human being already in the it was Quaternary, that thought that had been maintained in the first instance, for a short time of humanity; After the social pact, which led these humans to create a society with laws and rules of coexistence, little by little the idea of preserving their environment, gave way to the idea of exploitation of such environment, under a property principle. That, according to the story told, taught and learned, all this series of events gave rise to an exploitation of man by man, and if, there is no respect for the human by their peer, they will have less respect for their environment. Humanity was growing and also its intellect to be able to live in modern times, we went from transforming a tree into wood to be able to change the atmosphere, and this is a reality that we wish to remain only part of fantastic stories, more uncomfortable that is, this is the reality that marks the end of an era and opens the way to another, the anthropocene, was of which we are living and in some parts of the world surviving.

The current globalized dominant paradigm, whatever it is called, is a system that has two aspects, the first is socialism, which fed knowledge to communism, and has shown that this system of governance only works in theory, since in its practice collapsed along with the wall of Berlin lies the last century, at present the biggest countries that promulgate this system, are Russia and China among others, where it is incredulous to think that its high authorities meet to talk about Hegel, Marx, Engels or Lenin, as leaders of great powers enter the circle of the market where they have capitalism as the basis of existence. The second is neoliberalism, which is a capitalist economic model based on an economic paradigm, which understands that only what is expressed in monetary terms (money) has value, given that a clean environment does not count as wealth according to the gross domestic product that is an indicator that accounts for all changes in value that occur in economic activity, this logic of exploitation to generate wealth, brought with it a series of global environmental problems, not to mention the economic bubble that exploded, staining to several European countries in general and the North American in particular, this caused a great world crisis and at present some countries continue struggling to get out of that situation.

The failure of the two systems described above is evident, and it is difficult to think of another type of paradigm, since our dialectical vision only gives us two assumptions that prevent us from reflecting and devising other types of epistemology that many

civilizations already knew, but this knowledge was destroyed unpunished in the course of history.

The present work has the objective to describe the modern paradigm of this era, and to give guidelines to debate, about solutions that gave other civilizations before the anthropocene, where there was a repertoire of cultural practices where the common good is everything, models of community partnerships and pluralistic coexistence, because these people better understand that logic and so they were prepared to face any chaotic future.

At present the cultural guidelines of the indigenous peoples, with respect to the balance with the environment and biodiversity, are part of an ecological dynamic that would avoid an environmental crisis, something that is likely to be lived.

CLIMATE SERVICES FOR ECOLOGICAL AND CLIMATE JUSTICE: THE INDECIS PROJECT. Jordi Prades –Tena (Universitat Rovira i Virgili), Yolanda Luna (AEMET-Spanish Meteorological State Agency) & Raquel Santos-Lacueva (Universitat Rovira i Virgili)

According to the European Research and Innovation Roadmap for Climate Services "the term 'climate services' has a broad meaning: transforming climate-related data and other information into customized products […] that support adaptation, mitigation and disaster risk management". Climate services are useful tools to policy-makers and legislators in the Anthropocene regarding: a) the turn from sustainable development to environmental justice; b), from environmental justice to ecological justice and c) from ecological justice to climate justice.

The Integrated approach for the Development across Europe of user oriented Climate indicators for GFCS high-priority Sectors: Agriculture, disaster risk reduction, energy, health, water and tourism (INDECIS project: www.indecis.eu) constitutes a pan-European effort —16 research organizations from 12 countries— for the production of climate services by engaging the stakeholders in their definition and communication.

INDECIS aims: i) to develop historical high quality, dense climate networks based on long-perspective time series of meteorological variables (precipitation, temperature, humidity, solar radiation, wind speed and evaporation) and ii) generate a set of sector oriented indices and climate services to better understand the effects of climate change and variability over societies and cope with their impacts.

INDECIS will be articulated in seven Working Packages in charge of transforming the climate products computed across the project into climate services, targeting a wide range of stakeholders such as policy makers and legislators in order to assess the

effects of climate variability, extreme events and climate change over socioeconomic systems and its sustainability.

Atmospheric sciences, other environmental sciences, Geography, Legal Sciences, Humanities and Communication are called to work together to solve environmental problems in the Anthropocene.

PARADIGM SHIFT IN THE GLOBAL TENDENCY OF RECOGNITION OF RIGHTS OF RIVERS. Tatiana Ribeiro De Souza & Andiara Cristine Mercini Fausto, Universidade Federal De Ouro Preto

This paper addresses an analysis of Rights of Nature. It discusses the global legal and legislative decisions recognizing Rivers as subjects with rights or legal personality. It is assumed that anthropocentrism results from a hegemonic and eurocentric perspective in which the permanence of sustainable development is associated with the goals of economic growth. However, in a new biocentric or ecocentric view, there is the New Latin American Constitutionalism movement, of decolonial nature, which represents the Andean tradition and attributes rights to Nature. Therefore, one may question: how may legal and legislative decisions reflect the paradigm shift from anthropocentrism to biocentrism or ecocentrism? Furthermore, how could such change impact the alteration of perspectives from Environmental Rights to Rights of Nature? Hence, the Equador decision to recognize the Vilcabamba River as a subject with rights in 2010 is analyzed. Likewise, the decision of the Colombian Court in 2016, which recognized the Atrato River as subject with rights, is discussed. Moreover, the legislative decision of the New Zealand Parliament that recognized the legal personality of Whanganui River is analyzed as well as the request for recognition of Doce River Hydrographic Basin as subject with rights in 2017 by Pachamama Association.

Thus, the adoption of anthropocentric, biocentric or ecocentric paradigms has consequences in the legal and social realms and in the differentiation between Environmental Law and Rights of Nature. The former is regarded as an expression of Human Rights once it results from a utilitarian view and nature is a resource to be explored and it aims at preserving nature for human beings use. In its turn, the latter corresponds to the Law area that regards Nature as a being and rights are attributed to it. The methodology to be used is theoretical-legal with a hypothetical-deductive thought alongside use of comparison of the decisions.

HOW TO DEAL WITH AGENCY IN THE ANTHROPOCENE? Jerônimo Basílio São Mateus, Universitat Rovira i Virgili

One of the main ideas in the concept of Anthropocene is that humanity could be seen as a natural force; in the sense that it is capable to alter the functioning of the planet in a definitive way, like an earthquake or an asteroid collision. That means that human agency, collectively speaking, could now be putted side-by-side to the others natural forces. This new data produces effects not only in natural sciences, but also for humanities and social sciences in general. One of the big problems that those last disciplines, especially law, must face is how to think about agency. The emergency of humanity as natural force disrupts one of the main characteristics of the modern thinking: the absolute separation between nature and culture. If this line has been crossed, why couldn't we recognize that some natural elements also acts, that is to say, also could be considered subjects in some relations, and not only always mere passive objects?

The anthropocene idea, because it problematizes the nature/culture division, could be a useful framework to address the problem of recognizing legal personhood to natural elements. The first critic that this idea faces is that neither nature, nor its individual elements, have intentionality, and then could not be considered as persons in a legal perspective. The problem with this critic is that, in some contexts, nature or one of the elements individually considered, do acts, either intentionally or not. For instance, if we want to be precise and fair, a shamanic relationship between a shaman and a tree, or an animal, or a river must be viewed, in some cases, as a subject-subject relationship. The same could be said about the relationship that exists between the Maori and the Whanganui River, in New Zealand, or between the Hindus and the Ganges, in India. They are subject-subject relationships.

In this paper I argue that the Anthropocene as a new paradigm in the social sciences supports the new legal recognitions of rights for non-human entities that we can observe around the world.

SOCIAL PREFERENCES, EXTERNALITIES AND ECONOMIC VALUATION OF THE ENVIRONMENTAL COSTS IN THE WEST REGION OF CUITZEO LAKE, MICHOACÁN, MEXICO. Rafael Trueba & Carlos Ortiz, Universidad Michoacana de San Nicolás de Hidalgo

One of the most recent social and environmental problems, are the ecological and distributive conflicts caused by externalities. In Michoacan, Mexico is located the Lake of Cuitzeo, due ecological degradation the West of lake is dry during major part of the year. This situation that has direct consequences at population health, by dust of the

twisters, the costs to which the population incurs to avoid a negative externality, this research has the purpose of estimate the economic valuation of it. By means of construct a model to economically evaluate population health due to the arrival of dust storms in the Region.

In this context, the paper presents a theoretical approach of the environmental economy and describes the contingent valuation method. This method proves to be useful for the economic valuation of the restoration measures, as well as a very important tool for people's public participation. Also, this work seeks to determine the willingness population to accept a compensation (WAC) for the decrease in their welfare by externalities. The variables used are located in the dimensions: 1) socioeconomic conditions, 2) opportunity cost of not inhabiting the area and 3) a productivity parameter. This information aims to provide elements of environmental management for the establishment of compensatory and restoration mechanisms that lead to reduce future costs in the face of the problem analyzed.

ENVIRONMENTAL LAW AT THE GATES OF A NEW PARADIGM. Juan Pablo Bellene, Universitat Rovira i Virgili

The Anthropocene, further more than a geological era of significant human impact on the ecosystems, is a way of conceiving reality. Indeed, Anthropocene is nowadays the dominant paradigm. It represents the most orthodox conception of reality, it characterized by a Cartesian dualistic subject-object conception: the earth is consider as a geometric amount of resources able to satisfy human needs. Considering the environmental crisis merely as a matter of: loss of biodiversity, high level of co2 in the atmosphere, acidification of oceans, etc. belongs to the same traditional paradigm, the solutions lays on a trivial level. Therefore, they are unable to overcome the crisis. On the subtle it is a human crisis. The environmental crisis is the top of an iceberg which lays on egoism, competitive thinking, and consumerism -these qualities characterize the dominant behaviors in modern societies-. The crux is not about needs is about unlimited human "wishes". The environmental crisis makes visible the invisible, the subjective becomes objective, the earth is not able to satisfy the sum of the "individual egos". The "inner-satisfaction" lays on the bottom of the iceberg.

The limits of material growth (1972) shall be considered as an axial point between the limits of the anthropocentric paradigm and the emergence of a new one. Time and space are related: the limits of matter are the limits of time. Therefore, the nowadays chronological paradigm, the future as the only way to conceive reality is unable to provide solutions to the human-environmental crisis. An integral conception of time, Aion, Kairos, Chronos leads to a new conception of space, it would lead to reconsider the way to conceive reality, and further more the role of human. Environmental law

shall be use as a bridge between the objective and subjective at the gates of the emergence of the new paradigm.

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