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From Human Rights to Rights of Mother Earth (A Biocentrist Approach)

Introduction

This article aims at critically analyzing the Western traditional principles of anthropocentrism that currently rule the relationship between environment and human rights in the international lawful speech, specially into legally binding instruments, and its implications about the prevalence of property rights over the conservation and protection of ecosystems.

Hypothetically, the widely known discourse about the human right to a healthy environment is drained, or it is about to do it, given that in spite that old and new international agreements have been being continuously issued, it does not seem to be sufficient to halt the spread of pollution, the devastation of natural resources, or maybe decelerate the global warming, among other worldwide threatens.

One of the main reasons is due to individual human interests prevail over general ecological ones, which can be notice in the key idea of natural resources are considered as goods or commodities but not as living beings. Therefore, those commodities would be object of protection or conservation just as long as they serve to the human benefit, just like it occurs with the property rights. It sums up the main contents of anthropocentrism, given there is an intrinsic value, represented by human beings and their own interests, which is hierarchically superior in philosophical terms to the instrumental value, represented by nature, that becomes important only inasmuch as being useful to guaranty the healthy conditions of living and welfare for humans.

In contrast, but mainly as a response to the severe environmental depletion, it has arisen an alternative view that has been developed from around the seventies, so-called "biocentrism". It consists of an ethical theory in which is stated that all life has intrinsic value, and not only human beings. It is about a life-centered standpoint that has also implications on the form how philosophers have argued about moral standing,[1] and whose chief principles will be explained at the end of this paper.

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[1] DESJARDINS, Joseph: *Environmental Ethics: An Introduction to Environmental Philosophy*. Thomson Wadsworth, Belmont, USA, 2006. 131.

Human Rights to Healthy Environment

Currently, there are more than eighty international instruments regarding to environmental issues, whose key objectives of regulation range between the most general ones with a global widespread, such as climate change, to the most specific ones with local scope, including for instance freshwater resources, desertification or hazardous emissions, among others. From all of them, one shared-in-common characteristic refers to they are intensely based on anthropocentric values, either in an explicit way or a tacit one; i.e. from a strict human-centered view regarding to protection of nature.

Precisely, speaking about the widely addressed connection between human rights and environment configures the main evidence about this anthropocentric discourse in the international parlance, which has been even adopted and analyzed by the United Nations (UN.) High Commissioner for Human Rights in 2011,[2] and whose study was presented during the Nineteenth Session of the Human Rights Council of 2012. In this sense, it would be worth to look over briefly the most remarkable legal worldwide references about the "environmental human rights" to outline the basic framework of this paper. It must be clarified that though there are not always obvious allusions to the rights of healthy environment into the international normative bodies, one could find their orientation toward the guaranty of their protection and infer more than a few of their contents, which sometimes stay ambiguous.

Instruments of International Law in force

One of the first official references about the recognition of healthy environment as a human right can be found in the International Covenant on Economic, Social and Cultural Rights of 1966, exactly under the exigency on an improvement of "*environmental […] hygiene*", as part of the "*[…] right of everyone to the enjoyment of the highest attainable standard of physical and mental health*". From this layout, one could inevitably infer the invocation of an instrumental value of nature, cornerstone of traditional Western anthropocentrism, where the object of protection is not the environment by itself, but the set of conditions that allow humans to lead a healthy life or hygienic one. In sum, nature is not valuable in an intrinsic manner, as human beings are, but just instrumentally in as much as it is useful to meet the human ends, which are "all aspects of environmental hygiene" in this case.[3]

In the same context and time, but through a different body of international law: the Covenant on Civil and Political Rights, there was a robust validation of the anthropocentric positioning by means of the guaranty of free dispose of natural resources, in order to peoples can meet their own ends; surely counting on certain restrictions related to obligations to others. In fact, the first article does not only suggest the invocation of an instrumental value but also of a deep economic orientation, associated particularly to property rights, above all considering the use of the term "dispose", which along with the rights to possess and to use, conforms the notion of "ownership". Undoubtedly, it is not in vain that the word "wealth" had been used in the same second phrase as well, as follows: "*All peoples may, for their own ends, freely dispose of their natural wealth and resources*". Moreover,

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[2] Analytical study on the relationship between human rights and the environment. 16 Dec. 2011. UN Doc. A/HRC/19/34. Annex to the Report of the Human Rights Council on its nineteenth session, 53rd meeting, 22 Mar. 2012. UN Doc. A/HRC/19/2.

[3] International Covenant on Economic, Social and Cultural Rights, 16 Dec. 1966, in force 3 Jan. 1976. Annex to the Resolution adopted by the General Assembly. UN Doc. A/RES/21/2200. Article 12, 2 (b).

according to Article 47, "*Nothing in the […] Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources*",[4] which implies an unlimited scope on their exploitation with the exceptions of putting at risk somehow the human rights protected on the very covenant and those duties derived from the "international economic co-operation". In other words, the rights of property seem to be unrestrainedly favored by this instrument, as a mechanism to meet human interests, but refusing all kinds of actions, omissions and even interpretations that could infringe detriment or destruction to its exercise. Therefore, the question would be how to interpret the covenant if environmental interests and property rights are somehow in conflict, considering latter ones as humanly valuable.

Another worldwide legally binding instrument is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) of 1973, which implied again a reaffirmation of property rights in the international community, taking as the first reference its very title this time. The recognition of a system of trade around biodiversity does not only mean considering flora and fauna as interchangeable commodities, but mainly acknowledging the possibility of fixing prices and paying costs, essential characteristics of property rights, without setting aside the existence of owners. This orientation is completely visible for instance in Article VII, third paragraph, in which there is an explicit provision to "*specimens that are personal or household effects*" or in the subparagraphs (a) and (b), in which it is mentioned the option to acquire, import and export specimens by the owners.[5] Therefore, plants and animals are legally protected by their quality of goods and do not because of their status of living beings.

Instead, within the definitions of the UN Framework Convention on Climate Change of 1992, two of the "Adverse effects" are directly connected to a "deleterious" condition of human health and to welfare, according to Article 1. Simultaneously, in the Article 4, letter (f), there is an allusion about the commitment of the parties regarding to take into account climate change, as part of their public policy, throughout the employment of accurate mechanisms to minimize harmful effects against the public health and the quality of the environment, invoked previously in the first principle of the so-called "Stockholm Declaration".[6] All over again, one can notice a deep anthropocentric connotation, which is not only due to the scope of the terms health or welfare, which are of course notoriously related to human standards, but mostly because the prevention of "dangerous anthropogenic interference", invoked as part of the "ultimate objective" of the Convention in the Article 2, is valid as long as it serves to the own human interests.[7] It arises an enquiry regarding to if there is not something more human-centered than the guarantee of food production and the promotion of economic development, knowing both actions are usually regarded, among others, as causes of the environmental detriment. Certainly, it can be admitted that limits are drawn by sustainability principles, which unfortunately have been inefficient since 1992 to nowadays, because just a very few environmental aspects have

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[4] International Covenant on Civil and Political Rights, 16 Dec. 1966, in force 23 Mar. 1976. Annex to the Resolution adopted by the General Assembly. UN Doc. A/RES/21/2200. Articles 1 (2) and 47.

[5] Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 3 Mar. 1973, in force 1 Jul 1975. Article VII.

[6] Declaration of the United Nations Conference on the Human Environment in Report of the United Nations Conference on the Human Environment, 5-16 Jun. 1972, UN Doc. A/CONF.48/14Rev.1. Principle 1.

[7] United Nations Framework Convention on Climate Change (with Annexes), 9 May 1992, in force 21 Mar 1994. United Nations Treaty Series Vol. 1777. UN Doc. 30822, p. 107. Articles 1, 2 and 4.

really improved in practice. In other words, here the environmental protection is instrumental to human ends again, *ergo* protecting in order to produce.

The Convention on Biological Diversity is probably one of the first remarkable international instruments in environmental subject-matter, in which there is an explicit mention about the "intrinsic value" of nature, in contrast to what used to occur in the traditional Western parlance. Indeed, the first sentence of the preamble begins by this recognition. However, it contradicts the key principle of the whole convention, which is not directly based on the protection or conservation of resources, but rather in the acknowledgement that States have "*the sovereign right to exploit their own resources pursuant to their own environmental policies*", and undoubtedly in accordance to their restrictions. Nevertheless, it cannot be denied the prevalence of an extractive perspective over a conservationist one. Furthermore, as in the previous case, there is awareness about the "importance" for meeting human needs of growing world population, such as food or health, among others.[8]

Probably, one of the clearest allusions to anthropocentrism is located in the first affirmation of the UN Convention to combat desertification in those countries experiencing serious drought and/or desertification, particularly in Africa, from 1994; in which one can read that "*human beings in affected or threatened areas are at the centre of concerns to combat desertification and mitigate the effects of drought*". Consequently, it is not strange that the objective of battling against desertification and drought is aimed at the improvement of land productivity and living conditions, among other human needs, instead of being inclusive also with the ecological worries.[9]

Although it is possible to identify a greater number of international legally binding instruments within other compilations, they have not been included due to the fact that interactions between the environment and human rights cannot be seen enough clear in their texts, given either their wideness or their specificity, as appropriate. However, it could be stated that all the aforementioned ones would be among the most relevant agreements about both issues.

In any case, it is worth to take a glance at the work by Déjeant-Pons and Pallemaerts[10] who added the Charter of the United Nations[11] of 1945 and the Convention on the Law of the Non-Navigational Uses of International Watercourses[12] of 1997. The importance of the former mainly lies on "reaffirming faith in fundamental human rights" and of course the worth of human person, yet also on reinforcing several statements adopted as part of subsequent UN declarations and other global documents from diverse sources, given the so much wide spectrum of its scope; meanwhile the latter contains so very specific provisions about the uses of watercourses that turns out particularly difficult to formulate useful abstractions from them. It precisely configures a well-defined example of how the UN Chapter is used to support an international mandatory convention.

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[8] Convention on Biological Diversity (with Annexes), 5 Jun. 1992, in force 29 Dec. 1993. United Nations Treaty Series Vol. 1760. UN Doc. 30619, 79. Preamble and Article 3.

[9] Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (with Annexes), 17 Jun. 1994, in force 26 Dec.1996. United Nations Treaty Series Vol. 1954. UN Doc. 33480, 3. Preamble and Article 2.

[10] DÉJEANT-PONS, Maguelonne – PALLEMAERTS, Marc: *Human rights and the environment*. Council of Europe Publishing, Strasbourg, 2002. 47.

[11] Charter of the United Nations, 26 Jun. 1945, in force 24 Oct. 1945. United Nations Treaty Series, *Ex officio*.

[12] Convention on the Law of the Non-Navigational Uses of International Watercourses, 21 May 1997, in force 17 Aug. 2014, Annex to the Resolution adopted by the General Assembly. UN Doc. A/RES/51/229.

Up to this point, the analyzed instruments have been mainly commitments of the international community to their compulsory application. Nevertheless, there are a set of remarkable declarations, resolutions and other similar documents which also support the human-centered discourse, without being legally binding ones.

Other International Documents and Recognitions

Despite that Susana Borràs admits that the Universal Declaration of Human Rights[13] of 1948 does not contain any textual reference to environment, it laid the groundwork to "*an adequate environment in international law*",[14] above all because it denoted the acceptance of health and well-being as standards of living.

Probably the starting point of literal allusions about human right to healthy environment and anthropocentrism is the aforesaid Stockholm Declaration of 1972, where the anthropocentric perspective is present even from the own title, "Declaration on the Human Environment". Thereafter, one can read a continuous reproduction of the same notion, either by means of the proclamation about the fundamental rights in an environment of quality or the obligations to safeguard the natural resources for the benefit of present and future generations of human beings.[15]

Later, the acknowledgement of the human right to a healthy environment, each time much more explicitly, continued appearing into an ongoing series of declarations and other official documents worldwide. One of the most famous was the report "Our common future", also known as "Brundtland Report", published in 1987 by the UN World Commission on Environment and Development (WCED). It is particularly transcendent the statement about the fundamental human right, as follows "*All human beings have the fundamental right to an environment adequate for their health and well-being*".[16]

In 1990, the UN General Assembly issued the Resolution No. 45/94 on the Need to ensure a healthy environment for the well-being of individuals, which is probably the best description of how anthropocentrism has influenced the international speech about the protection and conservation of nature. It is not only significant due to the recognition of healthy environment as a human right, but also because it contains a calling upon the UN, States, and non-governmental organizations worldwide to enhance their efforts to promote and deepen the studies regarding to both aspects[17]. In sum, human rights and environment are together present throughout the whole four points the instrument is conformed.

Another milestone about the implications of anthropocentrism is the first principle on the Rio Declaration on Environment and Development of 1992, in which is established plainly: "*Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature*".

From there on numerous records give an account the relationship between human rights and environment and how it has been largely influenced by Western philosophical principles, dealing with human beings in the center of the ecological worries. Likewise,

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[13] Universal Declaration of Human Rights, 10 Dec. 1948, UN Doc. A/RES/217(III). Article 25.

[14] BORRÀS, Susana: New Transitions from Human Rights to the Environment to the Rights of Nature. *Transnational Environmental Law* Vol.5., 1 (2016) 116.

[15] Declaration of the United Nations Conference on the Human Environment, 1972, Principles 1 and 2.

[16] United Nations: Report of the World Commission on Environment and Development, Our common future, 14 Apr. 1987, UN Doc. UNEP/GC/14/13, Annex No. 1.

[17] Resolution No. 45/94 on the need to ensure a healthy environment for the well-being of individuals, 14-Dic.-1990, UN Doc. A/RES/45/94.

regional instruments have been agreed mainly in Europe and America to support this point of view and nowadays an important increasing quantity of national regulations counts on provisions oriented towards this topic.

However, in spite of the great amount of existing juridical and political mechanisms to struggle against the environmental degradation, the results have not been successful or at least they have not been what it was expected from. Currently, there is rather a surrounded economic system where it has prevailed the human interests over the ecological ones and the property rights over the conservationist ideals. In words of Borràs, "*[t]he consequence has been that environmental laws and regulations, despite their preventive approach, have developed so as to legalize and legitimate environmental harm*".[18]

Judicial Practice

Affirming that the human-centered approach is totally harmful or dangerous for ecosystems would not be completely fair, given it has also been somehow useful to control pollution or to stop hazardous systematic, although specific, actions. Besides, it must be admitted that certain processes aimed at protecting populations in severe risk do have been much more effective, mainly due to the standpoint about the property rights.

In this framework, the implicit, and sometimes explicit, influence of property rights on the international speech has been so powerful that, for example, even the UN itself made it visible in 2011 to support the assertion about the right of indigenous and tribal peoples to their ancestral lands, territories and natural resources into the two aforementioned covenants of 1966, through an interpretation about the right to self-determination,[19] an aspect often addressed as an environmental issue. Consequently, what did not even appeared in none of the two covenants turned out explicit suddenly in the official discourse. For this purpose, the UN quoted three judgements settled by the Inter-American Court of Human Rights (I/A Court), although only in Sawhoyamaxa Indigenous Community v. Paraguay one can identify unequivocally a connection between the rights to property over lands and the survival capacity of people,[20] in strict adherence to the Covenant on Civil and Political Rights prohibition about deprivation of using natural resources as means of subsistence.[21]

More specifically, the Sawhoyamaxa community's allegation was based on violations of rights to life, humane treatment, property, fair trial, and judicial protection, focusing on the fact that State had not resolved satisfactorily its request about the guarantee of the ancestral property right over its lands, pending for around fifteen years until the day that the claim began at the I/A Court, which had "*implied keeping [the community members] in a state of nutritional, medical and health vulnerability, which constantly threatens their survival and integrity*".[22] At a first glance, the idea of the right to life in jeopardy due to the lack of a formal guarantee of property would seem to be implausible, because the so-called guarantee can be seen as a mere formality of acknowledgment. Nevertheless, the living conditions were so highly hostile on the estates where the community members dwelt, than in practice they used to

[18] BORRÀS, 2016. 113-114.
[19] UNITED NATIONS, 2011. 8.
[20] Cf. Sawhoyamaxa Indigenous Community v. Paraguay (Petition No. 0322/2001) Judgment of 29 March 2006 (Merits, Reparations and Costs), Inter-American Court of Human Rights, para. 164.
[21] Covenant on Civil and Political Rights, 1966, Article 1 (2)
[22] Sawhoyamaxa Indigenous Community v. Paraguay (n 5) para. 2.

live in extreme poverty, even being forced to displace to other locations. For years people faced restrictions to freely dispose of their own crops, livestock, and other livelihoods, imposed by the legal landlords (several private companies), condition that worsened when these latter received the notice of the claim for the restitution of the ancestral property,[23] according to law in force back then.[24] Once analyzed evidences and facts, the I/A Court determined the ancestral character of the Sawhoyamaxa community and the existence of several violations of rights. For that reason, it subsequently commanded to convey to the community the traditional lands and pay a compensation for non-pecuniary damages, among other measures, in 2006.[25] Unfortunately, that expropriation did not occur within three-year term granted to the country, in spite that even the Paraguayan Institute for Indigenous People (INDI)[26] had settled to fully support the Community's claim and had recommend to the former Institute for Rural Welfare (IBR)[27] the condemnation of the property since 1997.[28] According to expert Augusto Fogel, whose testimonial was received as part of the evidence, it befell due to the INDI was not able to enforce its resolutions, given it only had legal power either to negotiate the purchase of land from the private owners or to conduct the resettle of the community in another place, among other causes.[29] Therefore, to accomplish the ruling by the I/A Court, the National Congress of Paraguay had to enact a specific law in June, 2014, which declared public interest over those estates, expropriating them in favor of the INDI, aimed at transferring them later to the community.[30] KANSOLL S.A. and ROSWELL COMPANY S.A., affected enterprises by the expropriation, brought several constitutional complaints before the Paraguayan Supreme Court of Justice, which were rejected. The first one against the I/A Court" resolution was discarded without any kind of processing, due to a lack of appellate jurisdiction, in 2009,[31] and the constitutional actions against the Law No. 5194 about both expropriation and indemnification were rejected in 2014[32] and 2015[33] respectively. Summing up, the particularity of this case was that main solution was not based on fundamental rights, such as life, humane treatment or use of natural resources for survival, but rather in rights to property.

Approaches of Ecolocentrism/Biocentrism

What is not Biocentrism?

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[23] Cf. Sawhoyamaxa Indigenous Community v. Paraguay (n 5) para. 73(61)

[24] Law No. 904/81 (Estatuto de las Comunidades Indígenas) 18 December 1981. In: Secretaría Nacional de Cultura http://www.cultura.gov.py /marcolegal/ley-90481-estatuto-de-las-comunidades-indigenas/ (2017. 03. 09.)

[25] Cf. Sawhoyamaxa Indigenous Community v. Paraguay (n 5) para. 210-227.

[26] Instituto Paraguayo del Indígena.

[27] Instituto de Bienestar Rural. The current institution is called Instituto Nacional de Desarrollo Rural y de la Tierra (INDERT).

[28] Cf. Sawhoyamaxa Indigenous Community v. Paraguay (n 5) para. 73(38)

[29] Id. para. 106.

[30] Law No. 5194 (Expropiación) 11 June 2014. In Biblioteca y Archivo del Congreso Nacional http://www.bacn.gov.py/NDY0MA==&ley-n-5194 (2017. 03. 09.)

[31] KANSOLL S.A. ROSWELL COMPANY S.A. v. Paraguay (Constitutional Complaint No. 823) 12 May 2009, Corte Suprema de Justicia.

[32] KANSOLL S.A. and ROSWELL COMPANY S.A. v. Paraguay (Agreement and Settlement No. 981) Judgement of 30 September 2014, Corte Suprema de Justicia.

[33] KANSOLL S.A. and ROSWELL COMPANY S.A. v. Paraguay (Agreement and Settlement No. 384) Judgement of 02 June 2015, Corte Suprema de Justicia.

As it has been stated, biocentric theory[34] concerns about granting intrinsic values to all kinds of life without any exception. In contrast to other philosophical perspectives, such as anthropocentrism, there is not a hierarchical structure that entails different categories of moral considerability, in function of inherent or instrumental characters. Evidently, the former possess a superior level, which usually determines agents" hegemony over patients regarding to moral standing.

Neither it is about the capacity to have interests or sentience (e.g. pleasure and pain), as in sentientism. More common criticisms are often explained through the works by Peter Singer, whose main debatable ideas have been around the attribution of moral standing only to those major animals that resemble to adult humans. In fact, author's argumentation is focused strongly on the capacity for suffering (and enjoying or being happy also). "*If a being suffers, [he states] there can be no moral justification for refusing to take that suffering into consideration*". This capacity is what he calls "sentience", based on the ideas of Jeremy Bentham, and it is the only prerequisite to have interests. To reinforce his utilitarian outlook about pain of beings, he describes the nervous system of vertebrates (mainly mammals and birds) as similar to humans' one, affirming "*[t]his anatomical parallel makes it likely that the capacity of animals to feel is similar to our own*", what clearly set aside all possibility to consider plants, for instance, as subjects of moral standing.[35]

From a similar perspective, Tom Regan does not use a utilitarian argument to defense the animals; he asserts several of them are holders of certain rights that people have to respect by a moral compulsion, given they possess also an intrinsic value, just like humans, independently from their interests, needs or uses, etc.[36] However, as Desjardins have observed, given the whole living beings are not included in the taxonomy, this view cannot be considered as completely biocentrist.[37]

Early theories

There is a more recent ethical approach so-called "egalitarian biocentrism", contemporaneously represented by Paul Taylor and James Sterba,[38] whose line of though is originated in both the tenet of "reverence for life", defended by Albert Schweitzer[39] as in the conditions on moral considerability, posed by Kenneth Goodpaster.[40]

In this sense, the key idea of Schweitzer lies on the recognition of nonhuman lives as similar to human ones: "*the man who has become a thinking being feels a compulsion to give to every will-to-live the same reverence for life that he gives to his own*"; one can also note a sort of value judgment about what he considers good (e.g. to preserve or promote life) or evil (e.g. destroy or injure life).[41] In the end, it meant somehow a grant of intrinsic value to all living

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[34] It must be clarified that the use of the phrase "Biocentrism Theory' is not linked to what David Keller calls "Hierarchical Biocentrism', attributed specially to Frederick Ferré, inspired of Rolston Holmes III, and whose contents are closer in scope to sentientism. KELLER, David (ed.): *Environmental Ethics: the big questions*. Wiley-Blackwell, Oxford, 2010. 149.

[35] Cf. SINGER, Peter: *Practical Ethics*. Cambridge University Press, Cambridge, 1999. 57-58., 70.

[36] Cf. DESJARDINS, 2006. 111-112.

[37] Id. 132.

[38] KELLER, 2010. 150.

[39] SCHWEITZER, Albert: *Out of my life and thought: An Autobiography*. Henry Holt and Company, Inc., New York, 1933.

[40] GOODPASTER, Kenneth: On being morally considerable. *The Journal of Philosophy* Vol.75., 6 (1978) 308-325.

[41] SCHWEITZER, 1933. 158.

things, what also implied the reception of a severe criticism related to the generalization of arguments and the lack of development of controversial cases and explanations in detail, such as the innuendo, formulated by more than a few authors, about the possibility of assessing worth humans, ants, bacteria, and the like, at the same level.[42]

Instead, the Goodspaster's work spins around inquiring about whether it is sufficient or not to be a living being for deserving moral standing. He holds that "*[n]othing short of the condition of being alive seems to […] be a plausible and nonarbitrary criterion*", enough to acknowledge moral considerability. In some way, it represents a critical standpoint to the sentientism's argumentation, assuming that neither rationality nor experience of pain and pleasure should be taken into account as ineludible conditions to moral considerability.[43]

Contemporary doctrines

Paul Taylor tried to fill the gap left by Schweitzer about the justifications and implications of granting intrinsic values to the whole living things, through one of the most "*developed and philosophically sophisticated contemporary defenses of a biocentric ethics*", in his book Respect for Nature of 1986.[44]

According to Keller, what Taylor does basically is to adapt "*deontology to meet the demand of respect for all living things*",[45] focusing carefully on the human responsibilities in respect of natural world: "*In addition to and independently of whatever moral obligations we might have toward our fellow humans, we also have duties that are owed to wild living things in their own right*"; and also proposing even a method to arbitrate certain ethical conflicts, ambiguously seen in Schweitzer, such as the contradictory biotic interests between humans and bacteria or insects. In the name of the principle of self-defense, for example, "*it is permissible for moral agents to protect themselves against dangerous or harmful organisms by destroying them*",[46] which would allow attack, for example, to bacteria and other living organisms when they cause diseases to humans. In sum, his approach is based on four key principles,[47] as follows:

- Humans are members of the Earth's Community of Life in the same sense and on the same terms in which other living things are members of that Community.
- Human species, along with all other species, are integral elements in a system of interdependence such that the survival of each living thing, as well as its chances of faring well or poorly, is determined not only by the physical conditions of its environment but also by its relations to other living things.
- All organisms are teleological centers of life in the sense that each is a unique individual pursuing its own good in its own way.
- Humans are not inherently superior to other living things.

When Taylor affirms that humans are members of the Earth's Community of Life in the same sense and on the same terms in which other living things are members of that Community, he refers to human as an integral part of Biosphere, just occupying a place on it. The author does not deny the differences between humans and other living beings, but

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[42] Cf. DESJARDINS, 2006. 133.
[43] GOODPASTER, 1978. 310., 313.
[44] Cf. DESJARDINS, 2006. 135.
[45] KELLER, 2010. 150.
[46] TAYLOR, Paul: *Respect for Nature: A theory of Environmental Ethics*. Twenty-fifth-anniversary edition. Princeton University Press, 2011. 13., 264-265.
[47] Id. A summary of Taylor's arguments will be presented from now on, 99 et seq.

he focuses on the biological parallels as points in common and essential characteristics of their existence. His statement is supported on five interrelations between humans and nonhumans: they both require adapting to environmental modifications in terms of survival, they both have a good of themselves and do not control contingencies, they both are equally held by a sense of freedom to realize their goods, human beings are newcomers, compared to other species, in the order of life, and neither can do anything without each other.

Secondly, to state that the natural world is a system of interdependence means recognizing that all things and events in the world are somehow linked. Taylor speaks about a "tightly woven web" in which adjustments could occur, even throughout the entire structure, when a particular condition changes. Some examples are related the necessary balance between the availability of vegetal food and animals, food chain and the animal collaboration against predators, and so on.

Probably, the fundamental tenet to support the obligations from humans to nonhumans, since the perspective of biocentrism conceived by Taylor, lies on the allegation of all organisms are teleological centers of life in the sense that each is a unique individual pursuing its own good in its own way, due to it is precisely where one can notice the generalization of the moral ends, that each one individually pursues. Indeed, Taylor holds that the each organism's goal consists of maintaining its own existence, by means of its internal functioning and its external activities. All of them are oriented to continue a successful performance of the whole biological operations in order to survive and to get adapt to a potential environmental variations, if it is required. Besides, the author clarifies that it is important to avoid the misinterpretation about the notion of "teleological centers of life" as an allusion of anthropocentrism, given it does not mean granting human features to nonhumans, but only recognizing the worth of life in itself.

Finally, Taylor believes that the denial of human superiority is the most important sustenance for the attitude of respect for nature. His argumentation starts from asking himself what the grounds are to take it for granted that humans must occupy a better or higher position than other living beings. Although he recognizes that certain human values, such as reason and free will, are seen as the fundamental elements to endow with a special category to humans, he simultaneously considers that nonhumans possess different capacities that could be seen also as signs of superiority. For instance, birds can fly, certain mammals can run faster or autotrophs (plants) can produce their own food (photosynthesis), among others. In this point, he inquires: "*Why should standards that are based on human values be the only valid criteria of merit and accordingly be considered the only true signs of superiority?*"[48] In the middle, one can notice this reflection is also valid to describe the human superiority in terms of its inherent value. The response from Taylor entails the denial of human superiority, which arises from the accomplishment of the previous three conditions and means the support of respect for nature. Therefore, if the three previous conditions are met, the denial of human dominance will be feasible, based on two motivations: there is not a good reason to accept it and there are good reasons to reject it.

But the doctrine of Taylor has not been exempt from controversy and criticism. As Desjardins points out, when it is suggested an emphasis on human noninterference into the natural world, derived from "respect for nature", it gets set a gap between both, as though

[48] TAYLOR, 2011. 130.

they were not located at the same place. Besides, it somehow implies that severe environmental changes (e.g. destruction) could be allowable if they are the result of natural phenomena. Another important questionable aspect is related to the granting of moral inherent value only to individual organisms, which sets aside other categories of life such as species. There is a tendency to see individuals as rivals in reaching their own ends as well.[49]

More recently, a renovated version of biocentrism was approached by James Sterba, so-called "biocentric pluralism" by the own author, with the initial objective of providing a series of responses to the questionings formulated against Paul Taylor. This view could be easily seen as an advance to the Taylor's theory, above all because it has meant an extension of its scope to species. The main reasoning of Sterba refers to species that experience different processes than its members. For instance, they evolve, mutate, become endangered or become extinct, which implies they could be benefit or harmed in another manner than its components. Both have unlike interests or simply do not share them. For Sterba, based on Taylor's view, they "*qualify as moral subjects since they can be benefited and harmed and have a good of their own, having features and interests not shared by their components*".[50]

Biocentrism in Practice

From the beginning of the century, several initiatives aimed at the incorporation of the biocentric view into the legislation as well as into a judicial level have been appearing worldwide. Some of them have been quite successful, given they are already in force and others are in plain process of discussion. A brief summary is presented below.

In terms of legal axiology, the most important national lawful instrument, currently in force, is the Constitution of the Republic of Ecuador of 2008, due to there is a categorical recognition about rights of nature in its Article # 71: "*Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes*".[51] The expression Pacha Mama is the name given to nature or mother earth by indigenous people in kichwa language.

Another remarkable reference is found in the Bolivian Law #71 on the Rights of Mother Earth of 2010, which aims at recognizing the rights of nature, just like obligations and duties from the Plurinational State and Society, in order to guarantee their respect of them. According to Article #5, mother earth is a collective subject of public interest and holder (including human communities) of the whole protected inherent rights.[52]

Likewise, it is worth to mention the official recognition of the "Te Awa Tupua" as a legal person in New Zealand. According to the Public Act #7 of 2017, "Te Awa Tupua is an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements", with all the all the rights, powers, duties, and liabilities of a legal person.[53]

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[49] Cf. DESJARDINS, 2006. 142.

[50] STERBA, James: From Biocentric Individualism to Biocentric Pluralism. *Environmental Ethics* Vol. 17., 2 (1995) 192.

[51] Center for Latin American Studies: *Translation of the Constitution of the Republic of Ecuador,* in force 20 Oct. 2008. Georgetown University, 31 Mar. 2001. http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html (2017. 03. 09.)

[52] Ley de Derechos de la Madre Tierra, Ley # 71, Gaceta oficial de Bolivia, 21 de diciembre de 2010.

[53] Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 # 7, in force 20 Mar. 2017, Parliamentary Counsel Office of New Zealand.

At a local level, one can presently notice that there are more than twenty small locations in the United States of America, mainly in California, New York, New Hampshire, Maine, Maryland, Ohio, Pennsylvania, and Virginia, in which there is recognition of nature as a subject of law or holder of rights.[54] As an example, it can be quoted the section 7.6 of the Ordinance #612 of 2006, from Tamaqua Borough, located at Schuylkill County, Pennsylvania, where there is an explicit recognition of natural communities and ecosystems like "persons" for the purposes of civil rights. It is probably the most remote reference of acknowledgement about rights of nature.[55]

In the judicial branch, there is a recent grant of legal personhood to the Rivers Ganga and Yamuna in India by means of a judgment. In fact, the High Court of Uttarakhand at Nainital settled to declare "*as juristic/legal persons/living entities having the status of a legal person with all corresponding rights, duties and liabilities of a living person in order to preserve and conserve river Ganga and Yamuna [and] all their tributaries, streams, every natural water flowing with flow continuously or intermittently*".[56]

To conclude, in the framework of the World People's Conference on Climate Change and the Rights of Mother Earth, carried out in Cochabamba, Bolivia on 22 April 2010, it was launched the proposal of a Universal Declaration of the Rights of Mother Earth, whose reference to biocentrism is explicit, above all taking into account that mother earth is defined as a "living being". Doubtless, an extract of biocentric theory is compressed in the first phrase of the preamble: "*Considering that we are all part of Mother Earth, an indivisible, living community of interrelated and interdependent beings with a common destiny*".[57]

Conclusions

Current international discourse is completely anthropocentric and organized under a hierarchical structure, where human values are always considered as more worthy than others. It implies several consequences, mainly derived from the application of legally binding ones, such as the preeminence of property rights over environmental protection. There are numerous evidences about the failure of this international policy in ecological matters: global temperature continues increasing, pollution and overexploitation of resources are reducing the availability of resources, inter alia.

However, the right to health environment through the protection of human dignity can connect to the third generation of human rights as a major pillar of solidarity of people/s or collective right. In this way the nature and environment may enjoy as entity own more procedural and less subjective rights and protection if state/citizens have to respect for ecological (vulnerable) system in the Earth.

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[54] BORRÀS, 2016, 137-138.

[55] Ordinance # 612 to protect the health, safety, and general welfare of the citizens and environment of Tamaqua Borough by prohibiting corporations from engaging in the land application of sewage sludge; by prohibiting persons from using corporations to engage in land application of sewage sludge; by providing for the testing of sewage sludge prior to land application in the Borough; by removing constitutional powers from corporations within the Borough; by recognizing and enforcing the rights of residents to defend natural communities and ecosystems; and by otherwise adopting the Pennsylvania regulations concerning the land application of sewage sludge, in force 19 Sep. 2016.

[56] Mohd. Salim v. State of Uttarakhand & others (Writ Petition (PIL) No.126 of 2014) Judgement of 20 March 2017, High Court of Uttarakhand at Nainital, para. 19.

[57] Draft Universal Declaration of Rights of Mother Earth. Annex II to the letter dated 7 May 2010 from the Permanent Representative of the Plurinational State of Bolivia to the United Nations addressed to the Secretary-General. UN Doc. A/64/777.

Biocentrism has come as an alternative view developed to equally grants values to all living beings. The contemporary spread of its principles in national legislations shows the expectations of people to change the current policy into a different form of managing natural resources.

The differences between both perspectives allow believing it is quite difficult to maintain both in the same structure. It seems to be that those legislations where there is an interest to move to this new outlook will have to dismount the older configuration and begin to construct the novel one.

SANTIAGO VALLEJO GALÁRRAGA

From Human Rights to Rights of Mother Earth (A Biocentrist Approach)

(Summary)

The present article comprises the analysis of biocentric principles, which currently support the theories promoting the recognition of Nature, as a subject of law and a holder of rights, emphasizing the legislative challenges regarding their extension. It also includes a brief critical review of the most remarkable international binding instruments, presently in force, that rule the prevailing doctrine of the human right to a healthy environment, in order to outline a later transition to rights of nature.