Ecocentric approaches to (human) rights law: developing a (human and non-human) right to a healthy environment through interpretation and cross-fertilisation

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Plan of the presentation

- 1. Inherent anthropocentrism in international and international human rights law
- 2. Eco-centrism: a theory, a methodology or what? Eco-centrism as an approach to law
- 3. Overcoming anthropocentrism through interpretation: eco-centric lessons from the Inter-American Court of Human Rights
- 4. Overcoming anthropocentrism through interpretation? Greening human rights in the European Court of Human Rights
- 5. Why "mild" anthropocentrism is not enough: the effects of eco-centrism in international (human) rights law and of cross-fertilisation
- 6. Procedural and substantive issues
- 7. Conclusions

Inherent
anthropocentris
m in
international
and
international
human rights
law

- Anthropocentrism as an achievement in international law
- International human rights law as ontologically anthropocentric, but humanity lives in relation with nature – humanity's planetary existence
- Aiken: «human rights conception supports structure, practices, and activities that lead to biodiversity loss, global warming, pollution, ... it justifies an attitude to the rest of nature that is often called human supremacy».

Building the «ecological» bridge

- Connecting international environmental law and human rights law
 the consolidation of a human right to a healthy environment
- Overcoming the human character of rights and acknowledging the (human and non human) right to a healthy environment

Eco-centrism as a research method or paradigm

- We consider eco-centrism as a paradigm as conceptualised by the philosopher Thoman Kuhn: the evolution is characterised by normal science, crisis, revolution, new paradigm.
- The paradigm we are developing is inspired by Plato cosmology and Chinese thought, but is contemporary because it endorses eco-feminist concerns in the description of the patterns of discrimination and domination in (human and non-human) societies.

Overcoming anthropocentri sm through interpretation: eco-centric lesson from the IACHR

- Advisory opinion of 15 November 2017.
- Judgment Comunidades Indígenas Miembros De La Asociación Lhaka Honhat (Nuestra Tierra) vs. Argentina of 6 February 2020.
- Interpretation of Article 26 of the American Convention on Human Rights (1969): The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

Overcoming anthropocentri sm through interpretation: «greening human rights» in the ECtHR jurisprudence

- Important steps forward in the process of endorsing environmental concerns, but still insufficient.
- The duty of States as elaborated and interpreted by the ECtHR is not about protecting the environment but about protecting humans from significant harmful environmental effects.
- Procedural obstacles.

Why "mild" anthropocentris m is not enough

- Eco-centrism and eco-feminism are not naïve attempts to conceptualise new ideas that do not change the results (protecting human rights).
- Reparations, for example, are affected by the way in which we consider human and non-human beings as subjects of rights.
- It is also a new worldview that can be applied to other branches of international law, including the prohibition of the use of force.

Procedural and substantive issues

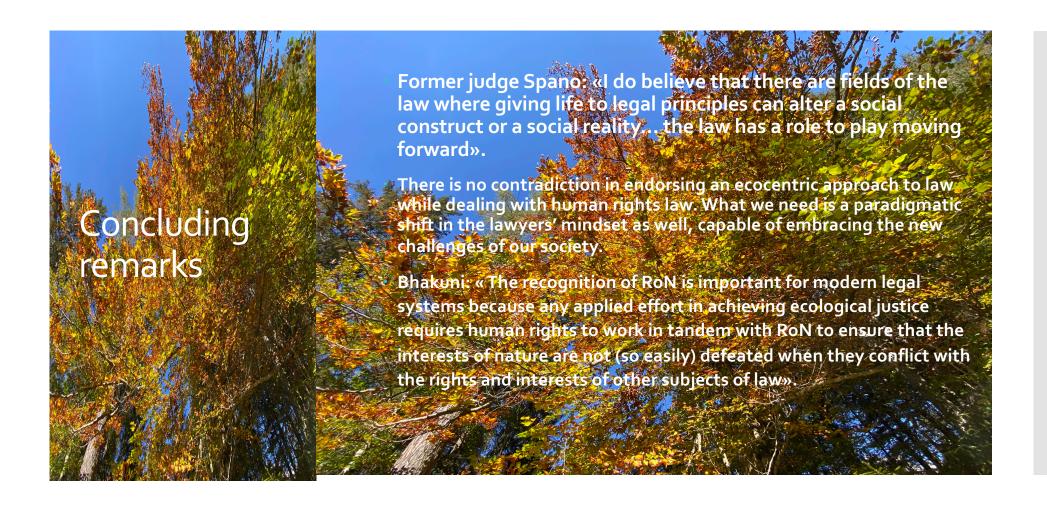
- Jurisdiction
- Causal relation
- Victim status
- Imminence

crossfertilisation Ecological requirements

in dubio pro natura

Intergenerational equity

Evolutive interpretation



Thank you

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Pictures taken in Val Canali, Dolomites

