

**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 anthropocentrism 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 anthropocentrism 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

cross-  
fertilisation

Ecological requirements  
*in dubio pro natura*  
Intergenerational equity  
Evolutive interpretation



## Concluding remarks

- Former judge Spano: «I do believe that there are fields of the law where giving life to legal principles can alter a social construct or a social reality... the law has a role to play moving forward».

There is no contradiction in endorsing an ecocentric approach to law while dealing with human rights law. What we need is a paradigmatic shift in the lawyers' mindset as well, capable of embracing the new challenges of our society.

- Bhakuni: «The recognition of RoN is important for modern legal systems because any applied effort in achieving ecological justice requires human rights to work in tandem with RoN to ensure that the interests of nature are not (so easily) defeated when they conflict with the rights and interests of other subjects of law».

Thank you

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Pictures taken in Val Canali,  
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