

“Oslo Manifesto” for Ecological Law and Governance

(adopted at the IUCN WCEL Ethics Specialist Group Workshop, IUCN Academy of Environmental Law Colloquium, University of Oslo, 21 June 2016)

From Environmental Law to Ecological Law: A Call for Re-Framing Law and Governance

1. Environmental law is at a crossroads. As a legal discipline, environmental law has always aimed at protecting the natural environment and ecological systems. Yet, in fifty years of its history environmental law has failed to halt ecological degradation and continues to fall short of its objectives. The Earth’s ecological systems deteriorate at an accelerating rate with no signs of regaining their integrity and sustainability.

2. There are many reasons for the growing ecological crisis. Among them are the dynamics of economic growth, population development and overconsumption, aptly described as the ‘Great Acceleration’. However, there are also reasons peculiar to the philosophy, ontology and methodology underpinning environmental law.

3. Environmental law is rooted in modern Western law with its origins in religious anthropocentrism, Cartesian dualism, philosophical individualism and ethical utilitarianism. In our ecological age, this worldview is out-dated and counterproductive, yet it continues to dominate the way environmental laws are conceived and interpreted. Most notably, nature is perceived as “the other” overlooking ecological interdependencies and human-nature interrelations.

4. Among the flaws of environmental law are its anthropocentric, fragmented and reductionist characteristics. It is not only blind to ecological interdependencies, but also politically weak as it competes with other, more powerful areas of law such as individualized property and corporate rights. As a consequence, the legal system has become imbalanced and unable to secure the physical and biological conditions, upon which all human and other life depends.

5. To overcome the flaws of environmental law, mere reform is not enough. We do not need more laws, but different laws from which no area of the legal system is exempted. The ecological approach to law is based on ecocentrism, holism, and intra-/intergenerational and interspecies justice. From this perspective, or worldview, the law will recognise ecological interdependencies and no longer favour humans over nature and individual rights over collective responsibilities. Essentially, ecological law internalizes the natural living conditions of human existence and makes them the basis of all law, including constitutions, human rights, property rights, corporate rights and state sovereignty.

6. The difference between environmental law and ecological law is not merely a matter of degree, but fundamental. The former allows human activities and aspirations to determine whether or not the integrity of ecological systems should be protected. The latter requires human activities and aspirations to be determined by the need to protect the integrity of ecological systems. Ecological integrity becomes a precondition for human aspirations and a fundamental principle of law. In other words, ecological law reverses the principle of human dominance over nature, which the current iteration of

environmental law tends to reinforce, to a principle of human responsibility for nature. This reversed logic is arguably the key challenge of the Anthropocene.

7. The transformation from environmental law to ecological law will not occur without people committed to the change. For environmental law scholars such commitment includes critical self-reflection, imagination, courage and a willingness to become truly eco-literate. In this way environmental lawyers transform themselves into 'eco-lawyers'.

8. The approach of ecological law is, however, not new. Its foundational values and principles have guided ancient cultures and indigenous peoples in all parts of the world and are also part of the pre-industrial history of Western civilisation. After all, if previous generations were not so successful in maintaining, at least, a degree of sustainability, the present generation would not be here. It is important, therefore, to recognize history and continuity of ecological values and principles. They have also informed modern environmental law, albeit in a more rudimentary form and hidden behind the dominant values of modernity (anthropocentrism, dualism, utilitarianism etc.).

9. The values and principles of ecological law are expressed in ecocentric jurisprudence (e.g. rights of nature, 'Mother Earth' rights, Earth jurisprudence, eco-feminism, ecological legal theory, 'environmental law methodology') and are also present in constitutional and international theory (e.g. ecological human rights, 'eco-constitutional state', 'Pachamama' constitutions, ecological sustainability and integrity, ecocide campaign, commons movement, global commons theory, eco-constitutionalism, global environmental constitutionalism). While different in their approaches and emphasis, they share a common ground and can be perceived as complimentary and mutually reinforcing.

10. This makes it possible to identify ecological approaches to law with a view to create a unifying framework for promoting effective law and governance. As we face disintegrating ecological and socio-economic systems and in light of greater, but still incomplete understanding of how ecosystems function and maintain their resilience, now is the time for creating an alternative.

11. To this effect, a roadmap for the establishment of an Ecological Law and Governance Alliance (ELGA) is proposed. It should be conceived as a unifying and inclusive platform for existing ecological approaches to law and should promote coordinated efforts to formulate the ecological alternative to business-as-usual law and governance.

12. The first steps of the roadmap include the establishment of a working group, the creation of a website, the start of a brainstorming activity for the development of new research and higher education projects, the launch of an international conference (on moving from environmental law to ecological law) and the general promotion of ELGA (through individual and institutional membership).