

## EcoLaw

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Until recently, legal theory has presupposed that law is entirely the creation of individuated human subjects acting as legislators and judges, and as the conduit for social conventions that inform legal change. As one of several related narratives that challenge the nature-culture distinction, posthuman theory helps to reimagine law as the product of ecologically-connected legal subjects and, in consequence, as continuous with the normative processes of living and nonliving nature.

‘We inhabit a *nomos* – a normative universe’. So wrote Robert Cover in his famous discussion of the interconnection of law with the multiple, complex, often conflicting meanings that characterise a society (1983: 4). Norms emerge from the thick textures of history, from the narratives that circulate between different lives and coalesce into *nomoi* or normative worlds – shared and inhabited in the way that myths and narratives are shared among members of communities. The image of dynamic plural normative worlds of meaning that intersect, conflict, and hybridise, provides a strong critique of the image of a singular and self-defining state ‘law’ which remains, nonetheless, an emergent form – the normative ‘world’ that has, for the moment, achieved the power to impose itself (as sovereign, as ultimate decisionmaker) on other normative worlds.

The anti-formalist traditions of socio-legal theory situate normative worlds in material social practices: in the everyday routines and relationships of social life (Ehrlich 1962; Ewick and Silbey 1998). To this extent, they open onto an ontological, in addition to an epistemic, pluralism – the fact that the different normative worlds humans inhabit are inextricable from existence, rather than overlaid as meaning that shapes or governs a substratum of physical matter. Once again, this socially created *nomos* does not exist as a structurally identifiable thing – it emerges from the iterative practices, the geopolitical attachments, and circulating narratives of shared lives and relationships.

Holistic knowledge based on the relationships of land, ecosystems, and human communities is already held in different forms by multiple Indigenous peoples across the globe. Transitions in European-heritage knowledge traditions are currently underway that will hopefully permit a greater openness to Indigenous knowledges. In supplementing anthropocentric knowledge with a more complete understanding of the integration of human societies in ecological and physical localities, these transitions provide a further opportunity to deepen the image of normative plurality. More specifically, an opportunity exists at last to re-unite *nomos* with *physis*, normative convention and physical matter. Recent theory across the humanities and

social sciences, science and technology studies, as well as the many disciplinary philosophies of science, provide vast resources for theorising the normativity of nature (see eg Canguilhem 1978; Mol 1998; Sagan and Margulis 2013). Classical legal and political theory has often taken *human* nature as the basis for developing normative worlds. But the human can no longer be understood as having an essential nature – first because such ‘nature’ has been imposed by the socio-political presumptions of a patriarchal and Eurocentric philosophy; second because nature (including human nature) is diverse, non-unified, and irreducible to any essence; and third, because human and nonhuman are natural beings in the sense that we are biological and physical as much as social and cultural (see eg, Lemm 2020). We are ‘biocultural’, ‘biosocial’, and ‘biolegal’ (see eg Frost 2016; de Leeuw and van Wichelen 2020). The normativity of nature has to be observed elsewhere than a human essence – in all of biological and physical nature.

Ecological thinking, in which all things are seen as connected in complex interacting systems, provides a launchpad for reconceptualising law as *ecolaw*. In theorising law as ecolaw, it is possible to see plural normative systems as not exclusively human but crossing all of the limits conventionally used to define law: human-nonhuman; matter-meaning; is-ought; subject-object. After all, if matter and meaning are entangled (Barad 2010), then law and matter must also be entangled. The question is how to understand this entanglement given the dominance of ideas about law that confine it to a human and largely idealist sphere. There are many avenues into theorising the ways in which law is enmeshed with and how it emerges from material relationships. First, thinking ecologically involves placing the human law-maker as a complex embodied entity – a ‘holobiont’ (Gilbert et al 2012) – into the biological and geological world. The iterations that make up the practices, pathways, and customs that eventually become what we understand as law are not performed by humans in a separate human-only world, but always necessarily engagements with other complex interacting normativities. Second, looking more closely at the existences of nonhuman others, the processes by which life is generated and maintained can be understood as normative: Canguilhem for instance argued for a ‘vital normativity’ in which the constant emergence of new normalities is essential to life (Canguilhem 1978). Life can be seen as a series of endless iterative norming actions (ie actions that create norms). Third, taking ‘nature’ at large (that is broadly as understood by natural scientists) as an irreversible and purposive emergence of order from disorder (Prigogine and Stengers 1984; Sagan and Margulis 2013) provides resources for understanding the geo-biological complex of Earth systems as normative rather than mechanical (see also Latour 2017). All of these and a multitude of other pathways combine in an image of eco-normative plurality – an image in which law can be understood as materially connected, not only to the human societies and meanings that give it form but also to place and time, land, ecology, nonhuman life, and the emergent realities formed by relating.

In Western colonial thinking human law is frequently understood as an entirely separate human system which governs or at least constructs matter, plants, space, animals, and

relationships. But that is only one side of the many stories that connect law and 'nature'. Ecolaw is one way of conceptualising the pluralities of normative connection across the human and the nonhuman.

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