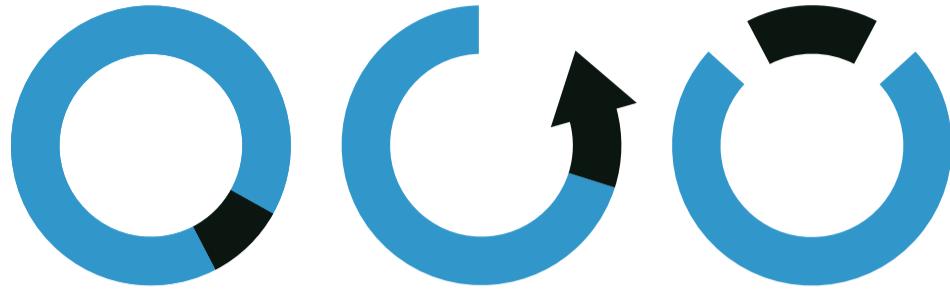


INTERNATIONAL CONFERENCE

Earth System, the Common Heritage

The need for a new legal approach to the global climate emergency



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Climate as a Concern or Heritage?

When the issue of climate change entered the UN agenda in 1980, one of the first questions raised was: What is climate from a legal point of view? After a proposal to “proclaiming climate as part of the “**Common Heritage of Humankind**”, the UN resolution adopted considered climate as “**Common Concern of Humankind**”. However, it has proved impossible to agree on what the climate as “*common concern of humankind*” means from a legal standpoint. After 25 years of climate negotiations gridlock, it's time to reopen this discussion to find a positive expectation of reaching and going beyond the Paris Agreement goals. As Einstein would argue, ***you can't continuously repeat the same actions and expect different results.***

Defining our global common...

The planetary system that we inhabit - the Earth System that functions as a single integrated system at the planetary level - is comprised of interacting physical, chemical and biological cycles and energy flows that not only support life but are regulated by life. A stable climate is a visible manifestation of a well-functioning Earth System, that is exhaustible by excessive use and by lack of permanent maintenance. A well-functioning Earth System is our ultimate common good, even if it is not yet legally recognized as such.

The first step for a successful management of the commons, is the adoption of a clear legal definition of the common good. The failure to do so has led to the climate and biosphere emergencies, as inevitable and logical outcomes of the unregulated use of the Earth System.

... as a Common Heritage ...

In 1988 Malta proposed to recognize "Climate as Common Heritage of Humankind", and if adopted, it could have been the first international legal instrument to address the global functioning of the Earth System in a systemic and integrated manner.

But at that time the scientific knowledge and technical instruments to put this project into practice were not available. It is now possible to scientifically define the key processes that underpin the functioning of the Earth System – the *planetary boundaries*, and quantitatively measure the favourable bio-geophysical state corresponding to a well-functioning Earth System – the *safe operating space for humankind*. This means that we have the necessary technical conditions to define the fundamental common good that ultimately supports us.

... to be possible to restore a Stable Climate...

Because international law was not prepared to legally recognize as a Common Heritage - "an intangible natural resource, which spans across and beyond the national territories of States", the adopted UN resolution considered climate as "common concern of humankind". However, no one yet knows what the climate as "common concern" means from a legal standpoint.

A common concern is a vague political formula that does not recognize the existence of the common good itself (climate), with all the consequent obligations resulting from its use, and rights resulting from its maintenance. On the contrary, this leads to a damage-containment and burden-sharing system, working in a negative sum-game, in which the total of the "resource stable climate" always decreases, since the positive impacts on its maintenance or restoration do not enter in the game.

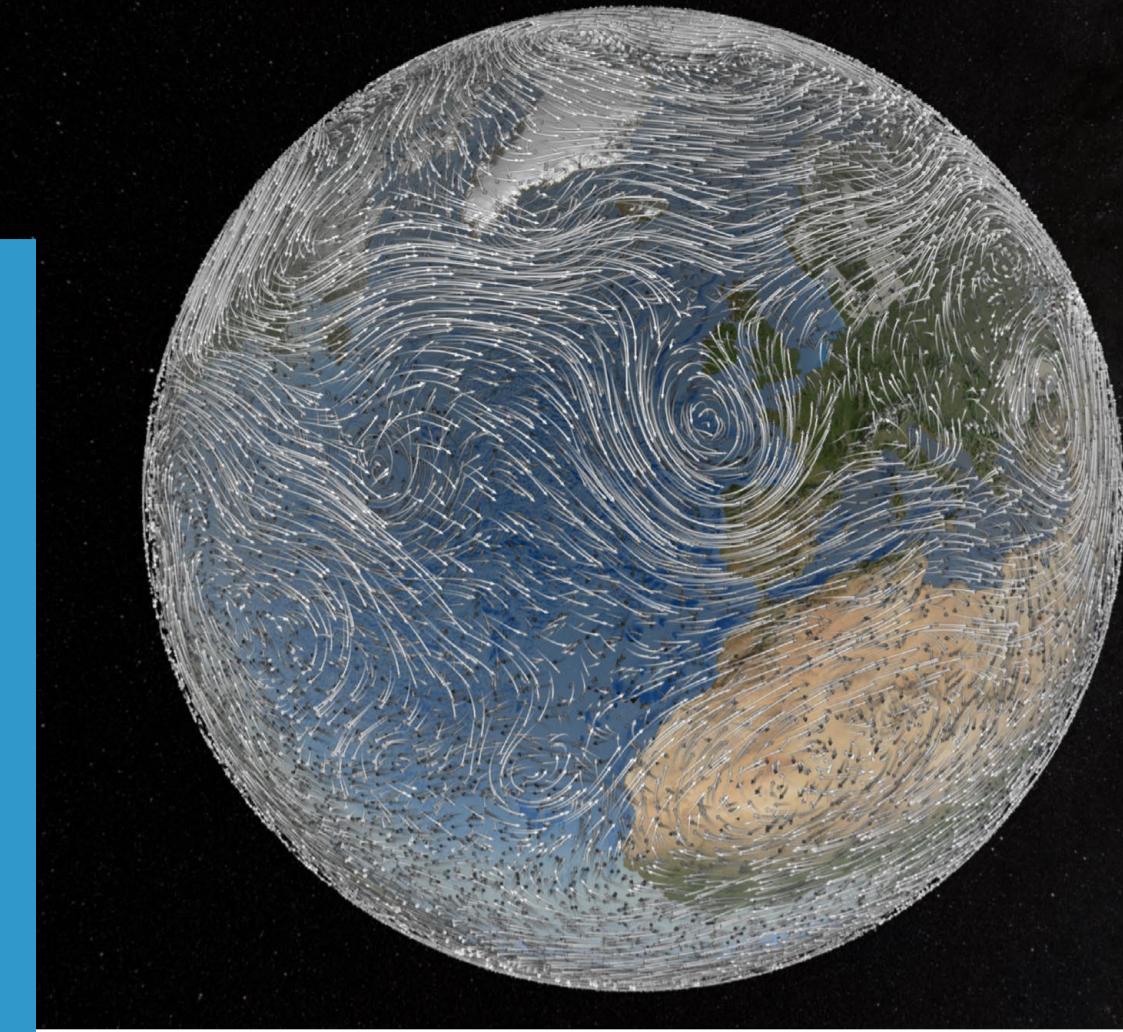
Until now, the non-existence of the Earth System in legal terms resulted in a global economy in which the biogeophysical functions produced by ecosystems that support life and contribute to the well-functioning of the Earth System as a whole, are likewise legally non-existent and hence considered as "external" and invisible to the economy. This makes it technically impossible to build an economy capable of contributions to the recovery of a well-functioning of the Earth System, and consequently to maintain a stable climate.

... and being the common ground of our self-organization.

Because it cannot be appropriated by any sovereignty, the global and indivisible Earth System should belong to all humanity as the intangible Common Heritage of Humankind.

The new international legal object could become the global framework needed to self-organize the relationships among all users of the Earth System. We have already recognized natural intangible facts in Outer Space Law. Why we cannot recognize their existence also on Earth?

Economic sciences have already defined the structural conditions for successful management of common goods. Could this knowledge, with some adaptations, be applied to the most vital global common, the Earth System? Effective collective action can only happen if we build the structural, legal conditions from which it can emerge and progress.



Is it possible to achieve collective action on climate change without building an appropriate legal framework?

There is an intimate connection between legal structures and economic and social models, as well as between economic models and bio-geophysical cycles, and they cannot meaningfully be separated from one another. To stabilize temperature rise at around 1.5°C, the planet will require the fastest economic transition in history and this will only be possible if we address this challenge in an integrated way, and not only CO₂. On the brink of a global emergency, our ultimate challenge is to rethink international law, economics and governance, around the maintenance of the common good that supports all life on Earth.

As a critical step on this path, we propose an international conference to discuss how the global community can and must meet this daunting challenge. Crucial questions to guide our thinking for the future are:

1. Can the Safe Operating Space be the scientific framework to describe a well-functioning stable climate of the Earth System in law?
2. Is it possible to make this transition without a legal framework that provides visibility and accountability to the positive and negative impacts on the Earth System state?
3. Is a legal framework for the global commons an indispensable tool in order to reach agreement and build exponential action and scalable plans for each country to contribute its fair share to the restoration of the Earth System?
4. Could the legal recognition of the Earth System be the propellant to shift our current economy, addicted as it is to the consumption of resources, towards an economy that is able to restore and sustain the natural intangible conditions that support all life?
5. How could such recognition of our common heritage help reduce economic inequalities, and trigger redistributive and inclusive social outcomes?

...on the path to Stockholm+50...

With the present knowledge about the Earth System, law, economics and the management of commons, it is not naive to envision putting in practice the Maltese proposal of 1988. The milestone of the 50th anniversary of the first UN Conference on the Human Environment, held in Stockholm in June 1972, could be the last window of opportunity we have to define the common good that should be the object of a legal regime to organise its use.

... our Conference on "the Earth System, the Common Heritage" can start an innovative approach.

We will bring together a significant group of leading researchers and political actors who will present and discuss several innovative ideas focusing on this legal concept and considering how to fully reflect it on the economy and on governance of national and international systems. It is now time to make this conceptual evolution in law, needed to overcome the obstacles that have prevented success in the fight against climate change and biosphere degradation.

Let's join the dots to build this innovative path to Stockholm+50.

Join us in building a liveable future!