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TOWARDS THE HUMAN RIGHTS OF THE ENVIRONMENTAL SUBJECT WITHIN THE FRAMEWORK OF THE NEW ENVIRONMENTAL PARADIGM PARADIGM<sup>1</sup>

HACIA LOS DERECHOS HUMANOS DEL SUJETO AMBIENTAL EN EL MARCO DEL NUEVO PARADIGMA AMBIENTAL

VERS LES DROITS HUMAINS DU SUJET ENVIRONNEMENTAL DANS LE CADRE DU NOUVEAU PARADIGME ENVIRONNEMENTAL

RUMO AOS DIREITOS HUMANOS DO SUJEITO AMBIENTAL NO MARCO DO NOVO PARADIGMA AMBIENTAL

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*“Moral y luces son nuestras primeras necesidades”* (Simón Bolívar).

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## Resumen

Este texto expone la propuesta investigativa por la cual a partir del Constitucionalismo Latinoamericano de finales del siglo XXI se han venido forjando una serie de derechos humanos del “sujeto ambiental”. Esta propuesta, enmarcada en el nuevo paradigma ambiental, se fundamenta desde la perspectiva del ambiocentrismo que permite abordar una noción del objeto jurídico “humano-ambiental”, de manera que exista el soporte dogmático para considerar la existencia de unos derechos humanos que no son humanos y cuya pertinencia radica en la necesidad de asegurar la subsistencia de nuestra especie.

**Palabras clave:** Derechos humanos, sujeto ambiental, ambiocentrismo, nuevo paradigma ambiental, bien jurídico humano-ambiental.

## Summary

This text exposes the investigative proposal by which, from the Latin American Constitutionalism of the end of the 21st century, a series of human rights of the “environmental subject” have been forged. This proposal, framed in the new environmental paradigm, is based on the perspective of ambiocentrism that allows addressing a notion of the “human-environmental” legal object, so that there is dogmatic support to consider the existence of human rights that are not human and whose relevance lies in the need to ensure the subsistence of our species.

**Keywords:** Human rights, environmental subject, ambiocentrism, new environmental paradigm, human-environmental legal right.

## Résumé

Ce texte expose la proposition d’investigation par laquelle, à partir du constitutionnalisme latino-américain de la fin du XXI<sup>e</sup> siècle, une série de droits humains du “sujet environnemental” ont été forgés. Cette proposition, encadrée dans le nouveau paradigme environnemental, est basée sur la perspective de l’ambiocentrisme qui permet d’aborder une notion d’objet juridique “humain-environnemental”, de sorte qu’il existe un soutien dogmatique pour considérer l’existence de droits humains qui ne sont pas humains. et dont la pertinence réside dans la nécessité d’assurer la subsistance de notre espèce.

**Mots clés:** Droits de l’homme, sujet environnemental, ambiocentrisme, nouveau paradigme environnemental, bien juridique humain-environnemental.

## Resumo

Este texto expõe a proposta investigativa pela qual, a partir do Constitucionalismo latino-americano do final do século XXI, foram forjadas uma série de direitos humanos do “sujeito ambiental”. Esta proposta, enquadrada no novo paradigma ambiental, assenta na perspectiva do ambicentrismo que permite abordar uma noção de objeto jurídico “humano-ambiental”, de modo que haja sustentação dogmática para considerar a existência de direitos humanos que não são humanos, e cuja relevância reside na necessidade de assegurar a subsistência da nossa espécie.

**Palavras chave:** Direitos humanos, sujeito ambiental, ambicentrismo, novo paradigma ambiental, bem jurídico humano-ambiental.

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## Introduction

This article comes from the research project entitled “the human rights of the environmental subject”, which is developed by the author in the course of the master’s program in Human Rights of the Pedagogical and Technological University of Colombia.

It is a dogmatic investigation (basic-legal), given that the object of study is constituted by the environmental dogmatics attached to the new environmental paradigm. For this, secondary sources of research are used, in use of doctrine and regulations applicable to the categories under study.

Thus, the article answers the research question: what is the initial vision of the foundation of the human rights of the environmental subject within the framework of the new environmental paradigm? Question that arises from the objective of determining the initial vision of the foundation of the human rights of the environmental subject within the framework of the new environmental paradigm.

The general objective of this article will be addressed in a single chapter, which in turn will develop three specific objectives, namely: 1. Identify the notion of ambiocentrism; 2. Determine the concept of the environmental subject; and, 3. Identify the viability of the panorama of postulating some human rights of the environmental subject.

Due to the above, a deductive research method was used, through an analysis of concepts and general postulates of the new environmental paradigm, in order to specifically determine the viability of the panorama of postulating the human rights of the environmental subject.

## **Towards the human rights of the environmental subject within the framework of the new environmental paradigm**

The environmental issue has led to dogmatic considerations that are striking at the dogmatic level, initially there are two sides that stand out, namely: 1. The current that considers the existence of an environmental crisis, which is leading the human race to extinction; and, 2. The current that postulates the non-existence of an environmental crisis, or if it exists, understands it as something irrelevant and unnecessary to study, appealing to the economic interests of nations and the difficulty of sustaining clean energies (López, C., 2023).

The wide and contradictory disparity of the second current seems to ignore not only the enormous amount of academic research on the subject, but also, it is inferred that it ignores the perceptible environmental changes that are identified by appealing to memory: extinct rivers and lakes, reduced forests, native species that have been missed for years, air pollution, evident climate changes, etc.

On the contrary, this work is circumscribed to the first current, being the first thing to determine a theoretical foundation that allows offering a solution to the environmental issue, thus considering ambiocentrism considering the environmental crisis as an object of study.

Ambiocentrism arises in the “paradigm of complexity”, postulating a complex relationship between man and nature where several elements and multiple and diverse interactions converge and where dynamism is permanent. It is a current that emerged at the beginning of the 21st century, whose precursor is the French philosopher and sociologist Edgar Morin (2001).

According to Bonil, J., San Martín, N., Tomás, C. and Pujol, R. (2004), the ambiocentric complexity relationship has 7 essential, complementary and interdependent characteristics, which apply to the human-environmental relationship, namely: 1. The systemic principle, under which knowledge of the parts is related to knowledge of the whole, by which it is postulated that man and nature should be understood as a whole resulting in the human-environmental subject; 2. The hologrammatic principle, by which the parts are within the whole and the whole in each part, since in the human-environmental relationship a unity is understood as a legal object; 3. The retroactive principle, which reflects how a cause acts on an effect and in turn this on the cause, remembering that humanity is the cause of environmental deterioration which has a direct incidence on human subsistence; 4. The recursive principle, by which self-organization arises, in the sense that the human-environmental relationship naturally gives rise to the mitigation of the environmental crisis within a purpose of stability of the ecosystem suitable for human life; 5. The principle of autonomy-dependence, which postulates the independence of the human race equivalent to its dependence on nature; 6. The

dialogic principle, which integrates the antagonistic (human-environmental relationship) as a complementary unit; and, 7. The principle of reintroduction of the subject, by which the uncertainty generated by the environmental crisis is a foundation for the construction of a new knowledge.

Thus, ambiocentrism is the scientific and epistemological-ethical current that develops a discourse of equivalence and interdependence between man and nature, so that its notion does not take into account factors of equality or superiority, but allows understanding the relationship between the human and the non-human in a mutualistic scheme (Gallegos, 2013).

In other studies (López-Zamora, 2023), ambiocentrism has served as a basis for postulating the “human-environmental” legal object that arises from this relationship of equivalence and interdependence, which is because: 1. In view of the environmental crisis, current human needs and the unbridled capitalist interest of nations, the subsistence of the environment would not be possible without human intervention; and 2.

Based on the above postulates, it is considered that the current anthropocentric scheme of continental European lineage does not guarantee the rights of nature, since it infers a reality that cannot be ignored and that is that the capitalist interest of the planet and the needs of modern societies have led to the environment being conceived from a purely utilitarian point of view and at the service of man.

It is firmly postulated that this notion is the one that has led to the environmental crisis that the planet faces today, reason for which the research recognizes and develops within the framework of the New Environmental Paradigm, which brings together the various theoretical notions of the environmental issue, by which new conceptions are postulated in the relationship between man and his habitat (Universitat de Barcelona, n.d.); new environmental paradigm of which ambiocentrism is part and which aims to support an interpretation that ensures the subsistence of the human habitat.

Now, to ground the discourse, it is inferred that the shift from the anthropocentric to the biocentric paradigm implies a reinterpretation of the meaning of human rights; hence the idea of the “human-environmental” legal object, which would allow the development of a series of new human rights with a marked sense of environmental protection.

Notwithstanding the above, it is considered that it would be dissatisfactory to accept environmental human rights that were not human, which, although they could be alleged to be necessary, would still be incongruent, which is why we appeal to the criterion proposed in other works (López-Zamora, 2023) about the “human-environmental” legal object.

This new legal object would be the materiality of biocentrism, since it brings together the relationship of equivalence and interdependence of the human-environmental issue. This legal object is the starting point for the recognition and proposal of human rights of the environmental subject.

As it is observed, the purpose of this work is to expose several criteria that surround the environmental issue, maintaining the environmental crisis as the object of study, under the firm pretension of reconciling the capitalist interest of nations and the subsistence of the habitat where the rights of humanity are enjoyed.

In this context, the current research has been developing under a deductive scheme of investigation, in such a way that it has started with general questions of environmental protection, to reduce the discourse to specific questions whose object is to individualize the construction of the current human rights of the environmental subject.

## **Conclusions**

We conclude by accepting the serious situation of environmental crisis that increasingly places human rights in a latent state of risk; it seems that humanity still does not recognize that the habitat where each one of the rights is enjoyed is being damaged under a single capitalist interest; all the more reason to appeal to the construction of environmental human rights, which before being utopian, allow reconciling the economic interest of the planet with the subsistence of the environment.

On the other hand, what has been proposed from the critical theory of human rights, is that the need has arisen to postulate some human rights of the environmental subject, which ensure the protection of the environment in an interested way and accepting that every man on earth should have the obligation to protect the environment with the aim that there continues to be a place where the different human rights known until today can be enjoyed.

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