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The Limits and Possibilities of Philosophy: Who is the Subject of Rights in the Context of Environmental Issues?

Granice i możliwości filozofii – kto jest podmiotem praw w kontekście kwestii środowiskowych?

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Abstract: The authors of the paper examine the limits and possibilities of philosophy in the context of environmental issues. Philosophy cannot act as the arbiter of factual empirical problems. It cannot be the purveyor of catastrophic scenarios and romanticize the ideas of the pre-industrial age on the one hand, while acting as the prophet of technocratic optimism on the other. Doing philosophy means analysing concepts, especially ones that are *essentially contested*, in addition to assessing the validity of the evidence and argumentation procedures and practices relating to the contemporary ecological crisis, which is both civilizational and related to the concept of the Anthropocene. In general, philosophy should and could discuss the destructive values of consumer civilization. However, this does not mean creating a new form of mythology in which the planet acquires subjectivity. The authors critically discuss some aspects of the philosophical theory of the Czech philosopher Josef Šmajs (1938-), which attributes the cause of the contemporary ecological crisis to the flawed predatory culture and argues in favour of recognizing the subjectivity of the planet Earth and the *Constitution for the Earth*.

Keywords: philosophy, naturalism, environmental issues, anthropocene, subject of rights, SDG 13: Climate Action

Streszczenie: Autorzy artykułu analizują granice i możliwości filozofii w kontekście zagadnień środowiskowych. Filozofia nie może pełnić roli arbitra w sprawach empirycznych faktów. Nie może być dostawcą katastroficznych scenariuszy ani romantyzować idei epoki przedindustrialnej z jednej strony, a z drugiej – występować jako prorok technokratycznego optymizmu. Uprawianie filozofii oznacza analizę pojęć, zwłaszcza tych istotowo spornych, a ponadto ocenę słuszności dowodów oraz procedur i praktyk argumentacyjnych odnoszących się do współczesnego kryzysu ekologicznego, czyli cywilizacyjnego, powiązanego z koncepcją antropocenu. Ogólnie rzecz biorąc, filozofia powinna i może podejmować dyskusję na temat destrukcyjnych wartości cywilizacji konsumpcyjnej. Nie oznacza to jednak tworzenia nowej formy mitologii, w której planeta zyskuje podmiotowość. W tym kontekście autorzy krytycznie omawiają niektóre aspekty filozoficznej teorii czeskiego filozofa Josefa Šmajsa (1938–), która przypisuje przyczynę współczesnego kryzysu ekologicznego wadliwej, drapieżnej kulturze oraz opowiada się za uznaniem podmiotowości planety Ziemi i za *Konstytucją dla Ziemi*.

Słowa kluczowe: filozofia, naturalizm, problematyka środowiskowa, antropocen, podmiot praw, SDG 13: Działania w dziedzinie klimatu

> The world is a very, very fine place. It wasn't a mess. It didn't need to be conquered and ruled by man. In other words, the world doesn't need to belong to man—but it does need man to belong to it... In other words, man does have a place in the world, but it's not his place to rule.
>
> Daniel Quinn (*Ishmael,* 1992)

Introduction

The times we live in are conducive neither to science nor to philosophy. The value of scientific knowledge is measured in terms of its applicability and commercial use. It is therefore unsurprising that support is provided to disciplines likely to yield profit and commercial application (nanoscience and technology, biotechnology, gene editing, cloning and the pharmaceutical industry, robotics and artificial intelligence, and so on). The position of philosophy, by contrast, is far from rosy. Today's world faces environmental problems, which are reflected in the natural sciences as well as in the social sciences and humanities, including philosophy. The aim of this paper is to draw attention to the fact that environmental concepts, which are mostly empirical, can be *essentially contested* (Gallie 1956). It is therefore important to respect the limits and possibilities of philosophy when addressing environmental issues. One of philosophy's tasks is to analyse the concepts and assess the validity of the evidence and argumentation procedures relating to the ongoing ecological crisis, which is also a crisis of civilization. Another task is to expound upon the destructive values of consumerist society. However, this does not mean creating a "new form of mythology" in which the planet is attributed personified status or legal or ethical subjectivity. It is impossible to ontologize the epistemological concept of subjectivity and attribute rights to planet Earth. This is exemplified in the *Constitution for the Earth*, proposed by Czech philosopher J. Šmajs, and its unconventional use of the concepts of subject, rights, culture, etc.

In this paper, we apply a conceptual analytical-philosophical and comparative method to distinguish between the empirical and normative aspects of environmental issues relating in particular to understanding of the concept of the Anthropocene. Two elements of conceptual engagement could be mentioned: a) description of actual concepts of the Anthropocene in Earth Sciences; b) evaluation of possible concepts for actual use in environmental philosophy. We also apply a comparative approach that links the empirical findings of the natural and social sciences with a philosophical evaluation of their significance, taking into account current reflections on the concept of the Anthropocene and some aspects of how the subject of rights and ethical responsibility is understood.

1. Philosophy and Science

In contemporary thinking, the relationship between philosophy and science oscillates between two poles—naturalization, which requires philosophy to use the tools of empirical disciplines (e.g., Quine 1969; Ladyman and Ross 2007[1]) on the one hand, and conceptual analysis, which defends the autonomy of a priori reflection (e.g., Jackson 1998) on the other. This dichotomy is evident in traditional epistemological debates, but also influences contemporary environmental philosophy, where empirical knowledge from the natural sciences meets the normative and value frameworks of the social sciences and humanities (Leopold 1949; Næss 1973; Gardiner 2011).

Although the relationship between philosophy and science is often simplified and interpreted through a neo-Kantian as being dominated by philosophy, in fact the history of their relationship is more complicated. At times it was a partnership and at others a power struggle; nonetheless, the relevance

1 The authors propose a program of "science-guided metaphysics" with an emphasis on physics and a coalition of sciences. This program could serve as a bridge between naturalism and "disciplined" metaphysics.

of the contact between them was never seriously questioned or problematized, until that is the emergence of Hegelian natural philosophy, which led to a schism between science and philosophy.

In the 20th century natural philosophy, *nolens volens*, had to relinquish its absolutist claims to physics, which had long been the founding discipline of science, in favour of biology, or more precisely, evolutionary biology. In the current era, environmental science has come to the fore, integrating various disciplines—from biology, geology, meteorology, and physical geography to demography, spatial economics, and sociology. Environmental issues have also become the subject of philosophical and theological thinking. Unfortunately, environmental issues are also being exploited politically and ideologically.

2. Environmental Philosophy as a Form of Practical Philosophy[2]

In the 1970s, environmental philosophy and normative environmental ethics began to take shape, with an emphasis on the relationship to the endangered environment, based on both Kantian deontology and utilitarianism. "Green" political philosophy also began to emerge in response to the crisis following the oil shock. Its key figure, French thinker André Gorz (1923–2007), characterized the crisis of the late 1960s as a crisis of the political system. Gorz explicitly states that the capitalist system of production, in which growth in production goes hand in hand with poor quality of life and growing inequalities, has revealed the unsustainability of such a political and economic order. Gorz points to excessive accumulation accompanied by a shortage of natural resources and rejects the logic of capitalism—the satisfaction of maximum needs with maximum goods and services, and obtaining maximum profit from a maximum flow of raw materials and energy. He argues that the link between "more" and "better" has been broken, and that today "better" means "less", i.e., reducing the consumption of raw materials, energy, labour, and harmful impacts (Gorz 1991). Gorz is one of the first thinkers to combine criticism of political-economic systems with ecology. He emphasizes that infinite growth is incompatible with the planet's limited resources and promotes the idea of a post-capitalist and ecological society based on sharing, self-sufficiency, limited production, and an emphasis on quality of life rather than growth.[3]

Environmental philosophy is first and foremost a form of practical philosophy—it studies the ethical, practical, and conceptual questions related to the environment, nature, and humanity's place in the natural world. Environmental philosophy has several branches or theories: from humanistic ecology to deep ecology and social ecology, from anthropocentric theory to biocentric and ecocentric theories, as well as ecofeminism, eco-anarchism, etc. What they have in common is that each form or theory responds to the problems threatening the ecosystem

2 Environmental thinking began to take shape in the 1960s in response to environmental pollution, but also to the threat of nuclear disaster and the publication of Rachel Carson's *Silent Spring* (1962) on the effects of chemicals on soil, air, and water, which sparked the emergence of the environmental movement.

3 In his posthumously published *Ecologica* (2008), Gorz emphasizes the need for a radical transformation of society towards sustainability, simplicity, and better quality of life. These ideas have also been developed by several contemporary advocates of "green" or environmental political philosophy. Calls for a change in the modern civilizational paradigm can also be found in literature, e.g., *Ishmael* (1992), a novel by the American writer and social critic Daniel Quinn (1935–2018). It takes the form of a dialogue between an anonymous narrator and a gorilla named Ishmael, challenging the belief that humans are the "pinnacle of evolution" and that nature and animals exist only to satisfy human needs. The main theme is the consequences for planet Earth and is illustrated through the story of humans – the "Takers," who take everything, and the "Leavers," who leave something behind. The novel is a theological-ecological allegory that has inspired followers of environmental philosophy and ethics, as well as posthumanism and alternative lifestyles.

on a global scale and offers (often!) radical solutions.

In some cases, though, environmental philosophers romanticize the past and reject the specific position attributed to humans in the universe and their superiority over other biological species, while in others they act as purveyors of catastrophic scenarios. At this point, however, we would like to remind you that humans have always degraded the environment, changing and destroying it in some way. However, there is a difference, as noted, for example, by the American historian Paul Kennedy. The situation we face today is quantitatively and qualitatively different because in the 20th century, human activity began damaging the global ecosystem (Kennedy 1993).[4]

3. Empirical Concepts of Science and Concepts of Philosophy

Naturalization, which is currently experiencing a revival, particularly in moral philosophy but also in connection with environmental philosophy, takes no account of the fact that the structure of natural reality differs from that of social reality. There is no advance selection and reinterpretation of facts and events relevant to the problem. "The world of nature, as explored by the natural scientist, does not 'mean' anything to the molecules, atoms, and electrons therein. The observational field of the social scientist, however, namely the social reality, has a specific meaning and relevance structure for the human beings living, acting, and thinking therein" (Schütz 1954, 266-267).

In empirical natural science, terms are clearly defined, with distinct criteria for applicability. Nonetheless they also characteristically display what Friedrich Waismann (1945) called "open texture" or "potential vagueness" in his critique of the principle of verifiability. Sometimes we have trouble applying a given concept when the state of knowledge in a given field changes and that provides the motivation for redefining the concept[5]. And here we get to the heart of the matter in relation to environmental issues and the concept of the Anthropocene, which is currently the focus of attention not only of natural scientists, but also social scientists and humanities scholars. Can we say that the present, which from a geological chronostratigraphic point of view is referred to as the Holocene[6], is already a new epoch of the Anthropocene? Before we provide a brief overview of the understanding of this term, we will outline the basic difference between the concepts of social and humanistic knowledge and the concepts of natural science.

4. Essentially Contested Concepts

In his article "Essentially Contested Concepts", originally a lecture delivered at a meeting of the Aristotle Society in 1956, Walter Bryce Gallie states that it is not possible to clearly define key concepts such as social justice, moral good, and duty, although it is possible to rationally discuss the reasons why we prefer one interpretation over another competing one. Clarifying what such concepts express requires us to consider how a given concept has been used by different individuals throughout its history. Such concepts include a normative evaluative aspect. According to Gallie, an essentially contested concept must meet four conditions:

4 Jared Diamond is another who describes the relevant environmental problems faced by past and present societies. He distinguishes twelve fundamental problems, eight existing ones, and an additional four new ones: anthropogenic climate change, a build-up of toxins in the environment, energy shortages, and full human use of the Earth's photosynthetic capacity (Diamond 2005).

5 Such was the case, for example, with the redefinition of the term "planet" in relation to Pluto.

6 From a geological point of view, chronostratigraphy formally recognizes the Cenozoic era, the present-day era, and the current period called the Quaternary. The latter consists of two epochs: the Pleistocene and the Holocene. Today, we live in the Holocene epoch (approximately 11,700 years).

> (I) It must be appraisive in the sense that it signifies or accredits some kind of valued achievement. (II) This achievement must be of an internally complex character, for all that its worth attributes to it as a whole. (III) Any explanation of its worth must therefore include reference to the respective contributions of its various parts or features; yet prior to experimentation there is nothing absurd or contradictory in any one of a number of possible rival descriptions of its total worth, one such description setting its component parts or features in one order of importance, a second setting them in a second order, and so on. In fine, the accredited achievement is initially variously describable. (IV) The accredited achievement must be of a kind that admits of considerable modification in the light of changing circumstances; and such modification cannot be prescribed or predicted in advance. For convenience I shall call the concept of any such achievement 'open' in character (Gallie 1956, 171–172)[7].

Given these criteria, such a concept implicitly includes a practical aspect, namely what we should do. It is precisely this evaluative attitudes and exercise of action of social and humanities concepts that allows for different conceptions and, therefore, different understandings of the same concept. The application of these concepts is not straightforward, as it is necessary to consider a whole network of different conceptions, and so they are open to discussion and modification.

A similar understanding of concepts in social knowledge is presented by Alfred Schütz, who argues that the structure of mental objects or mental constructs formed by the social sciences differs fundamentally from those formed by natural sciences. "Thus, the constructs of the social sciences are, so to speak, constructs of the second degree, namely constructs of the constructs made by actors on the social scene, whose behaviour the social scientist has to observe and to explain in accordance with the procedural rules of his own science" (Schütz 1954, 267). Such conceptual constructs must be compatible with the tools of natural language. We can now turn our inquiry to the nature of the concept of the Anthropocene. It was originally an empirical concept in natural science, which was adopted by the social sciences and humanities, as well as philosophy (especially environmental philosophy). We believe that philosophy is acting rather carelessly—having adopted the concept of the Anthropocene in an effort to keep up with the times.

5. Understanding and Use of the Concept of the Anthropocene

In recent decades, the concept of the Anthropocene has become one of the most discussed issues at the intersection of natural sciences, social sciences, and humanities. Here we are talking not only about conceptual pluralism, but also about the transdisciplinary nature of this discourse. These sciences share a common understanding of the geological force and impact of human activity on planet Earth. Efforts to capture the fundamental changes brought about by this force are focused on describing the current state of the Earth and the role played by humans. In this context, E. Kolbert recalls Crutzen's opinions, who says that human activity has profoundly reshaped the Earth's systems. Nearly half of the planet's land area has been transformed, most rivers have been dammed or redirected, and

7 Gallie developed his view on the complexity of such concepts, which implicitly or explicitly reflect a value judgment that something should be this way or that, or that something should not be done, in his book *Philosophy and the Historical Understanding* (1964). These criteria, met by essentially contested concepts, can also be characterized as follows: "I. They are evaluative in nature; II. They are characterized by internal complexity; III. They have different expressions and can be described in different ways; IV. They are open; V. Rival parties reciprocally recognize their controversial nature; VI. There is an original example available that anchors the meaning of the concept; VII. Through gradual competition... greater coherence in the use of the concept can be achieved" (Sedová 2022, 498).

the application of synthetic fertilizers now contributes more nitrogen to terrestrial ecosystems than natural processes. Industrial fishing removes a large share—around one-third—of the biological productivity in coastal oceans. Moreover, humanity consumes more than half of the freshwater resources available for use (Kolbert 2014, 70).

While some scientists attempting a geological codification of the Anthropocene, others are using it as a concept to explain planetary change or as an evaluative attitude and exercise of action term to refer to criticism of the political and ethical aspects of the environmental crisis. These three main typological approaches can therefore be described as: *stratigraphic*, *system-scientific (Earth System Science)* and *social-humanities ones*.

The *stratigraphic approach* focuses on whether the Anthropocene meets the criteria for classification as an official geological era or epoch (Crutzen and Stoermer 2000; Crutzen 2002; Hamilton, Bonneuil and Gemenne 2015). These criteria include the existence of an identifiable and globally recognizable stratigraphic signal that is preserved in geological strata. Since 2009, the Anthropocene Working Group (AWG)[8], led by geologist Jan Zalasiewicz (see e.g. Zalasiewicz et al. 2019), has been working on this issue, analysing a number of indicators: radioactive isotopes from nuclear tests (especially plutonium-239); sedimentary records of the presence of plastics, aluminium, and concrete; increased concentrations of heavy metals and fossil fuel combustion products; biological evidence such as the spread of invasive species and biodiversity loss. Based on these identifiers, the AWG recommended identifying the beginning of the Anthropocene around the mid-20th century as part of the so-called "Great Acceleration." However, in 2023, the International Union of Geological Sciences dismissed this proposal and, in March 2024, the concept that the Anthropocene is a formal geological unit was voted down by the Subcommission on Quaternary Stratigraphy[9]. Many geologists consider the time frame to be too short, noting that the Anthropocene is still being formed.

Some authors therefore suggest that instead of defining the Anthropocene as a geological era or epoch, it should be understood as a significant geological event (Bauer et al. 2021; Gibbard et al. 2022) in the history of our planet, associated with the dominance of human activity. This takes into account human influence and its diachronic nature in relation to global environmental systems in the late Quaternary, i.e., during the Holocene. Understanding the Anthropocene as a geological event enables us to take into account both historical and contemporary interactions between humans and the Earth's environment (not only spatial and temporal heterogeneity, but also diverse social, cultural, and environmental processes that are strongly anthropogenic in character in the context of global change). This opens up space for discussions about the Anthropocene in broader contexts (environmental, socio-political, and so on), not just within a geologically defined era or epoch. "A shift to an event framework for defining the Anthropocene... is a practical solution that overcomes many of these problems. It frees the concept from the constraints of geological formalization as well as from its alignment with established chronostratigraphical and geochronological units within the Holocene Series/Epoch. It also provides a universal term (a common language) that facilitates communication beyond the geoscience community with the social sciences and humanities... Above all, it acknowledges the Anthropocene as

8 The Anthropocene Working Group (AWG) is an interdisciplinary research group founded in 2009 as a working group of the Subcommission on Quaternary Stratigraphy (SQS), which is part of the International Commission on Stratigraphy (ICS).

9 See: Subcommission on Quaternary Stratigraphy (2024). *Outcome of the Anthropocene Working Group proposal*. International Commission on Stratigraphy, which decided against including the Anthropocene in the geological time scale.

a major transformative episode in Earth history, in keeping with similar scale events in the earlier geological record" (Gibbard et al. 2022, 398).

Earth System Science typically adopts a *system-scientific approach* and focuses on the dynamics of global processes. The assumption is that human activity has already left its mark and altered Earth, which is a complex system of interactions in the biosphere, atmosphere, hydrosphere, and geosphere, and that it is the main geological force changing the state of the Earth[10]. Key factors include interconnected changes in climate, carbon, and nitrogen cycles, biodiversity, hydrological cycles, and the planet's energy balance. Proponents of this approach (e.g., Steffen et al. 2007; Steffen et al. 2015; Rockström et al. 2009) argue that it is no longer important whether the Anthropocene is officially recorded on the geological time scale. What is crucial is that humanity is threatening (or exceeding) planetary limits (boundaries) and the Holocene conditions are destabilizing, as the Earth's traditional feedback mechanisms are losing their stabilizing function. The Anthropocene is therefore seen as a planetary shift rather than just a geological category. This planetary shift marks the beginning of a period in which humans are fundamentally changing the functioning of the entire Earth system.

In summary, we can conclude that both these approaches show that human activity has had a fundamental impact on the Earth since the mid-20th century, indicating that this point marks the beginning of the Anthropocene. The authors use both geological records (stratigraphy) and the concept of Earth System Science to examine the dynamics of the Earth over time and show that human influence is significant enough for a new geological epoch to be declared—the Anthropocene.

In the *social-humanities approach* the Anthropocene is thought of not just as the "era or epoch of humanity," but primarily as the product of particular political-economic models—capitalism, colonialism, and fossil fuel industrialization.[11] Consequently the original scientific question about the geological time frame of the Earth's development has extended into the realm of social-political and axiological-ethical issues.

Environmental rights are also being discussed (for example, a 2022 UN resolution declared the right to a healthy environment as universal human right). Discussions on environmental rights are a response to the impact of human activity and represent link between human rights and ecological ethics. Environmental rights are individual (every person has a right to clean air, safe water, safe food, and an ecologically stable environment), collective (protection of common resources—commons), and intergenerational (ensuring ecological conditions for future generations).

Whether we understand rights as an expression of interest or an expression of will, there remains the question of how we can justify the claim that environmental rights are universally valid and general. Both the content and process are vague, and at present they are not clearly enforceable rights. We believe that the attempt to bring environmental and human rights together is still in its infancy, and that we need to think about the long-term and reevaluate our priorities. The ambivalence provides opportunities to think about rights beyond human

10 The authors use a dynamic metaphor. The Earth system is depicted as a "ball and cup." The Holocene represents a stable "basin of attraction," but increasing human intervention sets the ball in motion and pushes it out of its stable state—a regime shift, bringing us into a potentially new state of the Earth—the Anthropocene. See: "A simple ball-and-cup depiction of complex-system dynamics, which captures the concepts of an envelope of natural variability, a basin of attraction, and a regime shift, is useful in conceptualizing the Earth System approach to defining the Anthropocene" (Steffen at al. 2016).

11 In this context, alternative terms such as "capitalocene," "plantationocene," or "technocene" have emerged that denote specific sources of environmental transformation (see, e.g., Haraway 2015; Moore 2016).

societies, notwithstanding the fact that law is a normative system that regulates social life. The source of norms and normativity (even in their naturalistic version) is social reality, not a natural being.

6. Criticism of the One Conception of the Constitution for the Earth

The Czech philosopher Josef Šmajs postulates that the Earth is an autonomous entity possessing rights. The Earth deserves protection and respect, just as humans do. He bases this claim on the concept of evolutionary ontology, according to which the Earth as an evolutionary system has fundamental ontological priority over human culture. He believes that ontology cannot confine itself to the traditional question of what being is but it must solve a much more complex problem: what kind of being arises through natural processes and what kind of being arises through cultural processes (Šmajs 2008, 27). Šmajs understands culture as an evolutionarily adaptive system that has been incorrectly set up since its birth. The author does not distinguish between civilization and culture, while he considers culture *a priori* to be predatory and hostile to nature[12]. In addition to the claim that we can attribute intrinsic value to nature, Šmajs also ascribes subjectivity to it. It seems that Šmajs, in his reflections on the subjectivity of the Earth with its claims to rights, implicitly uses a contractualist idea, which is itself a fiction. He formulated his position on the rights and subjectivity of the Earth in a manifesto entitled the *Constitution for the Earth* (2015), consisting of a preamble and three "articles": *Earth, Humans, Culture*.

The basic theses of the preamble are: "Humanity recognizes the Earth as an independent entity and a superior value on which both people and culture depend and The key legal principle of the 21st century: to preserve a habitable Earth for future generations and other creatures; human rights are derived from and limited by the rights of the Earth" (Šmajs 2015, 346).

In the article on *Earth*, Šmajs states that Earth is the natural home of all living beings, from which he concludes that it cannot "belong" to a species (not even humans), and that it has the right to evolve and for a balance to be maintained between living and non-living systems, such that human culture cannot continue to expand at the expense of nature. The Earth is also a sovereign entity, but one that must be represented by institutions ("advocates," "spokespersons"). He calls for the introduction of a system of accountability and sanctions to halt the decline and pollution of natural life.

The second article, entitled *Humans*, points out first of all that there is a systemic conflict between artificial culture and the natural order of the Earth, and that is the cause of the crisis (not "man himself"). However, humanity does not bear responsibility for the Earth, but for the culture that has divided the planet into culture and nature. This is where law, politics, and science have a role to play, as they should reconcile culture with nature. All legal systems should protect the natural order of the Earth. He even claims that what benefits the Earth benefits humans, because only nature, not artificiality, is biologically compatible.

In the third article, entitled *Culture*, we learn that culture is an artificial system, not a continuation of natural evolution, although it remains dependent on it. However, the current growth of culture is destroying living systems, so its predatory orientation must be abandoned. He adds that states that support predatory businesses and unlimited consumption bear the main responsibility for the crisis. The spiritual component of culture should thus provide guidance on attitudes and values, indicating the need for a spiritual shift in thinking and legal recognition of the subjectivity

12 The concept of evolutionary ontology, predatory culture and its anthropocentric setting was developed by Šmajs in several works (such as Šmajs 1995; 2000; 2008), which enjoy great interest from some Czech and Slovak environmental philosophers and ecologists, as well as the media (see: https://www.ceskatelevize.cz/porady/16239015256-valka-se-zemi/).

of the Earth as a prerequisite for biophilic transformation. This means that states must be required to adopt biophilic laws and raise awareness to reconcile culture with nature, for without this humanity faces extinction.

Although Šmajs' *Constitution for the Earth* can be seen as an attempt to stimulate interdisciplinary discussion, it is a prime example of the inaccurate use of established terminology. If the Earth has neither consciousness nor the capacity to exercise its rights, is it not controversial to describe it as a subject? Law concerns the organisation of relationships between human beings, or more precisely, between defined subjects of law—natural and legal persons. It seems that logical acceptability of Šmajs' position depends on whether we accept that subjectivity does not necessarily entail conscious autonomy but can instead take the form of a legal fiction (which must also be appropriate) created to protect values that we consider to be higher[13]. Yet in that case, we may also ask whether the rights of the Earth could come into conflict with human rights.[14]

In conclusion, we can add that Šmajs' philosophical initiative aimed at recognizing the Earth's subjectivity and rights is not unique. Within the framework of ecophilosophical approaches, there are several authors who recognize the "rights"[15] of the Earth or nature, and this reality exists today in the legal practice of some countries[16]. We believe that philosophical initiatives of this kind are closer to "new mythologies" or unrecognized quasi-natural religions than to concepts bearing philosophical and argumentative justification. Šmajs' *Constitution of the Earth* may be acceptable to some as a symbolic gesture appealing to radical "human self-awareness" and "environmental protest," but there is no possibility of it becoming reality. We therefore consider the *Constitution for the Earth* (its subjectivity and rights) to be an expression of metaphorical (rather than real) subjectivity and rights. It may underline the importance of human responsibility towards the Earth, but its argument needs to be inverted in the sense of Jonas's ethics of responsibility, according to which humans have a duty to protect nature, not because it has subjectivity, but because it is under threat.

Conclusion

An example of a productive philosophical analysis of environmental problems

13 In this context, the Earth could potentially be understood as a subject in analogy to the recognition of companies and corporations as legal entities. The difference between standard legal subjectivity and the subjectivity of the Earth therefore lies in the source of legitimacy. In the case of humans, it is natural rights; in the case of corporations, it is a construct of expediency; and in the case of the Earth, it is an attempt to combine ontology, ethics, and law into a single framework. The logical acceptability of such a concept depends on whether we accept that law does not always have to reflect empirical reality, but can serve as a normative tool for protecting what we consider valuable.

14 E.g. a person's right to development vs. the right of a river to purity.

15 For example, Thomas Berry, an American cultural historian and theologian, is the author of the concept of *Earth Jurisprudence*, which he developed in his *The Great Work: Our Way into the Future* (1999), where he argues that the Earth is the primary legal entity whose integrity is a prerequisite for all human rights. His ideas were developed by Cormac Cullinan in *Wild Law: A Manifesto for Earth Justice* (2003), where he proposed a legal system based on the idea that nature has inherent rights. The first legal philosopher to ask whether it is possible to grant legal subjectivity to trees, rivers, and nature as such was Christopher D. Stone in his essay "Should Trees Have Standing?" (1972). Another well-known example is the philosophical argument by Arne Naess, a proponent of deep ecology, which holds that nature has an intrinsic value that cannot be reduced to its usefulness to humans (Naess 1973).

16 Examples of such legal practice include Ecuador, which in 2008 included the rights of nature (*derechos de la naturaleza*) and nature as a legal entity in its constitution. Bolivia adopted the Ley de Derechos de la Madre Tierra (Law on the Rights of Mother Earth) in 2010, and in 2017 New Zealand recognized the Whanganui River as a legal entity with its own rights and representatives. In India, several court decisions have recognized the legal personality of sacred rivers (Ganga, Yamuna).

(e.g. climate change) is the work of logician V. Marko (2022), who analysed the history of discourse on climate change from the perspective of logical argumentation theory, emphasizing that "Without precisely defining the domain of the problem—without an organized institutional framework for achieving common goals—the argumentation strategy, as a means of overcoming mutual misunderstandings and achieving common goals, will not become more effective over time than it has been to date" (Marko 2022, 111). He points out that "the problem concerning the theoretical interpretation of data and attempts to correctly determine causes has transformed over time" (Marko 2022, 110), shifting from the domain of natural sciences to elsewhere.

Based on our previous considerations, we strongly believe that environmental philosophy has to respect the differences between the empirical concepts (albeit vague) found in the natural sciences on the one hand and the essentially contested concepts of social knowledge and humanities, with their intrinsically open texture, on the other. Such concepts include the Anthropocene in environmental philosophy. Given that environmental philosophy, in all its forms, lacks the tools to make decisions about empirical facts and conceptual problems in the natural sciences, it cannot assess the validity and adequacy of the use of the concept of the Anthropocene in the natural sciences. With regard to neither Šmajs' concept of evolutionary ontology nor attribution of subjectivity to the Earth is not justified and used in solving current environmental problems and the ecological and civilizational crisis.

Therefore, it should not produce any new forms of natural philosophy or fictional concepts, utopias, or dystopias that, for example, ontologize epistemic concepts and extend the application of law to non-human entities. Insofar as the natural sciences are concerned, philosophy is responsible for conceptually analysing and identifying the evaluative attitudes and exercise of action aspect of concepts it has adopted and utilizes. In that sense, philosophy has a role to play in developing the discourse on the ecological and climate crisis, which is primarily a civilizational and value crisis affecting the globalized socio-political system.

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