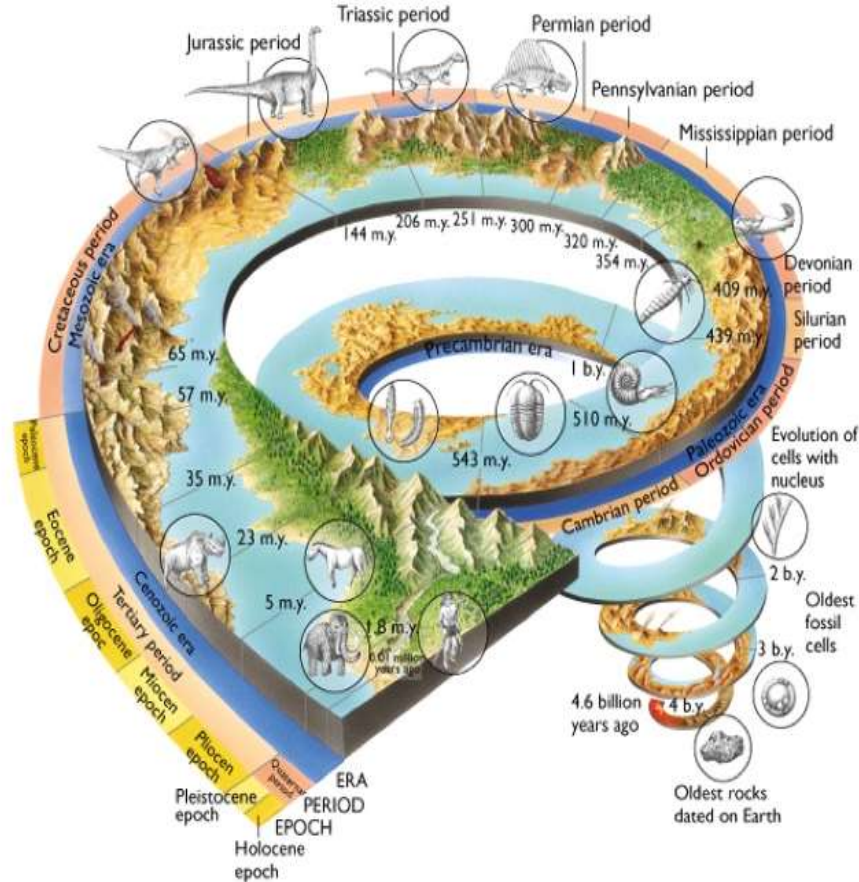




***Bens Comuns Sem Fronteiras - A evolução
conceptual suscitada pelas alterações climáticas.***



Paulo Magalhães
Common Home of Humanity
CIJE- Centro de Investigação Jurídico-Económica
Universidade do Porto

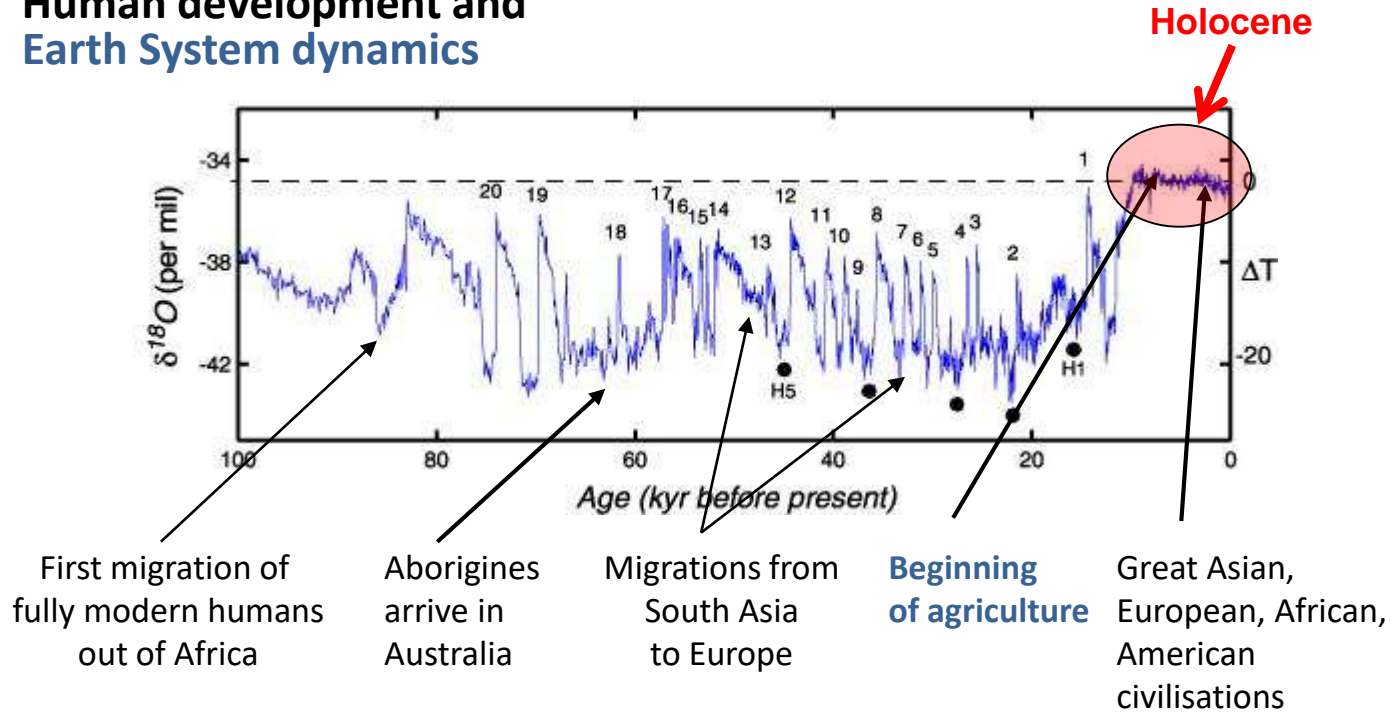


HOLOCENE

Throughout the lifetime of the Planet, the Earth system has gone through many different status

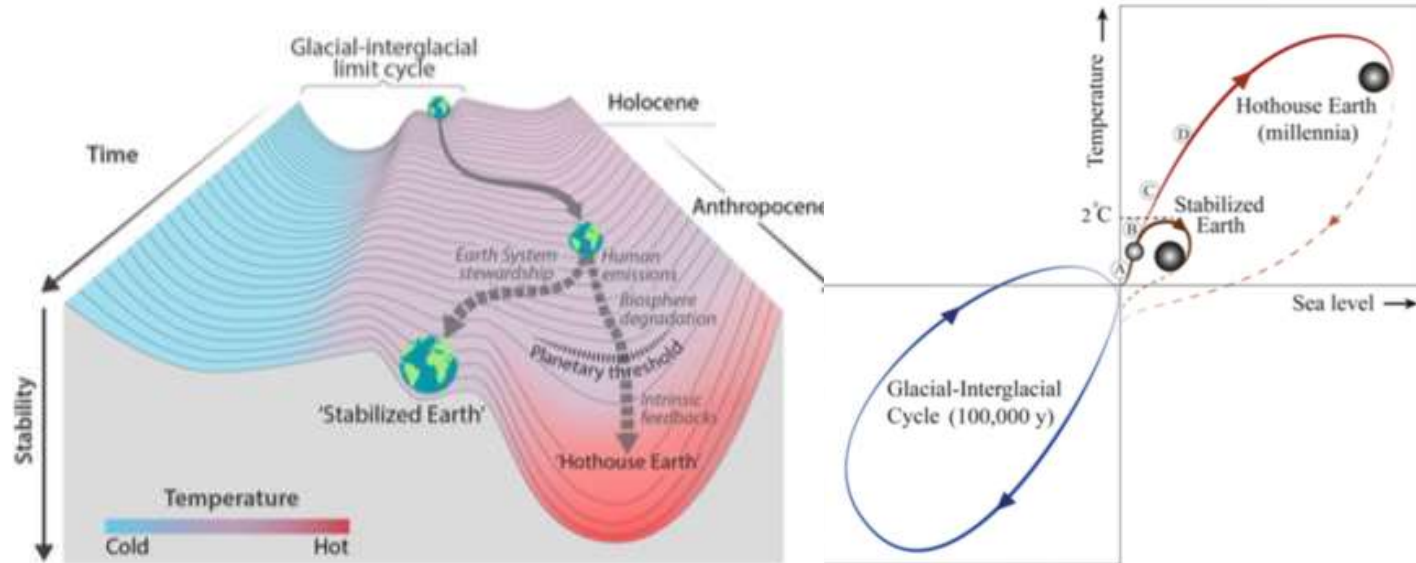


Human development and Earth System dynamics

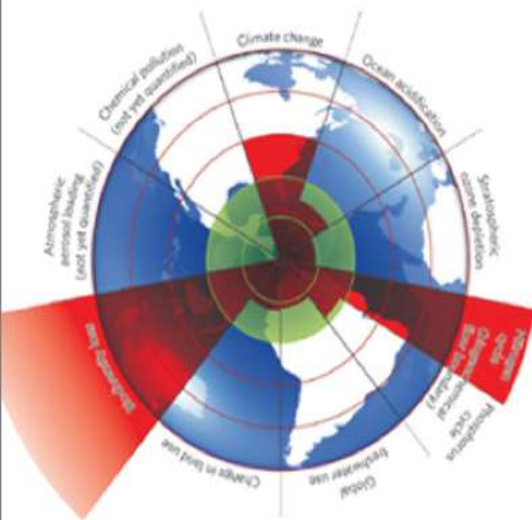


Source: GRIP ice core data (Greenland) and S. Oppenheimer, "Out of Eden", 2004

**Incremental linear changes...
or mitigation...**
are not enough to stabilise the Earth System



PLANETARY BOUNDARIES



1. Climate change
2. Stratospheric ozone
3. Ocean acidification
4. Nitrogen and phosphorus inputs to be the biosphere and oceans
5. Land use change
6. Freshwater use
7. Biological diversity
8. Aerosol loading
9. Chemical pollution

THE SAFE OPERATING SPACE FOR HUMANKIND

A giant step towards the resolution of the legal nebula of indeterminate concepts.

Anthropocene – asking us to do the impossible

TERRITORIAL ELEMENTS

Division and privatization as the obvious solution

HARDIN CONCEPT

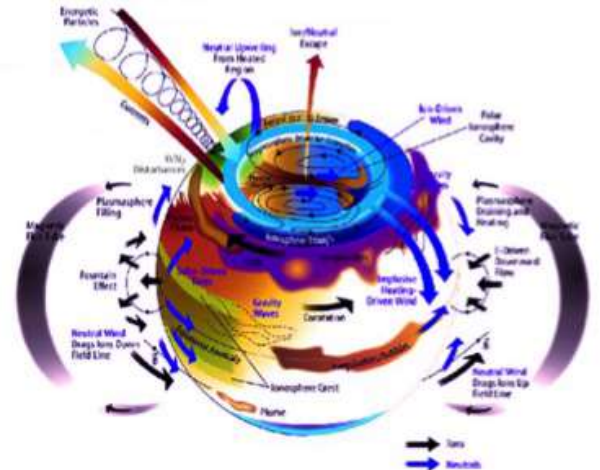


NON-TERRITORIAL ELEMENTS

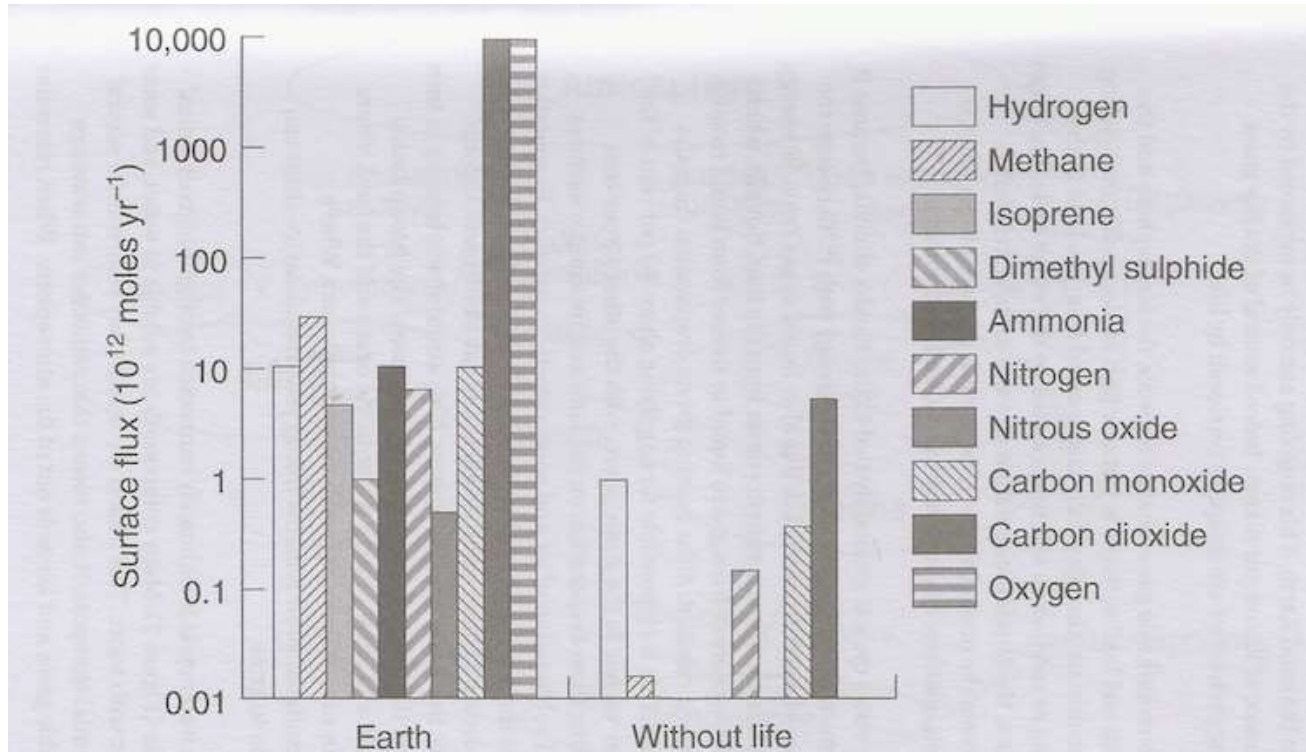
Commons' Management - the not so obvious solution

OSTROM CONCEPT

VS.

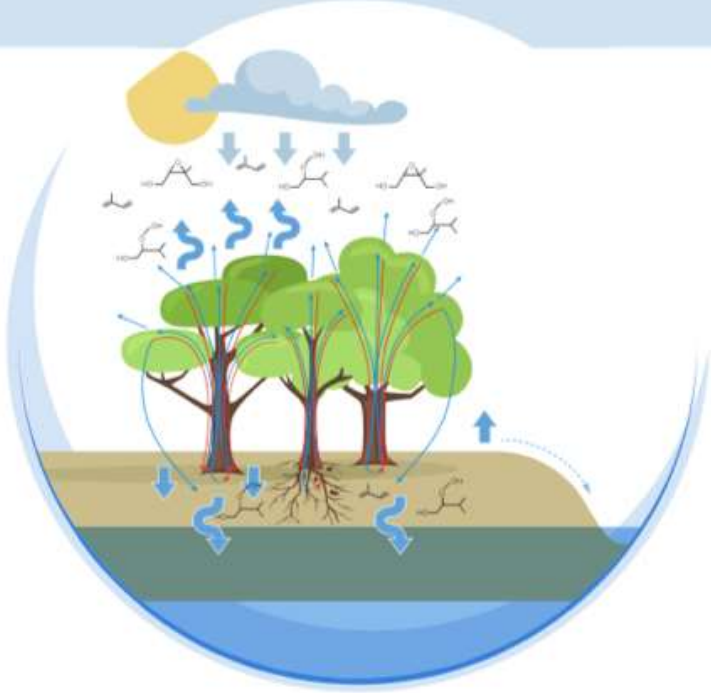


The Work of Nature



6. Fluxes of gases exchanged at the Earth's surface today and on an abiotic Earth—showing the profound effect of life.

The rule of the game

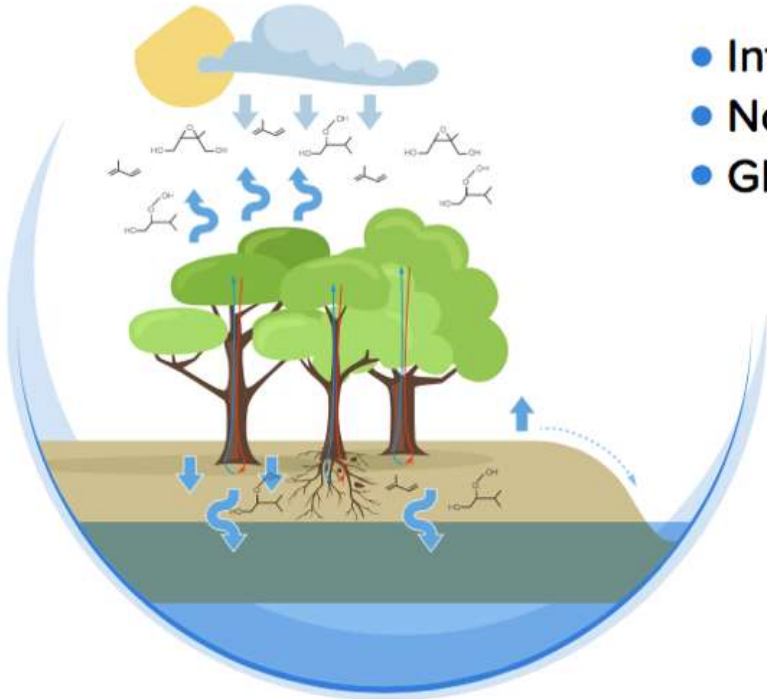


Whoever destroys more ecosystems and causes more damage in the biogeophysical cycles, the more economic benefits will have.

Why are we unable to shift this rule of the game?

The Earth System services are:

- Intangible, (mainly chemical changes)
- Non-territorial (spans over all sovereignties)
- Global and for so they are seen as **+ externalities**



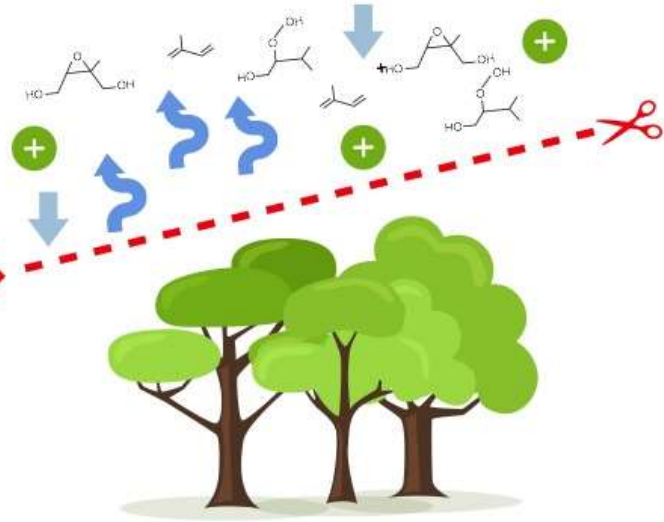
External
to law + External
for economy =

External to the
organization of
human societies

The Fundamental Role of Law



**The Fundamental
Legal Division**



FUNCTIONING EARTH SYSTEM = NEW INTANGIBLE OBJECT OF LAW

Common Heritage of Humankind:

NASA | Dynamic Earth



"...the common heritage concept could be implemented in the marine environment as a whole"

Arvid Pardo 1967

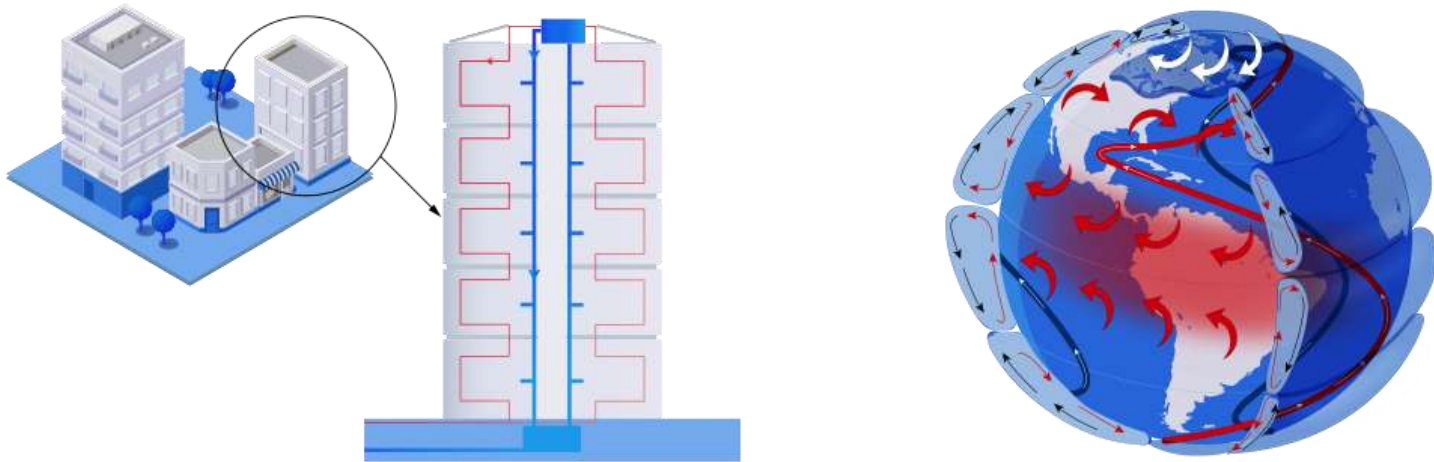
OUR PROPOSAL IS:

- Compensating the positive impacts on the biogeophysical cycles;
- Internalizing the hidden costs of damage done to the biogeophysical cycles into the economy.



CONDOMINIUM: The legal framework where 2 different legal regimes co-exist in the same space.

Functional Division + Spacial Division



By defining clearly the different competencies, the condominium transforms the overlap into a symbiosis.

STRUCTURAL CONDITIONS

for collective action

Reciprocity

Equity/Fairness

Prediction of Behavior

Reliable information

Good Communication

=Confidence emerge

