

# EDITORIAL

---

(English)

<https://doi.org/10.22395/ojum.v18n37a13>

All of us, Latin-Americans, have many things in common: a colonial and then republican past marked by struggles among the colonial elites, nearly always fighting for their interest; we also have a current time in which corruption and politics come together, but at the same time we remain as happy people attached to our folklore, to our music and costumes as means for overcoming our crisis. We also have a future to be written. We have been arrival and departure point for migrations, we are the result of racial and cultural mixing, thus being diversity our biggest wealth.

We are more than 600 million people going from Río Bravo to Patagonia and although divided into many States, the things joining and holding us together are more than those dividing us. Together we are important because of our natural and human resources; divided we remain as pieces in the international politics chess game.

We have been shaped by the foundations of the western civilization, with a western cosmology, defending and keeping western values, but according to some author, we do not even belong to the west.

Huntington's west consists only on center and western Europe (excluding the orthodox west), North America (excluding Mexico) and Australasia-Greece, Israel, Romania, and Ukraine do not approve the test; nor the Islands of the Caribbean, even though many of them are as western as Florida<sup>1</sup>.

We have been looking up to Europe and the United States for a long time and barely communicating between us. How are we supposed to understand our problems if we do not dialogue between us? If we are not westerns, then what are we? We are Latin-Americans and we have the duty to defend our own culture that is diverse just like us. But not for taking part in an intellectual conflict as Huntington proposed but for proposing solutions to the problems afflicting humanity.

The western knowledge paradigm in an anthropocentric one, i.e that nature is at human service, ours, because of our past and multicultural present has to be ecocentric, i.e that nature does not belong to man, but man belongs to nature. Ecosystems are subjects of law that must be protected for the communities abiding them and States have the duty of recognizing and safeguarding them.

---

<sup>1</sup> Ferguson, N. (2012). *Civilización. Occidente el resto*. Barcelona, España: Debate. p. 56

There were important advancements in this matter in the constitutional expeditions of Ecuador (2008) and Bolivia (2009). The first one includes in its 7th chapter the "Nature's Rights". It states on the 71, 72, 73 and 74 the articles of "Pacha Mama", about its existence and restoration. The second one, on its 10th chapter, recognizes nature as a subject of law in the following terms:

People, communities, folk, nationalities, and collectives are holders and will enjoy the rights granted in the constitution and the international instruments, Nature will be subject to those rights granted by the constitution.<sup>2</sup>

It is worth mentioning that in Colombia the sentence T622 of 2016 the Constitutional Court declared nature as a subject of rights and those rights were particularly recognized to the Atrato river in the following terms:

In other words, justice towards nature must be applied beyond the human scenario and must allow nature to be a subject of law. Under this mindset, the Court considers as necessary making a step forward in the lawmaking towards the constitutional protection of one of our most important biodiversity sources: the Atrato river.<sup>3</sup>

If politics has allowed us to unite, science must build bridges of brotherhood between us. Our duty as scholars and researchers is building networks of knowledge that allows us to think of ourselves as Latin-Americans. We need to conceive ourselves as a unity, think ourselves as a region; we need to search for solutions to our common problems and specifically there, we the scientific journals have a significant role by sharing our common problems and proposing solutions but also by serving as means for the authors, evaluators, and readers for knowing and interacting with each other.

It is an honor presenting to the Latin-American scientific and academic community the 37th issue of *Opinión Jurídica*. A number with researches on human rights and vulnerable populations such as: "Governance of water and basin advice: an analysis from human rights to water and environmental participation" (Colombia), "Challenges for juvenile justice in Brazil: the reform of the child and adolescent statute" (Brazil), "The social responsibility of the employer (SRE) in Colombia on disability" (Colombia), "Fundamental rights and human rights: the narrowing of the conceptual frontiers and the necessity of a dialogue between the internal and international legal orbit" (Brazil), and "The conventionality control: appliance of the international measures for the internal reordering as victims rights protection standard" (Colombia). "Some of our articles are related with State structure topics like Excessive use of the consent decrees by the Brazilian Securities and Exchange Commission" (Brazil) and "Planning of public works contracts in Colombia: principle, duty or requirement? obligatoriness

---

<sup>2</sup> Constitución Política del Estado Plurinacional de Bolivia. (2009).

<sup>3</sup> Corte Constitucional de Colombia. (2016). Sentencia T 622. M. P. Jorge Iván Palacio Palacio.

and consequences of its inapplication" (Colombia). Two articles about some economical activities regulations: "The functional separation of monopolistic activities in the Chilean electrical market. A pending task" (Chile), and "Outline of the fund account: an atypical law instrument for the promotion of cinematography in Colombia" (Colombia). In this number we also have an article on the lawyers practice titled "Fellowship of law and violence, as well as an article on political philosophy titled Antonio Gramsci e a violência dos subalternos: guerra, política e "arditismo popular"" (Brazil), and one on geopolitics called "Unraveling the Syrian conflict: the Arab-Israeli conflagration" (México).

In sum, this issue has 12 articles written by authors from Argentina, Brazil, Chile, Colombia, and Mexico. Making visible these researches is the compromise of *Opinión Jurídica* with our region. These are Latin-American researches for the world. Is what we are, is our strength and is our pride.

David Mendieta  
Editor