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THE ENVIRONMENT AS A "HUMAN FAMILY HERITAGE". TAKING SERIOUSLY LEGAL TECHNICAL TERMS

Abstract

This article argues that the natural environment should be understood in legal terms as the family heritage of humanity. Recognizing the environment in this way helps to resolve several doctrinal challenges in intergenerational justice and carries significant implications for both national and international law. Drawing on the biblical account of the cosmos given to Adam and Eve, and exploring parallels in Catholic social teaching, Roman law, Indigenous cosmologies, and modern international treaties, this study identifies a persistent yet under-developed legal logic that treats nature as an intergenerational patrimony.

After delineating the concept of family heritage and outlining its key characteristics (such as collective ownership, purpose orientation, protection of essential goods, and public-order status), this article presents ten normative consequences. These include: applying a parental standard of environmental stewardship, prioritizing the protection of vulnerable family members, establishing a duty to preserve and enhance common wealth (the heritage), reframing the concept of private property, and expanding the international law principle of "common heritage of humanity". This article concludes that, from a legal standpoint, how the environment should be treated as part of humanity's family heritage.

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Resumen

Este artículo sostiene que el medio ambiente natural debe entenderse jurídicamente como la herencia familiar de la humanidad. Reconocer el medio ambiente de esta manera ayuda a resolver diversos desafíos doctrinales en materia de justicia intergeneracional y tiene implicaciones significativas tanto para el derecho nacional como para el derecho internacional. Basándose en el relato bíblico del cosmos entregado a Adán y Eva y revisando paralelismos en la doctrina social-católica, el Derecho romano, las cosmologías indígenas y los tratados internacionales contemporáneos, este estudio identifica una persistente, aunque poco desarrollada, lógica jurídica que considera a la naturaleza como un patrimonio intergeneracional.

Tras delimitar el concepto de herencia familiar y esbozar sus características esenciales (como la titularidad colectiva, la orientación hacia un fin común, la protección de los bienes esenciales y su condición de orden público), este artículo presenta diez consecuencias normativas. Entre ellas se incluyen: aplicar un estándar parental de administración ambiental, priorizar la protección de los miembros vulnerables de la familia, establecer un deber de preservar y mejorar la riqueza común (la herencia), replantear el concepto de propiedad privada y ampliar el principio de derecho internacional de "patrimonio común de la humanidad". El artículo concluye que, desde un punto de vista jurídico, el medio ambiente debe ser tratado como parte del patrimonio familiar de la humanidad.

Keywords: Environmental law, family patrimony, intergenerational justice, common heritage of humanity, public order

Palabras clave: Derecho ambiental, patrimonio familiar, justicia intergeneracional, patrimonio común de la humanidad, orden público

Summary of Contents

I. INTRODUCTION

Let me begin by repeating an old and well-known story. Let me tell once again the oldest story in the world, the one that you can read in the opening verses of the Bible: "In the beginning God created the heaven and the earth" (Gen. 1:1). This poetic account of creation reflects the spirit of a divine Father who, over fourteen billion years, prepared a spectacular cosmos for his children. With pause and patience, God created the light, the stars, the moon, and the sun; sowed life throughout the earth, and organized everything into a world not as a barren dominion, but as a vibrant home that will host his beloved ones. After creating each thing, God looked upon his creation and declared that it was "good" (Gen. 1:4) yet continued creating new wonders. Only when he created humankind he was satisfied and said that it was "very good" (Gen. 1:31).

In the biblical narration, God seems to be waiting for Adam's awakening, to give him everything he has made, to walk together in paradise, and to reveal even the smallest details of his cherished gift. His children were "very good," they were the principal cause of joy in creation and the primary reason for all that colossal work. That explains why he ceased creating new things thereafter.

When the time came, God entrusted everything he had created to the first parents of humanity, assigning them some specific family duties: "Be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth" (Gen. 1:28). Not surprisingly, their first command was a family duty: to procreate, to create a family so large that it can inhabit even the most remote corner of the known world.

The command to subdue the earth only comes later and, most significantly, is always connected to that primary duty. This was not merely a formal speech to confer power over the brutes but a solemn entrustment of parental stewardship. Adam and Eve were gifted with paradise "to dress it and to keep it," as the Scriptures say (Gen. 2:15). Just as their Father prepared paradise for them, their mission was to create a home for those who would follow. Their descendants would then inherit both the gift of the earth and the mission to recreate a home for the next generation.

And that is the paternal story of paradise, the story of Adam and Eve, of Cain and Abel, and of every parent who has labored to build a home through the ages. God created a home for his family, entrusted it to our first parents, teaching us in this way that each generation is called to do the same: receive this homely gift, recreate home on earth for their children, and pass it on to them with the same divine mission. As the apostle said, "we are the children of God: and if children, then heirs; heirs of God, and joint-heirs with Christ" (Romans 8:16–17).

Technically, this act by which parents entrust all their possessions to their descendants, including specific duties, is properly a "family heritage." We contend that this concept helps resolve several complex issues in environmental law and fosters a deeper understanding of key social principles.

For example, it is often taken for granted that the duty to preserve ecosystems is grounded in intergenerational justice, without seriously considering how one generation can owe duties to those who do not yet exist. Real debts require real right-holders: the unborn cannot assert claims or appear before courts, and no one today can discharge an obligation to an unknown individual who may or may not exist millennia hence.

We believe that without the concept of "family heritage," these questions cannot be adequately addressed. Only by recognizing humanity as a single, continuous family sharing a common inheritance across time can the problem be solved. Environmental duties are owed to the family that exists now, not to hypothetical individuals who may exist and may suffer in a distant future because of our negligence.

In the pages that follow, we analyze how the rich legal notion of "family heritage" offers a compelling framework for more accurately delineating the role of the human being in the environment and how it allows a deeper comprehension of the social principles articulated across various scholarly, religious, and cultural traditions. Where possible, we support this study with relevant treaties and the laws of several legal systems.

The study begins by presenting the *status quaestionis* regarding the conception of *the environment as a family heritage of humankind*, tracing its presence in many religions, Indigenous communities, and legal systems.

We observe that this notion remains diffuse and that the term "common heritage" is often employed as mere rhetoric. The next section delves into the technical notion of "family heritage" across different cultures, analyzing its definition, characteristics, and peculiarities. Finally, Section IV derives ten legal consequences of this familial approach to the environment.

II. A DIFFUSE ACCEPTANCE OF THE ENVIRONMENT AS A PART OF THE HUMAN FAMILY HERITAGE

Although the notion that the environment forms part of the human family heritage resonates across many cultures, legal systems, and traditions, it has not been technically developed for legal purposes, as the following discussion demonstrates.

1. THE JEWISH-CHRISTIAN NARRATIVE OF THE CREATION

The concept of "family heritage" is implicitly present in the Genesis narrative, as highlighted in the introduction. In particular, the logic of family and heritage is compressed in the following elements:

(i) The entire creation is portrayed *as a gift*. All things that were created—"heavens and earth"—are spoken into being and immediately entrusted to humankind ("Be fruitful … fill the earth, and subdue it"—Gen 1:28).

(ii) This gift is inherently tied to all future generations. The command to "be fruitful and multiply" so that the human race may "fill the earth," implicitly obliges each generation to ensure that there will be future heirs to receive the inheritance of the earth. It is as though God names the beneficiaries of this heritage in the indelible will of Scripture (Panggarra & Budiman, 2025).

(iii) Genesis 2:15 adds the vocational clause: humanity is placed in the garden *before* the Fall "to till and to keep" it. Scholars note that the twin verbs (*ʿăbad*, "serve/cultivate") and *šāmar* ("guard/preserve") denote stewardship, rather than exploitation, presupposing an estate that must remain intact for successors (Bouma, 2012). Moreover, the fruit of Adam and Eve's labor in the environment, like those fruits of every generation, will tend to outlast their lives and endure—for better or worse—into future generations. Therefore, these duties of stewardship are owed both to God and to the generations yet to come.

Taken together, the text describes a single legal construct: a gift of the entire universe conveyed to the first parents, with the condition that they cultivate it and transmit it undiminished to their descendants. Such an arrangement is precisely what later jurists refer to as a "family heritage"—an intergenerational patrimony in which

the owners are simultaneously beneficiaries and trustees. However, the Jewish-Christian tradition does not, strictly speaking, apply the concept of "family heritage" to nature for legal purposes.

2. THE CATHOLIC TEACHINGS

The idea of the environment as a family heritage does not appear explicitly in the Magisterium either, but it can be reasonably deduced from Catholic social teaching and Pontifical doctrine.

The principles of Catholic social teaching appear to presuppose and align perfectly with the notion of family heritage, particularly the principles of universal destination of goods, private property, solidarity, and favor of the poor. The most insightful environmental reading of the first principle was provided by John Paul II (1990 § 8), who stated that "the earth is ultimately *a common heritage, the fruits of which are for the benefit of all*" (cf. Paul VI, 1967: § 22; *Gaudium et Spes*, 1965 § 69). This captures the core of the principle of the universal destination of goods, which affirms that certain assets belong to the entire human race, without contradicting the legitimacy of private property, also upheld by the Church.

Although everything was universally given to humankind, each person is entitled to take what is needed, with prudence and consideration for the whole. The same occurs in every family heritage, where each individual takes what they need, keeping in mind that the assets must be used for the benefit of everyone in the household. In Section III, we will expand on the legal possibilities of separating different "patrimonies of affectation" within the broader "universality" of the family heritage—an approach consistent with the principle of private use of property within a "common heritage."

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The principle of favor for the poor also gains coherence when viewed against the backdrop of a threatened household. As is well known, this principle affirms duties of solidarity towards the most vulnerable, and includes the right to use or dispose of the property of others in exceptional circumstances—when there is urgent necessity, and such use is the "only way to provide for immediate, essential needs (food, shelter, clothings…)" (Catechism of the Catholic Church, n. 2408; *Gaudium et Spes*, 1965 § 10). If the most basic purpose of the human allotment—especially when conceived as a family heritage—is to safeguard the lives of its members, then ownership rights must yield when those lives are at risk. To deny bread to the starving would undermine the very purpose for which the family heritage exists.

The contemporary Magisterium has frequently referred to the "natural heritage" we have received[1] and has made its intergenerational character explicit. For instance, Benedict XVI has affirmed that the environment is "God's gift to everyone," which imposes "responsibility towards the poor, towards future generations and towards humanity as a whole" (Benedict XVI, *Caritas in veritate*, 2009 § 48) A gift given to all members of the human race, accompanied by such responsibilities, clearly constitutes a form of heritage. However, its familial dimension was not explicitly emphasized in his pontificate.

By contrast, the recent encyclical *Laudato si'*, dedicated specifically to environmental concerns, adopts a markedly personalistic and familial approach. After affirming that the planet "is on loan to each generation, which must then hand it on to the next" (Francis, *Laudato Si'*, 2015 §§ 67, 159), the Pope emphasizes the urgent

[1] *See e.g.*, John Paul II, *Laborem Exercens*, 1981 § 1, referring to the "heritage of nature"; Benedict XVI, 2007, admitting that the Greenland's unique glacial is part of the "World Heritage"; and Francis, 2021, citing the Ecumenical Patriarchate of Constantinople concerns "for preserving the gifts of creation and of natural heritage".

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duty "to protect our common home," which involves a "concern to bring the whole human family together to seek a sustainable and integral development" (§ 13). In this vision, the planet is portrayed as a shared family home, and environmental responsibilities are framed as duties of the human family. This encyclical stands as the most personalistic treatment of environmental issues within the Pontifical Magisterium. Nonetheless, it notably refrains from using the term "heritage" to describe the environment—a term that appears in other ecclesial documents.

In summary, the Pontifical Magisterium implicitly acknowledges the family dimension of this heritage, though it neither names it technically nor explores its legal consequences. At other levels, the connection between heritage and family has occasionally been noted. For instance, in a brief intervention regarding the "collective human intellectual and natural heritage," Nuncio Francis Chullikatt affirmed that "[a]ll people have, on account of their membership in the human family, the birthright to benefit from this common heritage as well as a right and a duty to participate in enriching this tremendous legacy" (Chullikatt, 2013). Yet, despite the significance of this idea, it has not been further developed in that short speech.

3. LEGAL LANGUAGE AND ACADEMIC RESEARCH

Contemporary law and scholarship increasingly gesture toward a juridical logic akin to that of family heritage. When the 1972 World Cultural and Natural Heritage Convention calls for safeguarding sites "*as part of the world heritage of mankind as a whole*," it frames the planet's most valued assets as a single estate, whose preservation is incumbent on the "*international community as a whole*" (preamble). The same diction shapes the 1982 U.N. Convention on the Law of the Sea (1982, arts. 136-137), which declares the deep seabed "*the common heritage of mankind*,"—an echo of inherited clan property that no generation may alienate (cf. Zhou & Xie, 2024). Both treaties thus

cast humanity as a corporate subject, whose members bear trustee-like duties toward a patrimony reserved for heirs unknown.

Academic commentary further strengthens the analogy. Edith Brown Weiss's (1990) theory of intergenerational equity reinterprets trust law, proposing that every generation is simultaneously a beneficiary and a guardian of an environmental corpus that must be transmitted undiminished. More recently, Karin Mickelson (2019) has argued that the common-heritage principle imposes substantive limits on resource extraction, treating global commons—such as the oceans, Antarctica, and even outer space—as "patrimonies of affectation," burdened by a social mortgage that overrides ordinary sovereignty. Within this framework, private ownership and market rules remain permissible, but only as part of the internal bylaws of the human heritage, which is ultimately ordered toward the survival and flourishing of the human family.

However, strictly speaking, the notion of "family heritage" is not explicitly stated in these documents, nor are its legal consequences meaningfully developed. References to human heritage in treaties and laws are usually located in preambles or introductory articles, serving more rhetorical than normative functions, and almost always omit any reference to the family. The type of heritage invoked in these contexts aligns more closely with a shared patrimony among individuals than a true family heritage. These formulations tend to be grounded in the equal dignity of all human beings, but pay less attention to the specific duties owed to the most vulnerable members of the human family.

One notable exception appears in UNESCO's *Universal Declaration on the Human Genome and Human Rights* (1997), which addresses biological matters. Given that the human family shares blood ties and a common biological nature, one might expect a certain familial approach in such a declaration. A reference appears in Article 1, which

states: "The human genome underlies the fundamental unity of all members of the human family, as well as the recognition of their inherent dignity and diversity. In a symbolic sense, it is the heritage of humanity." While this language offers a promising starting point, it ultimately reduces the notion of human family heritage to mere symbolism, without assigning it any normative or juridical weight. In the end, the concept remains rhetorical.

4. OTHER TRADITIONS

Across several faiths and cultural philosophies, the earth is portrayed as an estate held in trust by one generation for the next. In Islamic thought, for example, jurists interpret the Qurʾānic role of *khalīfa* (vice-regent) to mean that "all the resources upon which life depends have been created by God as a trust *(amāna)* in our hands" (Mazhar Gada, 2014: 130), obligating each generation to manage these resources for the benefit of future heirs rather than as absolute owners.[2] The Qur'an (89: 19) even speaks explicitly of inheritance: "And you devour the inheritance (of others) with devouring greed". This verse has been interpreted as a condemnation of those who treat natural resources "as restricted to one generation above all other generations" (Mazhar Gada, 2014: 133).

Among the Haudenosaunee, a North American confederacy of Indigenous peoples, the first of their Seven Generations principles commands leaders to weigh every decision over natural resources considering that "we are *just borrowing the Earth from future generations*" (Smith, 2025 § 17).

[2] *See* Mazhar Gada, 2014: 133–6 interpreting Qur'an 89: 19 —"And you devour the inheritance (of others) with devouring greed"—affirming that "Man should not regard such use [of natural resources] as restricted to one generation above all other generations".

This principle obligates present-day stewards to preserve the land for descendants not yet born. While both Islamic thought and Haudenosaunee tradition emphasize the fact that all generations share the same natural resources and carry similar responsibilities, the family aspect of the heritage is either secondary or largely overlooked.

By contrast, other Indigenous communities—such as those of the Andes—refer to nature as "Mother,"[3] an expression that highlights a familial bond with the environment but, at the same time, obscures the heritage aspect of natural resources. Although that aspect is not necessarily excluded, it remains conceptually difficult to frame nature simultaneously as a subject of rights and as an object of protection. Nevertheless, through a complex blend of approaches, some laws in these countries paradoxically treat nature as a subject of rights, as a right of citizens—part of the right to a healthy environment—and as an object of protection (cf. Constitution of Ecuador, Art. 14; Political Constitution of Bolivia, Art. 33).

We conclude that, although the idea of nature as a "family heritage" is not explicitly stated by scholars, legal systems, or religious, cultural, and secular traditions, it may nevertheless be connatural to them—implicitly present, analogous, or partially embraced in various forms.

Most traditions emphasize the heritage aspect while overlooking the familial dimension of the assets, whereas others emphasize familial bonds but neglect the

[3] *See* Constitución de la República del Ecuador [Constitution of Ecuador], Oct. 20, 2008, preamble (treating nature as "Pacha Mama"—Mother Nature—as some indigenous communities do and giving it legal personhood). "*Nature or Pacha Mama where life is reproduced and occurs has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes*" (*ib.*, Article 71). *See* also Constitución Política del Estado Plurinacional de Bolivia [Political Constitution of Bolivia], Feb. 7, 2009, art. 33, and Ley de Derechos de la Madre Tierra [Law of the Rights of Mother Earth], Ley N° 71 (Dec. 21, 2010) (Bol.), granting "Mother Earth" legal personhood.

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patrimonial implications. In the next section, we aim to connect these two perspectives by seeking a deeper understanding of the notion of family heritage and identifying ten possible legal consequences that flow from it.

III. UNDERSTANDING THE NOTION OF "FAMILY HERITAGE"

1. DELINEATING THE NOTION

The idea of "family heritage" appears across countless legal systems and cultural traditions, each clothing the concept in local garments while preserving a recognizable core: a pool of property, rights, and duties held not by isolated individuals, but by the family as a continuing, intergenerational subject. Even where the legal or customary details vary, certain essential features consistently recur, such as the co-ownership structures designed to support the vulnerable, restrictions on alienation to outsiders, and a prevailing presumption that the corpus should be preserved and passed intact to future members.

Roman jurists provided one of the earliest technical models of family heritage. Alongside the collective property of the *gens fundus*, archaic Roman law also recognized the *heredium*—an indivisible and inalienable family property consisting of a parcel of land needed for building the family home and ensuring the family's survival (Hutschneker & Iuliu, 1932: 341, 415). Although it was under the power of the *pater familias*, this property could only be transferred through inheritance (Porcius Cato & Terentius Varro, 1934). In this case, the civil heirs will continue the dominion previously exercised by the *pater familias* (Axente, 2021: 328-329).

Over the centuries, Roman law refined this archaic institution into the idea of an autonomous mass of goods (*universitas iuris*) that persists "independent of the will of the patrimony holder"—a definition that still echoes in modern civil codes

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(Drăghici, 2021: 314). This development eventually gave rise to a "community property" regime (*communio omnium bonorum*), established by or as a consequence of marriage, and oriented toward serving the needs and purposes of the family (Lobingier, 1928).

Rooted in the Roman conception of *communio omnium bonorum*, modern civil-law systems presume that the celebration of marriage—or, where recognized, a civil union—automatically creates a "family patrimony" (also known as "*patrimoine familial*," "*sociedad de gananciales*," "*communauté réduite aux acquêts*"), bundling together rights and liabilities that must be divided between the partners when the relationship terminates (Axente, 2021: 328-329). For example, articles 1401-1403 of the French Civil Code places couples under the community-of-acquests regime by default, unless they opt out through a marriage contract. Similarly, articles 1344-1373 of the Spanish Civil Code installs the *sociedad de gananciales* as the default partnership of assets acquired after the wedding. Instead, the Civil Code of Quebec states laconically: "Marriage entails the establishment of a family patrimony" (article 414). These civil law constructs serve the same distributive purpose as the common-law concept of community property—equalizing the spouses' economic positions upon dissolution.

Approaches can differ in other jurisdictions. In Italy, for instance, the *fondo patrimoniale* is not constituted automatically upon marriage. Instead, any spouse —or even a third party—may establish and register property to the "needs of the family." Once constituted, the fund forms a separate estate whose fruits must be used to serve the family purpose, and creditors whose claims are unrelated to family needs cannot levy execution against it (cf. Italian Civil Code, Arts. 169-170).

The assets that comprise a family heritage also vary across cultures and times. We have seen that in archaic Roman law, when the economy was centered on

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agriculture, the *heredium* consisted basically of a parcel of land essential for sustaining the family. Today, land remains the most important component of family heritage among many sub-Saharan and Africa tribal communities, where its fragmentation threatens the family's economic security (cf. Asiama, Bennett & Zevenbergen, 2017, 40-41). However, in other contexts, land does not necessarily fulfill that protective function. That's why in the Canadian province of Québec, the family heritage includes a different range of assets: "the residences of the family or the rights which confer use of them, the movable property with which they are furnished or decorated and which serves for the use of the household, the motor vehicles used for family travel and the benefits accrued during the marriage under a retirement plan" (Civil Code of Québec, Article 415).

Despite these contrasts, some constants emerge across all these patrimonies related to the family. They are always created for the same purpose: the needs of the family. Ownership is attributed not to individual members, but to the family as a living collective entity which embraces the living members and, somehow, the future generations who will inherit the heritage. This collective ownership may manifest in various legal forms, such as the equal shares of Québec, the co-ownership of the *fondo patrimoniale* in Italy, or the joint possession of land by all family members—or by their representatives—in customary law.

Because of this, family heritage is fundamentally governed by rules of public order, and their assets receive heightened legal protection (*e.g.*, restrictions on alienation or immunities against execution by creditors). This regime subordinates the corpus to the welfare of dependents, ensuring that events such as death, divorce, or

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insolvency of a family member do not deprive the most vulnerable—such as wives in some cultures, minor children, elders—of their livelihood and security.[4]

Following the commonalities observed across various cultures, and for the purposes of this study, family heritage can be defined in legal terms as *a universality of assets, rights, and correlated obligations held collectively by all family members, intended to satisfy family needs and sustain family life*. In this definition, the purpose of the universality is what gives unity and a certain degree of autonomy to the patrimony. As with any universality, members may use specific assets for designated purposes, provided that such use does not undermine the overall ends for which the universality was established.

2. THE CHARACTERISTICS OF ANY "HERITAGE"

Among the many characteristics that heritages possess, for the purposes of this study we highlight the following:

(i) *A heritage is a "universality" (universitas iuris)*. Civil law theory conceives universalities as a set of assets that belong to a single individual and are united by a common purpose, either established by the will of the person or by law (cf. Chelaru, 2012; Drăghici, 2021). The specific assets composing the universality may vary, change, evolve, or even partially disappear over time. However, what truly counts in universalities is the whole: the entire mass of assets that function as a unity.

[4] *See* Fernández, 1999, 74–6, observing this tendency, for instance, in traditional Spanish rural law, where inheritance customs privilege continuity of the casa over strict equality so that the old may rely on the ancestral holding and the young on its future fruits.

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(ii) *A heritage contains at least one patrimony of affectation*. Modern civil codes recognize the possibility of fragmenting a universality by separating portions of it and dedicating them to specific purposes. For example, Article 31(2) of Romania's 2011 Civil Code authorizes such "division or affectation" in legally prescribed cases. Just as an individual may create a trust by allocating certain assets for a defined purpose, universalities can also create "patrimonies of affectations" for specific goals by fractionating the whole in shares or in other ways (Drăghici, 2021).

(iii) *A heritage is governed by the principle of unity.* Even when specific assets are used for particular purposes or the patrimony is fragmented into distinct portions, the heritage is still considered as a legal whole. This principle allows creditors to secure their claims against the entire corpus of the heritage when specific guarantees are insufficient to cover the debt. As Valeriu Stoica (2009, 7) noted, the unity of the universality furnishes unsecured creditors with their "joint guarantee" over the entire heritage. Similarly, French legal doctrine maintains that an individual may possess multiple patrimonies only when authorized by law, and that the residual patrimony must always be available to satisfy unmet debts (cf. French Code Civil, Arts. 2284-2285; Aubry & Rau, 1897, § 573). A parallel logic appears in common-law systems, where courts—under doctrines such as "piercing the corporate veil"—disregard limited liability protections and hold shareholders personally liable when a separate fund is undercapitalized or misused (cf. McClain, 2002).

3. THE PECULIARITY OF THE "FAMILY HERITAGE"

As shown by the preceding analysis, the broader notion of family heritage reveals several distinctive characteristics:

(i) Purpose-orientation toward family welfare. Family heritage exists, first, to secure the subsistence of all household members—especially the most vulnerable—and then to support a decent life of the entire family. Italian law articulates this telos explicitly: a *fondo patrimoniale* may be constituted only by "destinating certain assets… *to meet the needs of the family*" (Italian Civil Code, Art. 167).[5] Similarly, Québec's family heritage aims to ensure legal and economic equality between spouses, by guaranteeing each partner a fair share in their jointly accumulated property (cf. See Gouvernement du Québec, note "About Family Patrimony", without year).

(ii) The constitution of the family causes its existence. Unlike a discretionary trust, which is created by the will of the individual, the family heritage typically comes into existence automatically with the formation of the juridical family. This is evident in Roman law, the Civil Code of Québec, and other legal traditions. While some modern systems have introduced greater flexibility allowing spouses to opt in or out of such regimes, the foundational rationale remains unchanged. Whether established automatically or by agreement, the family heritage is intrinsically linked to the existence of the family unit. One must be a family member —by law or blood—to constitute and partake in this heritage.

(iii) Essential goods. Family patrimonies are primarily composed of assets essential for the subsistence and well-being of the family, in accordance with the needs of each culture and generation. Although specific assets may vary over time,

[5] Article 167 states that any spose can constitute a fund "*destinando determinati beni . . . a far fronte ai bisogni della famiglia*".

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they typically include land, a house or a dwelling necessary to provide shelter for the family.

(*iv*) *Protection of essential goods.* Legal systems have developed various protective mechanisms to safeguard the essential goods of the family heritage. These include restrictions on alienation, immunity from execution, and the nullification of certain prohibited transactions. In Ancient Israel, for example, permanent alienation of family land was prohibited to ensure that families would never become landless: "The land shall not be sold for ever" (Lev 25:23). In contemporary civil law, similar protections persist: Article 215 § 3 of the Code civil of France forbids either spouse from disposing "the rights securing the family lodging" without the consent of the other. Likewise, Article 1320 of the Spanish Código Civil imposes the same requirement with respect to the *vivienda habitual* (habitual residence). This prohibition is reinforced by the right of the non-consenting spouse to bring an action for annulment within a prescribed time frame, thus ensuring the enforceability of the protection.

A family heritage also protects assets from execution when the debt is unrelated to family needs. Article 170 of the Italian *Codice Civile* bars enforcement against the *fondo patrimoniale* "for debts the creditor knew were contracted for purposes alien to family needs" (translation is mine), an exception that remains in effect until the youngest child reaches the age of majority (cf. articles 170-171). Courts interpret this creditor-protection clause as a partial derogation from the general principle that a debtor is liable with all present and future property.

(vi) Public-order status. In civil-law jurisdictions, the rules, principles, and values governing the family—including those concerning family heritage—in general, are considered as *ordre public*. This means that these rules are mandatory, non-

waivable, and override any private agreement that conflicts with them, because they are focused on protecting what is fundamental in each society, such a family or national security matters. For example, Québec's explanatory memorandum on Bill 55 (1989) affirms that the patrimony provisions "favour economic equality between spouses" and therefore belong to the realm of *ordre public familial*.[6]

In the common law several parallel mechanisms perform similar functions. For instance, courts refuse to enforce bargains "contrary to public policy," a doctrine that the Restatement (Second) of Contracts and modern scholarship treat as the common-law analogue of *ordre public* (Note, A Law and Economics Look at Contracts against Public Policy, 2006). Additionally, under the States' police power, governments may impose content-neutral limits on speech, assembly, or the use of property when such regulation is narrowly tailored to preserve public peace and safety; First Amendment theorists analyze these rules as a balance between private autonomy and the demands of public order.[7] Finally, comparative commentators observe that U.S. courts invoke a "public-policy exception" when declining to recognize foreign judgments or legal statuses that offend fundamental domestic values, thereby replicating the protective function of *ordre public* in private international law (cf. Breger, 2015).

[6] *See* "Explanatory Notes", *An Act to amend the Civil Code of Québec and other legislation in order to favour economic equality between spouses,* S.Q. c. 55 (Can.): "The object of this bill is to favour equality between spouses and to underline the character of marriage as a partnership". *See also* Kasirer, 2018, 584-599, asserting that the Quebec rules are of public order and assessing its consequences.

[7] Emerson, 1963: "Any theory of freedom of expression must therefore take into account other values, such as public order, justice, equality and moral progress, and the need for substantive measures designed to promote those ideals". *See also* Weaver v. Jordan, 64 Cal. 2d 235, 260 (Cal. 1966) citing this phrase.

IV. RETHINKING NATURE AS A "FAMILY HERITAGE"

If we apply the legal notion of family heritage and the characteristics outlined in the previous section to the environment, we can deduce ten important consequences for the law:

1. Familial co-ownership of the environment. The ultimate owner of the environment and the cosmos is the entire human family, considered as whole. Naturally, legal relationships can only be directly established among living individuals. Strictly speaking, no one can demand the enforcement of any right or duty from the dead or from future generations. However, each living generation somehow *represents* the entire family, including predecessors and unborn generations. Intergenerational justice, then, becomes possible only indirectly, through the duties each person owes to the family as a whole, which is represented by the generation that is alive.

2. A paternal stewardship duty. In environmental matters, the standard of a "good administrator" is misleading and clearly insufficient. The civil law tradition distinguishes different levels of culpability: while ordinary care corresponds to the standard of a "good family parent" (*bonus pater familias*), a more demanding level applies to that of a "professional manager." Without excluding that this professional standard may be appropriate in specific contexts—such as mining operations or industrial activities that may harm the environment—the standard of the good parent is more reasonable when applied to ordinary citizens. The main reason is straightforward: each person is, in effect, a parent to the next generation or a steward of the heritage that will be handed down to them. Furthermore, it would be inappropriate to impose on the general public, who may know little beyond what is reported in the media, the scientific knowledge and skills that the

professional standard requires (cf. Brown, 1989, 24-27). We cannot reasonably expect Indigenous communities or earlier generations to possess the same level of knowledge about environmental harm as even the wisest among our own generation has.

On the other hand, the expectations placed on a professional manager differs significantly from those placed on a good parent. While good managers are primarily concerned with efficiency, profit, organizational outcomes, and treating each worker with a certain equality or neutrality, good parents are guided more by affection and concern for the most vulnerable children. Parents think creatively about how to make a house feel like a home, how loved ones might find rest, and creating shared experiences through planned weekends. Now, if we consider the dimension of the problem, the scarcity of the resources, and the size of the family, it may be more appropriate to adopt the standard of "a modest parent of a large household."

3. Preferential protection of the vulnerable. Because the family patrimony exists primarily to ensure the survival, needs, and well-being of the family, environmental decisions must give special consideration to children, Indigenous communities, the sick, the poor, and other vulnerable populations. These groups must be guaranteed access to goods that directly belong to the entire family (such as air, water, or solar light) as well as any goods essential to live a dignified life. This is indeed a right of everyone, recognized by numerous human rights declarations. The point here is that family duties are more grounded in solidarity, which leads authorities and everyone to take special care of the disadvantaged. In this context, a purely formal application of the principle of non-discrimination is insufficient to address the complexities of the family issues.

4. Duty and right to use the environment in an equitable way. The most salient characteristic of family heritage is its purpose: it consists of assets destined and organized to serve the well-being of the family. For example, the Roman *heredium* was inconceivable without a parcel of land to be worked by family members. Similarly, the right to housing, as proclaimed in various international declarations, and the legal protection of the home are meaningless without real people who humanely inhabit that space. To inhabit a home means not merely sleeping in a bed within four walls, but involves working there, sharing life with loved ones, and creatively arranging the space to welcome new family members. A home is more than a shelter: it is the heart of family life.

Each generation has the right to use the portion of nature handed down to them and to work within it, always within the well-being of the entire family in mind. The same applies to each individual, who must use environmental goods as a co-owner of the whole, respecting the rights of the broader human family.

5. Duty to preserve the family heritage. In every historical conception of family heritage, certain goods are considered essential for family life and, for that reason, receive significant legal protection. Today, however, certain extreme environmentalist positions view with benevolence—even acceptance—the reduction of human communities for the sake of preserving the environment. Instead, from a personalistic and family-centered perspective, the duty to preserve the family heritage follows a particular order of priority: we must secure first the goods required for the subsistence of the living generation: these deserve the highest level of protection, as without the present generation, no future generation can come into being. Only after that, can we dedicate efforts to safeguard those

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goods necessary for the life of future generations. What is said from human life, *mutatis mutandis* applies to other living beings.

Additionally, each generation has a duty to preserve what it has received and to pass on at least that much to the next generation. This principle was firmly rooted in many ancient communities, where family land could not be fragmented—for example, in ancient Israel and Rome. Similarly, the *home* of the human family must also be preserved. Actions that harm the ecosystem are analogous to burning down the family home. On this basis, public authorities must adopt measures to prevent the loss of endangered species, combat desertification, and limit other forms of environmental degradation. These measures may include declaring certain plants or animals *res extra commercium*, establishing protected zones, regulating hunting seasons, and enacting other conservation laws. More broadly, there must be a general prohibition against the irreversible loss of species.

6. Principle of precaution. Building on these duties, each person has an obligation to act with prudence, taking into account the impact their actions will have not just "on the environment"—as law often frames it—but also on the shared human home and particularly on the generations alive today and those yet to come. Environmental impact studies should, in this light, be reframed as *Family Heritage Impact Assessments* (FHIA). The key question would be: Would a prudent father or mother authorize this use for their expected born or unborn children?

7. Right and duty to create a joyful home and enrich progressively the family heritage. For a good father, the duty of preserving the family heritage is just the minimum: he is always thinking on how to make the home more welcoming—how to fill it with joy, decorate its corners, and increase the family's well-being. Not by chance, older people usually have photos, souvenirs, and small touches in every

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corner of their homes. The paternal stewardship duty leads us to conclude that we have a familial duty not only to give what we have received, but to leave behind something better: a healthier home, a richer biodiversity, and improved conditions for all areas of life. That is how family heritages truly work.

Sometimes dreamers dream idealistic dreams that go too far, even suggesting that the human population should be reduced so nature can thrive "freely." While poetic in theory, this notion represents a direct attack on our families. All the allure of these dreams vanishes the moment the dreamer awakens. Let us try to be, at least for a moment, less abstract and consider where we want our loved ones to live. Would you ask your elderly parents to settle in the wilderness and live in a National Geographic-style paradise? Would you raise your children in the middle of a jungle, guided only by virtues of the "uncivilized" man? Would it not be more reasonable to find your aged father or mother a nicely furnished apartment, with electricity, Internet, water, and the typical comforts that daily life offers, or a good school for your children?

8. Reframing private property as a "patrimonia affectionis." The previous considerations reshape how we should understand private property. The simplest analogy for a healthy understanding of property is to observe how good children make use of things at home: they act freely, take what they need, follow their parents' guidance, and respect the belongings of their siblings. As in any family heritage, members of the family can freely use the assets of that heritage and allocate part of the patrimony for specific individuals, plans, or purposes—formally or informally creating *patrimoniae affectionis*. This is the proper way to understand private property: as a segmented portion of the entire family heritage, assigned to someone for a particular and defined purpose.

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Every child knows that setting the bed on fire and other actions are forbidden at home, because they would destroy the home or harm their family. But these prohibitions are among the least important rules concerning property. Why do children have toys? To play freely with their siblings. At its core, a child's freedom at home is directed toward enjoying time together with others. A private property that cannot be shared is an inhumane property and a direct attack on human dignity. Rather than simply taxing the rich or redistributing others' belongings to the poor, authorities should first promote the voluntary and generous sharing of private property and create practical means for everyone to increase the family heritage.

9. Reframing the principle of the common heritage of humanity. In international law, particularly in the law of the sea, the principle of the *common heritage of humanity* has gained recognition.[8] This principle prohibits appropriation of certain areas or resources (*e.g.*, glaciers, outer space, and the high seas) and encourages the demilitarization of nations, the preservation of species, and the conservation of the environment (cf. Zhou & Xie, 2024 considering some implications of this notion). In several treaties, laws, and scholarly works, the "common heritage of humanity" is generally understood as a list of material and immaterial goods that, either by fact or by legal declaration, belong to everyone.

[8] *See* Convention on the Law of the Sea, 1982, Arts. 136-137. *Antarctic Treaty*, 1 December 1959, Art. I; Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol), 1991, Art. 2; Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972, preamble; Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies (Outer Space Treaty), 1967, Arts. I–II; Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (*Moon Agreement*), 1979, Art. 11.

Acknowledging that some specific goods may directly belong to all human beings and deserve an especial protection, we believe the "common heritage of humanity" must be understood in broader terms than those of the previous laws and treaties. As Section II has shown, many scholars, traditions, and religious teachings suggest a broader view: that the entire cosmos forms part of the human family heritage. This broader heritage includes and regulates not only those goods that directly belong to all, but also every non-personal element that exists in the cosmos. Therefore, the natural human family heritage encompasses both types of goods, each of which may require its own regulatory framework.

10. Family heritage is a matter of public order. This article has identified several principles that are not subject to individual will, including: the automatic inheritance of the human family heritage at birth, the duty to preserve what we have received and pass it on to future generations (a strictly familial duty connected with the self-preservation inclination), and the radical dependence of human life on the environment. This basic framework of principles and rules, which cannot be altered by individual will, constitutes a matter of "public order" or non-waivable set of principles that must always be respected and protected.

As such, public authorities are justified in enforcing these norms by criminalizing certain conducts, annulling of any laws or contracts that gravely endanger the environmental family heritage without strict necessity, and securing the full ecological compensation in cases where harm has occurred. Likewise, because the heritage belongs the same to all, any member of the human family should hold *erga omnes* standing to compel its restoration.

V. CONCLUSIONS

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What, then, have we learned? That the green debate must flow into a household conversation. That the true antonyms of "resource" and "paradise" are not "wilderness" but "orphanhood." That environmental legislation, stripped of sentimentalism, is simply the charter by which siblings agree not to burn the cradle of their younger kin. And, above all, that we have a home that is our *family heritage*, that we receive it not only "to keep" and give it intact to the next generations, but mostly "to dress" with care, to expand and enrich, and finally give a better home to our successors. That is how family heritages work.

This study has attempted to decipher the original commandment of dressing and keeping paradise (Gen. 2:15) in legal prose with a more personalized and familial approach. May these pages inspire jurists, pastors, and policymakers alike to remember that the soil beneath their feet is family property, the star-scattered roof a parental gift, and every statute, zoning map, or carbon target merely an appendix to the oldest family testament on record. Hopefully, one day we will be able to walk again in paradise together with our Father, and hear once again from his lips that old story that we know well: the story of our family home.

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