Towards the Unthinkable: Earth Jurisprudence and an Ecocentric Episteme

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I.   Abstract

This paper argues that Earth Jurisprudence aims to bring about a change in *episteme*, using the law, from our current anthropocentric *episteme* to a new ecocentric one: a process that requires a critique of current epistemic objects and methods, and a gradual articulation of alternative objects and methods for new legal and governance systems to draw upon.

The Prologue and Epilogue are literary reflections on Foucault's concept of 'the erasure of the human', and its two readings: 'the end of the human as species', and 'the end of the human as *episteme*'. The Preliminaries section lays conceptual groundwork for subsequent sections, characterising the concept of *episteme* (1) as *a priori* configuration of mind; (2) as epoch in time; (3) as configured around 'objects' (all the 'things' that can be known) and 'methods' (all the ways of knowing them). It also characterises epistemic change (1) as abrupt and all–encompassing; (2) as positioned outside epistemology; (3) as involving the introduction of new objects and methods in a two–phase process. The section on Earth Jurisprudence's Project discusses Earth Jurisprudence's role in theorising and implementing potential new objects and methods using a critique of the existing *episteme*.

The final section begins such a critique. It proposes that current epistemic objects are configured by a dichotomy between Human and World, and critiques (1) the way this establishes and maintains false divisions and perpetuates hierarchies; (2) the way it stifles creative new approaches to interpreting the world, by confining the possible loci for meaning; (3) the way it valorises spatiality at the expense of the temporal. The critique also considers current epistemic methods as variations of the 'Research Ideal', examining (1) the way their push for ever–increasing specialisation hinders generalism and transdisciplinary work; (2) the way it leads to 'knowledge of knowledge' and insular, self–referential discourse; and (3) the way it valorises an unrealistic, unsustainable static model of a future world. Both critiques conclude with brief reflections on potential alternative objects and methods for a new *episteme*.

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II.   Prologue: on the erasure of the human

> [O]ne can be certain that man is a recent invention ... [i]t is not
> around him and his secrets that knowledge prowled for so long
> in the darkness ... [and if] those [epistemic] arrangements were
> to disappear as they appeared, if some event of which we can at
> the moment do no more than sense the possibility ... were to
> cause them to crumble, ... then one can certainly wager that man
> would be erased, like a face drawn in sand at the edge of the sea.
>
> Foucault[1]

The erasure of the human — at first glance, the concept is shocking, even heretical.
Foucault's formulation seems to imply an apocalyptic ending for the human species —
a meaningless desert, scattered only with the 'tattered ruins' of lost civilisations.[2] The
image is primordial and sinister: surely such flights of fancy have no place within
'civilised' (academic) discourse.

And yet, such apocalyptic images are those with which science now confronts
us. Recent years have seen ever–worsening predictions about climate change,
environmental destruction and species loss. Atmospheric carbon dioxide levels have
just passed the daunting milestone of 400 parts per million.[3] Two of the largest and
most comprehensive scientific studies of the last decade, the 2005 United Nations
Millennium Ecosystem Assessment and the 2007 Intergovernmental Panel on Climate
Change's Fourth Assessment Report, paint similar pictures of other crisis points the
Earth has already passed.

The Millennium Ecosystem Assessment, compiled by more than 2000 scientists,
concludes that humans have changed ecosystems over the last fifty years 'more rapidly
and extensively than in any comparable period of time in human history'.[4] Sixty per

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[1]   Michel Foucault, *The Order of Things: An Archaeology of the Human Sciences*
(Routledge, 2002) 422 (*'The Order of Things'*).

[2]   Jorge Luis Borges, 'On Exactitude in Science' in Andrew Hurley (ed), *Collected
Fictions* (Viking, 1998) 325. Is this simply Baudrillard's simulacra taken to their
conclusion — or Alan Kirby's dismal vision of pseudo/digimodernism? Cf Jean
Baudrillard, *Simulacra and Simulation* (University of Michigan Press, 1994); Alan
Kirby, *Digimodernism: How New Technologies Dismantle the Postmodern and
Reconfigure Our Culture* (Continuum, 2009); Edward W Soja, *Thirdspace: Journeys
to Los Angeles and Other Real–and–Imagined Places* (Blackwell, 1996) 19–20, 237–
78.

[3]   Fen Montaigne, 'Record 400ppm CO2 Milestone 'feels like we're moving into
another era', *The Guardian* (online), 15 May 2013
<http://www.guardian.co.uk/environment/2013/may/14/record-400ppm-co2-carbon-
emissions>.

[4]   Millennium Ecosystem Assessment, 'Ecosystems and Human Well-Being: Synthesis'
(2005) 1.

cent of ecosystem services[5] are now degraded or unsustainably used, and there is an increasing likelihood of 'accelerating, abrupt, and potentially irreversible changes'[6] to ecosystems over coming years, which will add to the 'substantial and largely irreversible loss [caused by humans] in the diversity of life on Earth'.[7]

The Fourth Assessment Report reaches similar conclusions. It asserts that the natural resilience of many ecosystems

> is *likely* to be exceeded this century by an unprecedented combination of climate change, associated disturbances (eg flooding, drought, wildfire, insects, ocean acidification) and other global change drivers (eg land–use change, pollution, fragmentation of natural systems, over–exploitation of resources.[8]

With words like these, in the 'mightiest [of] hall[s]',[9] science gestures at a silence past its borders.[10] The future, on this view, looks like the one Foucault seems to envision. Taken at face value, it seems to admit of only one reading — the end of the human as species. As the darkness falls, a storm comes in. When the sun rises the sand is washed clean, tide ebbing slowly away.

As the paralysis brought on by this reading begins to fade, rational thought needs to return — tempered, always, by the emotion of that paralysed moment. Gradually, it becomes clear than there is an alternative reading: both of the 'future' in the scientific consensus, and the 'future' of Foucault's imaginings. On this alternative reading, the erasure of the human does not mean 'the end of the human as species', but something else, something more positive, though equally profound.

The other reading of 'the erasure of the human' is this: the end of the human as centre-of-all-things. Or, in ecologically Foucauldian terms, the end of our anthropocentric episteme, and the inauguration of an ecocentric one.[11]

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5   Ibid.
6   Ibid.
7   Ibid.
8   Intergovernmental Panel on Climate Change, 'Climate Change 2007: Synthesis Report' (2007) 48.
9   Gavin Bone, *Beowulf: In Modern Verse with an Essay and Pictures* (Basil Blackwell, 1946) 17.
10   Which is to say, something beyond the limits of its speech. Academic discourse might *articulate* the idea of a world without humans (see Jared M Diamond, *Collapse: How Societies Choose to Fail or Succeed* (Penguin Group, 2005); Joseph A Tainter, *The Collapse of Complex Societies* (Cambridge University Press, 1988)) but it is unlikely to even come close to *evoking* its monolithic nature. Literature and art are better equipped for this task, and the Prologue and Epilogue represent an attempt to explore this paper's ideas in such a register.
11   The meanings of 'anthropocentrism' and 'ecocentrism' are discussed below: see 'Anthropocentrism and Ecocentrism', below p 5. See also generally Thomas Berry,

Returning to the epigraph: if one reads 'man' as meaning not 'the human as species', but rather 'the human of the human sciences', or 'the human as centre, mode of being, organising principle for all discourses',[12] it becomes clear that Foucault is not imagining the end of *homo sapiens*, but rather the end of 'the human' as a consciousness or a particular mode of knowledge.[13] Still there is an erasure, the renewing of the sand beside the water. But in its wake? Not a desolate, meaningless desert; but a different Earth, inhabited by creatures with our physical body, yet with a different mode of being in the world.

To such creatures, our present, anthropocentric mode of being[14] is literally and metaphorically unthinkable. The mode of being of these creatures is so far removed from ours, and their way of thinking so different because of this, that they find it *literally* impossible to 'think the world' as we do now. They also find it *metaphorically* unthinkable that any species would want to think the world as we have. No creature, in their view, would want to be possessed of the relationship *to* the world, and not *with* it, which characterises our species: a relationship that causes damage through its illusions of superiority and independence from the rest of life on Earth.[15]

The Great Work: Our Way into the Future (Three Rivers Press, 1999) ch 1; Klaus Bosselmann, *When Two Worlds Collide: Society and Ecology* (RSVP Publishing, 1995) 1–8. The notion and utility of alternative conceptions will quickly become apparent: the event might also be conceived of in evolutionary terms, as some sort of adaptation geared towards the survival of the human species.

[12]   See Foucault, above n 1, Preface; George Steiner, 'The Mandarin of the Hour — Michel Foucault', *New York Times* (New York), February 28 1971.

[13]   It should be noted that Foucault was not working in a specifically ecological context; however, there is significant scope for synthesizing the concepts he develops with the work of Earth Jurisprudence, deep ecology, and ecophenomenology as it has been developed out of the work of Heidegger. For an introduction to deep ecology, see Arne Naess and David Rothenberg, *Ecology, Community and Lifestyle: Outline of an Ecosophy* (Cambridge University Press, 1989). On ecophenomenology and environmental philosophy, see David Abram, *The Spell of the Sensuous: Perception and Language in a More-Than-Human World* (Vintage, 1997); Charles S Brown and Ted Toadvine (eds), *Eco-Phenomenology: Back to the Earth Itself* (SUNY Press, 2003); Neil Evernden, *The Natural Alien: Humankind and Environment* (University of Toronto Press, 2nd ed, 1993); Neil Evernden, *The Social Creation of Nature* (John Hopkins University Press, 1992), esp Part 1; Bruce V Foltz, *Inhabiting the Earth: Heidegger, Environmental Ethics, and the Metaphysics of Nature* (Humanities Press, 1995); Bruce V Foltz and Robert Frodeman (eds), *Rethinking Nature: Essays in Environmental Philosophy* (Indiana University Press, 2004).

[14]   Although 'our' mode of being is not one shared by all cultures: cf Wade Davis, *The Wayfinders: Why Ancient Wisdom Matters in the Modern World* (UWA Press, 2010).

[15]   See generally Thomas Berry, 'The Viable Human' in George Sessions (ed), *Deep Ecology for the Twenty-First Century* (Shambhala Publications, 1995); Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice* (Green Books, 2nd ed, 2003) 37–46.

On this alternative reading, the 'erasure' is not extinction — physical death — but rather some monolithic event, some rupture in the continuity of thought, instating a creature with a different mode of being in the world. This shift is the shift from anthropocentrism to ecocentrism, and the beginning of a new *episteme*. It is a second Copernican shift, this time for Earth: culture, thought, and then law, catching up on the shift that occurred in science many years ago, with the recognition of ecosystem science and the interdependent nature of entities.[16] Four hundred years after humans displaced themselves, reluctantly, from the centre of the universe, the time has come for them to displace themselves from the centre of the Earth.

III.   Preliminaries: clarifying concepts

A. ANTHROPOCENTRISM AND ECOCENTRISM

Both these terms are somewhat vexed, and so are outlined here to avoid ambiguity in the discussions that follow. The term 'anthropocentrism' takes its etymological meaning: 'man' plus 'centre', or 'man as centre'.[17] This worldview understands humans as independent from, and superior to, all else in the world.[18] It manifests, as Peter Burdon suggests, in 'the tendency of human beings to regard themselves as separate to nature and [to regard] nature as existing for human use and exploitation.'[19]

Ecocentrism[20] also takes its etymological meaning: 'eco' ('house' or 'Earth')[21] and 'centre' – thus, 'Earth' plus 'centre', or 'Earth as centre'. This is *not* the opposite of anthropocentrism.[22] Ecocentrism has no apex at which humans, or any entity, can be placed. Rather, it is a system of ecologies, networks and relationships, in which each entity relies upon and influences those around it. The question of whether it even *has* a centre should remain open: properly understood, the centre of 'ecocentrism' is not a

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[16]   This recognition occurred as early as the 1920s, via developments in quantum physics and network theory: cf Peter Burdon, 'The Ecocentric Paradigm' in Peter Burdon (ed), *An Invitation to Wild Law* (Wakefield Press, 2011) ; Fritjof Capra, *The Web of Life: A New Scientific Understanding of Living Systems* (Anchor Books, 1997); Werner Heisenberg, *Physics and Philosophy: The Revolution in Modern Science* (Harper Perennial, 2007).

[17]   Oxford English Dictionary, *Oxford Dictionary of the English Language* (Oxford University Press, 2011) 'anthropocentric'.

[18]   Cf Berry, above n 15; Cullinan, above n 15.

[19]   Peter Burdon, *Earth Jurisprudence: Private Property and Earth Community* (PhD Thesis, The University of Adelaide, 2011) 14, 3.

[20]   Sometimes 'biocentrism'.

[21]   Via German 'oecologie', from the ancient Greek 'dwelling or house': cf Oxford English dictionary, above n 17, 'ecology'.

[22]   An opposite implies a dichotomy, which is precisely the kind of relationship Earth Jurisprudence seeks to avoid. See also generally Bosselmann, above n 11.

fixed *subject*, but rather an *event* or *process*.[23] In any case, a change to ecocentrism does not involve 'turning the tables', effacing the human from its privileged position only in order to replace it with nature or some other entity.[24] Rather, it brings humans 'back into the fold', remembers them in their original form, and calls them as a species into their context of ecological relationships with all other entities on Earth.

B. EARTH JURISPRUDENCE GENERALLY

Earth Jurisprudence is a relatively young field,[25] and its practitioners come from a diverse set of backgrounds (academics, policymakers, students and activists, working in a variety of countries). It draws on a relatively broad range of intellectual and philosophical influences and approaches, ranging from environmental philosophy to semiotics and literary theory, ecology and the life sciences, and ecological economics. This intellectual flexibility is appropriate in a project of such far-reaching implications: it represents an openness to intellectual and philosophical, cultural and experiential perspectives beyond its practitioners' own garden gates.

However, an insistent proviso needs to accompany this characterisation of Earth Jurisprudence. While the 'project' of epistemic change provides a means to contextualise current work, it must not fall victim to reductionist or dogmatic interpretations. Earth Jurisprudence is not a teleological undertaking. The bringing

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[23]   An alternative term used by some working in the emerging movements of speculative realism and object-oriented ontology is 'anthrodecentrism'. See, eg, Matthew Segall, 'Comment on 'The Quadruple Tension' in Adam Robbert, *Knowledge Ecology* (10 July 2011) http://knowledge-ecology.com/2011/07/10/the-quadruple-tension/. In a slightly different context, see Ben Mylius, 'Anthrodecentrism: Object-Oriented Ontology and Refining the Goals of Ecocreative Writing' on Ben Mylius, *L'ecologeur: Adventures in Ecocreative Writing* (10 March 2013) <http://ecologeur.com/post/45014342168/anthrodecentrism-object-oriented-ontology-and-refining>. This paper uses 'ecocentrism' for present purposes because of the larger body of work associated with its explanation, but holds open the possibility that 'anthrodecentrism' might become a better term in the future.

[24]   Cf Murray Bookchin, 'Where I Stand Now' in Steve Chase (ed), *Defending the Earth: A Dialogue Between Murray Bookchin and Dave Foreman* (South End Press, 1991).

[25]   Burdon, above n 19, 129. Burdon also provides a thorough analysis of Earth Jurisprudence's philosophical orientation (at ch 4). One key influence on the field has been cultural historian Thomas Berry's (1914–2009) observations that anthropocentrism is central to the current ecological crisis, that a shift to ecocentrism is required to ensure the sustainability of the human species, and that law has a key role to play in facilitating this shift. See also Thomas Berry, *Evening Thoughts: Reflecting on Earth as a Sacred Community* (Sierra Club Books, 2006); Cormac Cullinan, 'A History of Wild Law' in Peter Burdon (ed), *An Invitation to Wild Law* (Wakefield Press, 2011); Mary Evelyn Tucker, 'Editor's Afterword: An Intellectual Biography of Thomas Berry' in Mary Evelyn Tucker (ed), *Evening Thoughts: Reflecting on Earth as a Sacred Community* (Sierra Club Books, 2006) ch 9, 11.

about of epistemic change is not an end point, or even a 'point' at all.[26] It is a process, like the ecosystems it considers: entry into the different time and space of an ecocentric *episteme*.

C. THE CONCEPTS OF *EPISTEMES* AND EPISTEMIC CHANGE[27]

1. *THE CONCEPT OF EPISTEME*[28]

(a). Episteme as a priori

An *episteme* is an *a priori* configuration of the mind that renders thought possible. It is the 'epistemological field',[29] 'strata',[30] 'table',[31] 'criterion'[32] or 'site'[33] that enables the

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26   In this context, it is extremely important that all temptation to cast Earth Jurisprudence's work in a crusading or messianic frame is roundly and continually rejected. This is because such characterisations are false and apt to mislead both those without and those within the discourse, and because the arrogance they involve is something Earth Jurisprudence seeks to avoid. A distinction can thus be drawn between the work of Earth Jurisprudence and Nietzsche's (perhaps superficially similar) discussions of the *Übermensch* (cf Friedrich Wilhelm Nietzsche, *Thus Spake Zarathustra: A Book for All and None* (Fisher Unwin, 1899). The latter involves notions of society 'reaching its full potential', and thus proceeds immediately from an arrogant position, whereas Earth Jurisprudence's position, framed by a first principle of basic human survival, must remain humble and self-effacing.

27   In many respects Foucault's concepts are similar to the concepts of paradigm and paradigm shift, developed by American philosopher Thomas Kuhn for describing revolutions in science and applied to cultural contexts by Fritjof Capra and others (cf Fritjof Capra, 'Paradigms and Paradigm Shifts' (1986) 9(1) *ReVision* 11). On the similarities and differences, see Giorgio Agamben, *The Signature of All Things: On Method* (Zone Books, 2009). Paradigms as Kuhn describes them are a 'constellation of achievements — concepts, values, techniques, etc — shared by a scientific community and used by that community to define legitimate problems and solutions': Thomas Kuhn, *The Structure of Scientific Revolutions* (University of Chicago Press, 1962) 43. Cf also Charles Taylor's concept of the 'social imaginary': Charles Taylor, *Modern Social Imaginaries* (Duke University Press, 2004), and Stanley Fish's concept of 'interpretive communities': Stanley Fish, *Is There a Text in This Class? The Authority of Interpretive Communities* (Harvard University Press, 1982).

28   While this discussion uses the verb 'to be' when referring to *epistemes*, this should be read as 'can be characterised as', rather than as a means to reify the concept. On reification in the related context of legal reasoning see Peter Gabel, 'Reification in Legal Reasoning' in S Spitzer (ed), *Research in Law and Sociology: Volume 3* (JAI Press, 1980).

29   Foucault, above n 1, xxiii.
30   Ibid xxvi.
31   Ibid xix.
32   Ibid xxi.
33   Ibid xviii.

having of thoughts, and so constitutes the first condition of possibility for discourse.[34] This 'beforeness' or 'priorness' to all other thought is crucial: an *episteme* must exist for thought to be possible, and so always already exists prior to that thought. All thought is done 'through' the *episteme* that makes it possible. For this reason, an *episteme* is like wind eddying through a field: the wind is invisible, but if one is still enough, one might see its imprints moving through the grasses.[35]

(b). Episteme as epoch

An *episteme* is also an epoch in time. As well as being the configuration of mind that renders thought possible, it is the period of time for which this configuration of the mind stays in place. Foucault suggests that a Renaissance *episteme* existed up until about the end of the sixteenth century, when it was overturned by a Classical *episteme*.[36] This Classical *episteme* existed for roughly two hundred years, until the end of the eighteenth century, when it was overturned by the Modern *episteme* (the current, anthropocentric one) that exists at present.[37]

(c). Episteme as configured around objects and methods

An *episteme* is characterised by, arranged around, and defined in terms of its objects and methods. The 'objects' of an *episteme* are the 'things that can be seen' within that *episteme*. The 'methods' are the 'ways by which those things can be seen'.[38] They determine what can exist and be known, and how it can exist and be known. Each *episteme* has profoundly different objects and methods: a new *episteme* 'defines objects not ... apparent' in the preceding *episteme*, and 'prescribes methods that [have] not previously been employed' for the study of those objects.[39]

This means that the objects of a particular *episteme* are the sum total of all things capable of meaningfully existing within it. They are the entire span of entities that the configuration of the *episteme* permits to exist. The methods of a particular *episteme* are all the ways in which those objects can be seen (perceived) and studied:

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[34]   In the Kantian sense: cf ibid xxiv. Sara Mills describes an *episteme* as 'the sets of discursive structures as a whole within which a culture formulates its ideas': Sara Mills, *Discourse: The New Critical Idiom* (Routledge, 2004), generally 50–5. Cf also Hubert L Dreyfus and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (University of Chicago Press, 1983) 18. Summary definitions always run the risk of oversimplifying a complex and nuanced concept: the best reference point is always a close reading of Foucault's work itself.

[35]   Although it should also be noted that such metaphors carry their own implications: cf George Lakoff and Mark Johnson, *Metaphors We Live By* (University of Chicago Press, 1980) chs 2–3.

[36]   Foucault, above n 1, 55.

[37]   Cf ibid 235.

[38]   As in the phrases 'object of science' (as opposed to object as 'goal' or 'objective') and 'method of science'.

[39]   Foucault, above n 1, 275.

the range of intellectual activities, directions, processes, by which one may conceive of and comprehend the *episteme*'s objects.

For these reasons, an *episteme*'s determination of *what* can exist and be known, and *how*, simultaneously determines what cannot exist, and ways of knowing that are invalid or meaningless. In particular, the presence of particular objects and methods silences and precludes all other possible objects and methods: *inclusio unius est exclusio alterius*, as the judges might say. An object that is not permitted by the *episteme* cannot exist or be known, and permissible objects cannot be known via an impermissible method.[40] In determining possibilities, an *episteme*'s objects and methods also determine impossibilities — dictating both what is thinkable and unthinkable.

2. *THE CONCEPT OF EPISTEMIC CHANGE*

(a). Epistemic change as abrupt and all-encompassing

At its simplest, epistemic change is some event or happening, after which there exists a new *episteme*. According to Foucault, an *episteme* continues to exist until a tipping point of some kind is reached, at which point a new *episteme* suddenly exists instead. He suggests that the change from the Classical to the Modern *episteme* took less than five years — a profound rearrangement for such a short period of time. During this time, Production replaced Exchange in the economic sphere, giving rise to capital (a new object) and the analysis of forms of production (a new method); Life replaced Resemblance, in the biological sphere, giving rise to the character-function relationship (a new object) and comparative anatomy (a new method); and Language replaced Discourse, in the philological sphere, giving rise to language families (a new object) and analysis of rules governing consonant and vowel modification (a new method).[41]

The change is all-encompassing because the objects and methods of the new *episteme* set up a universe quite different to the one that previously existed: they create a different space and time, making the old *episteme* (literally) unthinkable. Looking from within a separate epistemological space, it becomes impossible for one to conceive how the inhabitants of the previous *episteme* thought the world as they did.

(b). Epistemic change as existing outside epistemology

If epistemology is defined as the study of knowledge, then it is the study of how one knows objects existing within a particular *episteme*. Epistemic change, by nature,

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[40]   Which gives rise to confusion — summed up by Foucault in his discussion of Barthes' 'certain Chinese encyclopedia': Foucault, above n 1, xvi. It is this, too, on Foucault's analysis, that renders some older writings so bizarre, with their apparently earnest inclusion of magic, spirits and supernatural beings in their schemas: the methods current in their *episteme* are no longer current in ours.

[41]   Ibid 274–5.

exists outside this range: it is the event that separates two *epistemes*, and so cannot 'be' in either. Put another way, insofar as any event can be contemplated only from within a particular *episteme* (the configuration of mind that enables contemplation at all) epistemic change can only be seen from one side of the change or the other — a chasm over which a culture somehow jumps, visible from either side, but not from the moment of the jump.[42]

(c). Epistemic change as involving the introduction of new objects and methods

The objects and methods of any particular *episteme* constitute that *episteme*. A change in *episteme*, therefore, necessarily brings new objects — a new set of 'things' into which the universe is broken up by human thought — and new methods — novel ways of perceiving and studying those objects. This does not involve a simple laying of new categories over old ones, or the finding of a new perspective from which to contemplate old objects. The current *episteme* is not simply 'replaced'. Rather, the new *episteme* imposes a new time and space that makes the old articulation, the old *episteme*, impossible.[43] Importantly, this change is not a teleological evolutionary step towards some final place. Instead, it is a rearrangement of the universe from first principles, so that the disjuncture between the two *epistemes* is all-encompassing and complete.[44]

Foucault asserts that epistemic change proceeds in two broad phases. In the first phase, the objects that will come to constitute or configure the new *episteme* are 'introduced — or reintroduced with a particular status — into the analysis of representations and into the ... space in which that analysis had hitherto been deployed.' These objects do not yet have the significance they will come to have in the new *episteme*, but they are present where they were not before.[45] The coming-into-being of these new objects, in turn, facilitates entry into the second phase of epistemic change. Before those new objects are posited, even innocently, the 'new thinking' required for entry into a new *episteme* cannot occur. Once they have been posited, during the second phase they are 'taken up', and the new *episteme* emerges. This makes the second phase the one in which revolutionary change occurs. The objects

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[42]   One senses the potential for fruitful investigations drawing on the work of other contemporary philosophers: Alain Badiou, *Theoretical Writings* (Continuum, 2004), ch 8 (on 'event'); Jean-Luc Marion, *Being Given: Towards a Phenomenology of Givenness* (Stanford University Press, 2002) (on 'saturated' phenomena); Giorgio Agamben, *The Open: Man and Animal* (Stanford University Press, 2004) (on 'caesura').

[43]   Foucault, above n 1, 251.

[44]   Ibid 274.

[45]   Foucault writes that '[While their function is] still only to provide authority for this [existing] analysis, to allow the establishment of identities and differences, and to provide the tool — a sort of qualitative yardstick — for the ordering of nature [... none of these new concepts can be] defined, or established [... by the process they were previously; and] the space of analysis [can] not fail, therefore, to lose its autonomy': ibid 273.

introduced in the first phase provoke an 'irremediable modification ... [of] knowledge itself',[46] which leads to the ascendance of the new objects, along with the new methods that will come to be used for knowing them.[47]

D. EARTH JURISPRUDENCE'S PROJECT

This paper suggests that our culture is presently in the first phase of epistemic change. Theorists and others working in environmental and pure philosophy have striven hard to think the world differently (perhaps ecocentrically): to imagine themselves to places where anthropocentrism holds no sway. In so doing, they have introduced, or clarified, concepts of ecology, systems and networks — potential objects for an ecocentric *episteme* — into philosophy and the analysis of representations.[48] New methods, or what might be the beginnings of new methods, are also in circulation: the work of Deleuze and his more lucid interpreters comes first to mind.[49]

The task for Earth Jurisprudence, therefore, is twofold. First, it must contribute to the coherent theorising of these potential new objects and methods in the context of their use in a coming *episteme*. As this process unfolds, the field must then harness its knowledge of current objects and methods, and their manifestations in legal and governance structures, to articulate the change to the new objects and methods it has helped to theorise.

One might characterise the theoretical part of this process in contrast to Foucault's archaeology. The archaeological method is retrospective and inductive: it studies past *epistemes* and epistemic changes by excavating their texts, symptoms, and surface manifestations, and from these particularities, works inductively 'backwards' to theorise the general configurations of past *epistemes*.[50] The method proposed for

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46   Ibid 274.
47   Cf ibid 263–4, where Foucault emphasises the absence of teleology: 'It would be false — and above all inadequate — to attribute this mutation to the discovery of hitherto unknown objects ... [or to say that it occurred] because all these modes of knowledge corrected their methods, came closer to their objects, rationalized their concepts, selected better models of formalisation — in short, because they freed themselves from their pre-histories through a sort of auto-analysis achieved by reason itself'.
48   Key texts in this endeavour might include Naess and Rothenberg, above n 13, and Thomas Berry's '10 Points for Jurisprudence Revision', in Berry, above n 25, 149–50.
49   Clearly, there are significant differences in the starting-points of Deleuze and Foucault, and so significant tensions arise in looking to Deleuze's work in discussions through a Foucauldian, linguistic-turn lens. For reasons of space, this paper does not seek to address these tensions, but identifies that reconciliation of the two quite different theoretical positions would be required for Deleuzean concepts to mesh with any epistemic framework, or vice versa.
50   The Stanford Encyclopedia of Philosophy notes: '[t]he premise of the archaeological method is that systems of thought and knowledge (*epistemes* or discursive formations, in Foucault's terminology) are governed by rules, beyond those of

Earth Jurisprudence, in contrast, functions prospectively and deductively, seeking to articulate new epistemic objects and methods at a general, overarching level, and then investigating how these might manifest on particular levels, both in the intimate 'everyday' of individual consciousness, and in the collective consciousnesses of legal and governance systems. This undertaking encounters the same challenges faced by any attempt to implement new theory in practice: converting and communicating — *translating* — insight from individual to cultural levels. It is prefigurative:[51] thinking the new from within the old, and bringing about change from within a resistant and broken system.

In line with these assertions, the rest of this paper develops a critique of existing objects and methods, in order to destabilise them and reiterate their contingency; and briefly outlines existing concepts that might help to configure new objects and methods.

IV.   Current and future epistemic objects

In this paper's thesis, the objects of the current, anthropocentric *episteme* are identities, in the form of dichotomies. These dichotomies are sets of binary terms that can be expressed in the form X/Not X: for example, 'white/not white', or 'good/not good'. Arguably, the current *episteme*'s foundational dichotomy is:

Subject/Not Subject (or Subject/Object; Identity/Non-Identity)

which, anthropocentrically speaking, translates as:

Human/Not human (or Human/World).

This configuration makes the human subject primary, and generates the 'Not human, Not subject' other because of and in relation to it.[52]

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grammar and logic, that operate beneath the consciousness of individual subjects and define a system of conceptual possibilities that determines the boundaries of thought in a given domain and period.' Gutting, Gary, 'Michel Foucault', *The Stanford Encyclopedia of Philosophy* (Summer 2013 Edition), Edward N Zalta (ed), <http://plato.stanford.edu/archives/sum2013/entries/foucault/>. See also Michel Foucault, *The Archaeology of Knowledge* (Pantheon Books, 1972) Part 4; Clare O'Farrell, *Michel Foucault* (Sage Publications, 2005) ch 5.

[51]   A big thanks to Peter Burdon for drawing the author's attention to the idea of prefigurative work.

[52]   Indeed, many other dichotomies — meaningful/not meaningful, valuable/not valuable, etc, might be read as derivations of human/not human. Lakoff and Johnson argue that most metaphors humans use to conceive of their world stem out of a core group of metaphors arising from primary physical experience: Lakoff and Johnson, above n 35, 14.

To critique this dichotomy, this paper adopts and extrapolates Stanley Fish's critique of the Reader/Text dichotomy[53] in literary criticism. In particular, it discusses three of the dichotomy's harmful consequences:

1. the way it establishes and maintains false divisions, and perpetuates

    hierarchies;

2. the way it stifles creative new approaches to interpreting or understanding

    the world, by confining the possible loci for meaning;

3. the way it valorises spatiality, or the spatial experience of interpretation, at

    the expense of the temporal.

A. THE READER/TEXT DICHOTOMY ACCORDING TO FISH

The existence of the Reader/Text dichotomy was a central assumption of formalist literary criticism, which posited its two entities as the only two in which meaning could inhere. According to formalist thought, if meaning resides in the Text, then it is conceived of as an active object overflowing with meaning, ready for a passive recipient reader to absorb and store in themselves.[54] Alternatively, if meaning resides in the Reader, he or she is conceived of as an interpreting machine, whose machinery illuminates the recesses of an otherwise meaningless text.

Fish demonstrated, against then-current thinking,[55] that conceptions of the Text as the locus of meaning could not account for textual ambiguity (the fact that two different readers may have different, equally valid interpretations of the same text). He soon concluded, however, that the reverse position was equally untenable: conceptions of the Reader as locus of meaning cannot account for the fact that, in reality, different readers often reach the *same* interpretation of texts. Recognising this problem led Fish to abandon the dichotomy completely, in favour of a concept of 'interpretive

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[53]   Neither the concept that dichotomies are harmful, nor the academic strategy of critiquing them, is new. This paper uses Fish's work in its analysis because Fish's discussion of the issue in terms of 'texts' and 'readers' continues to foreground the notion of interpretation, and has a literary focus shared by much of Foucault's writing.

[54]   This conception involves an enabling metaphor of 'meaning' as a 'thing in space' — like a liquid, or a thing that can be taken, given, apportioned — which has real implications. A useful thought experiment might be to consider other possibilities and their implications. Cf Lakoff and Johnson, above n 35, Preface.

[55]   Fish suggests that this position is best represented by William Wimsatt and Monroe Beardsley's essays on the 'affective and intentional fallacies': see Fish, above n 27.

communities'. The critiques he developed in the process, however, serve by extrapolation as a useful critique of current epistemic objects.

B. THE DICHOTOMY AS MAINTAINING FALSE DIVISIONS AND PERPETUATING HIERARCHIES

As Fish realised, in many respects the separation between Reader and Text is arbitrary and false. The intractable questions that arise when either is posited as the sole locus of literary meaning suggest that a true description needs to include *both*, and be framed in terms of their interconnectedness. The same is true of the Human/World dichotomy. Humans are formed of the same materials as the world they inhabit. As living creatures, moreover, they exist in the same ecological systems as all other entities, and amongst the complex networks of interrelationships — ecological, geological, evolutionary — that sustain life on Earth. Humans must remain within the limits of these systems to survive. In ecological terms, they must be understood as 'parts amongst many', within these systems, all of whose parts are meaningful and valuable. In still more fundamental terms, twentieth century developments in science at very small scales points to the meaningfulness of the same principle at a subatomic level: in particular, the fact that the world cannot be described at such levels *except* in terms of networks and interrelationships.[56]

These insights are not new, and do not lack evidence. However, at an epistemic level, the Human/World dichotomy maintains a false division between humans and their world. In reifying the 'Human' as an entity discrete from its environment, and the 'World' as an Other, an absence, a 'Not human',[57] the dichotomy compels thought to occur in terms of separation, difference, and independence. Moreover, the human is constituted in a position of superiority over the world, via a process analogous to linguistic marking. All dichotomies contain one 'marked' and one 'unmarked term' where the unmarked term is primary and dominant, comprehensible in and of itself, and the marked term is only comprehensible by reference to that which defines it (the unmarked term), and often acquires negative connotations as a result. Thus, 'Human' is independently comprehensible, and superior, while 'Not human' is only comprehensible because Human exists, and acquires connotations 'red in tooth and claw': brutal, uncivilised, savage, dangerous, harmful, dead. The entrenchment of the dichotomy as an epistemic object makes it extraordinarily resilient to change, with profound ecological implications.[58]

C. THE DICHOTOMY AS STIFLING CREATIVE NEW APPROACHES TO INTERPRETING THE WORLD

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[56]   Cf Capra, above n 16; Heisenberg, above n 16.

[57]   Cf Evernden, above n 14, 20–2 (discussion of the Greek term '*phusis*' as coming to mean 'everything' and therefore meaning 'nothing').

[58]   For a perspective on the mythologies of superiority and independence framed in terms other than those of linguistic marking, cf Berry, above n 15; Cullinan, above n 15.

As Fish argued against the Reader as the sole locus of literary meaning, he realised that the presence of the Reader/Text dichotomy 'constrained in advance the form any counterargument might take'.[59] To challenge the superiority of the Reader, it seemed Fish's only option was to argue for the Text. But this was also futile: the Text raised its own intractable questions. Fish's counterargument became merely another swing of the pendulum, another move in the academic game. Neither he nor his opponents could establish their position conclusively, and debate was therefore doomed to swing between them. To escape, Fish was required to articulate a critical position independent of the dichotomy: in effect, reframing the terms of debate themselves (despite the 'tumult and the shouting'[60] of those stuck within it). The greatest problem with the dichotomy was 'not an inability to explain phenomena',[61] but rather 'an inability to see they [were] there', [62] because its assumptions meant that these phenomena would be either 'overlooked' or 'suppressed'.[63] It silenced any possibility of locating meaning in aspects of being that could become meaningful when the debate was framed in a different way.[64]

The same is true of the Human/World dichotomy. Theorists may wish vehemently to displace the Human from a position of superiority. Their only option, however, while they remain within the dichotomy, is to argue for the World (leading to misguided perceptions of ecocentrism as *opposite* to anthropocentrism, *effacing* humans). Moreover, the all-pervasive nature of the dichotomy, and its grip on thought, mean that extraordinary intellectual tenacity and creativity are required to formulate a coherent worldview that escapes the dichotomy altogether. This constitutes a profound stifling of creativity and new approaches to interpretation.

E. THE DICHOTOMY AS VALORISING SPATIALITY AT THE EXPENSE OF THE TEMPORAL

Fish suggested that the Reader/Text dichotomy founded both entities as static in space, ignoring the equally important, *temporal* dimension in which they exist — the time period of reading, or the unfolding moment of interpretation. This means that critiques conducted from within the dichotomy define 'meaning' only as 'what a reader understands at the *end* of ... a line, a sentence, a paragraph'.[65] Such a definition, in turn, suppresses any equivocations, negotiations, or reassessments — other 'meanings' — that may have been performed by readers on their way to working out what a text 'means'. It thus sets up an unrealistically static model of meaning, out of step with the temporality of the real and living world.

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[59]   Fish, above n 27, 2.

[60]   Rudyard Kipling, 'Recessional: a Victorian Ode' in Francis O'Gorman (ed), *Victorian Poetry: An Annotated Anthology* (Blackwell, 1995).

[61]   Fish, above n 27, 152 (emphasis added).

[62]   Ibid.

[63]   Ibid.

[64]   One is forcefully reminded of Foucault's discussion of Barthes' 'certain Chinese encyclopedia': Foucault, above n 1, xvi.

[65]   Fish, above n 27, 3.

The same problem occurs with the Human/World dichotomy. In setting up two reified, spatial and static entities, it configures a concept of 'meaning', and focus for critical inquiry, out of step with the real world. 'Meaning', in this real world, is never static. Throughout their lives, humans are *constantly* renegotiating, equivocating and refining their understandings, both individually and as members of particular cultures. The world itself is in an equally constant state of change: seasons, geographies, populations and other factors shift constantly, as the ecosystems of which they are part strive to maintain the balance that will perpetuate life. In denying these things, and insisting on a static model of meaning, the Human/World dichotomy fails abjectly in describing the world and, more gravely still, facilitates and encourages action that flies in the face of that world's reality.

F. POSSIBILITIES: CONFIGURATIONS OF OBJECTS IN AN ECOCENTRIC *EPISTEME*

What alternatives exist to epistemic objects founded in dichotomy? Some discussion involves thoughts of 'collapsing' dichotomies and developing monist configurations of objects. What this 'collapse' looks like in practical terms, however, is unclear, and the concept itself has been criticised in persuasive terms by Timothy Morton and others.[66] Arguably, there is more potential in the opposite movement: in complicating or removing dichotomies by adding further elements, in order to develop non-dichotomous, pluralist configuration of objects. The concepts of systems and networks coming out of ecology and systems theory have potential in this respect. Perhaps more interesting still is the potential for syntheses of such concepts with the ontologies of Gilles Deleuze and/or Alfred North Whitehead. Both thinkers' work is remarkable for its exploration of difference and immanence. Deleuze's tactic in *Difference and Repetition* of reversing the priority of identity and difference has particular promise. Work emerging out of Object-Oriented Ontology, though still in early stages, might be an entry point in this respect. All such unsettling concepts might pave the way for configuring new epistemic objects.

G. CURRENT AND FUTURE EPISTEMIC METHODS

In this paper's thesis, the currently dominant epistemic method is a form of 'teleological inquiry'. This method of knowing is grounded in the impossible *telos* of a world of complete factual knowledge. In striving for such a world, the method produces more and more atomised knowledge that has less and less relation to the real.

To critique this method of teleological inquiry, this paper adopts and extrapolates Anthony Kronman's characterisation of the research ideal — holding this, like the Reader/Text dichotomy, to be a specific instance of a broader problem. In particular, it discusses three harmful consequences of teleological inquiry:

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[66]   See Timothy Morton, *The Ecological Thought* (Harvard University Press, 2012).

1. the way its push for ever-increasing specialisation hinders generalism and transdisciplinary work;

2. the way it leads to 'knowledge of knowledge' and insular, self-referential discourse;

3. the way it valorises an unrealistic, unsustainable static model of a future world.

H. THE RESEARCH IDEAL ACCORDING TO KRONMAN

Kronman contends that the research ideal is the 'central, organising purpose of higher education' in the modern university.[67] It emerges out of a view of knowledge as a limitless set of discrete facts.[68] In the context of this worldview, the *telos* of the research ideal is a world in which knowledge of all facts is achieved: the compilation of a complete and perfect encyclopaedia. This is impossible. Nonetheless, it functions as a Kantian 'regulative ideal' — a goal that, 'though unattainable, gives purpose and direction to the effort to reach it'.[69] It compels academics to focus on ever more specialised research questions, ever more arcane fields, in order to participate in 'the production and dissemination of scholarship',[70] the development of minute 'original contributions', and the ultimate commodification of knowledge.[71]

Like Fish's work, Kronman's critiques of the research ideal lead him ultimately to advocate for its abandonment, in favour of an entirely different approach to higher education and scholarship. Nonetheless, his critique, like Fish's, can be extrapolated to serve as a critique of teleological inquiry as an epistemic method.

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[67]   Anthony T Kronman, *Education's End: Why Our Colleges and Universities Have Given Up on the Meaning of Life* (Yale University Press, 2007) 91, generally 91–136. Kronman traces the historical development of the ideal via 19th century German universities, and what he characterises as the perversion, or misdevelopment, of ideas of *Bildung* and the extreme constructivism found in the work of radical postmodernists. Berry critiques the modern university on strikingly similar, though differently expressed, lines: see Berry, above n 11, ch 7.

[68]   Kronman, above n 67, 102–3.

[69]   Ibid 105, citing Immanuel Kant, *Critique of Pure Reason* (Cambridge University Press, 1998) 520–21.

[70]   Ibid 78, 91.

[71]   Kronman notes that its emergence, and the emergence of the corps of academics practising it, coincided roughly with the emergence of 'professional bureaucrats' in the public sphere, and 'capitalist entrepreneurs' in the private one (ibid 107) — at a time, unsurprisingly, which links remarkably closely to Foucault's estimation of the time of last epistemic change: see Foucault, above n 1, 273.

I. HINDRANCE OF GENERALISM AND TRANSDISCIPLINARY WORK

The *telos* of a pure, complete encyclopaedia of knowledge resembles the separation of Borges' maps:[72] an elegant system of self-referential knowledge, entirely separate from the mortality and 'imperfection' of the world. Such a goal, however, compels a shift in focus from the general to the particular, and a shunning of broad, holistic or encompassing approaches in favour of those that confine themselves to increasingly tiny fields of specialisation. The tired PhD student's joke, that they began knowing nothing about everything, and finish knowing everything about nothing, rings uncomfortably true in this context. Such is the deeply flawed reality of modern thought and work. The assumptions of teleological inquiry make it impractical, even foolhardy, to embark upon programs of generalist or transdisciplinary research. The personal and professional incentives *against* broad and courageous thought, against reflection aiming for new syntheses, fresh schemas, crosspollinations, unexpected connections, grow and grow. And yet, there has never been a greater need for such courageous thought. The *telos* of the research ideal, and of teleological inquiry, only hinders responses to ecological crisis.

J. 'KNOWLEDGE OF KNOWLEDGE' AND INSULAR, SELF-REFERENTIAL DISCOURSE

Access to space and time for academic work represents a life of great privilege, and deserves mindful use. And yet, teleological inquiry hinders thinking that aims for a sincere, intimate engagement with the real, and with the endlessly-unfurling present. It compels academics to focus, often exclusively, on human discourse, and dictates that the world be understood by reference to past human thought, rather than by personal reflection and mindfulness: by cold detachment, rather than being-in, standing quietly amongst, the enormity of the world. The Sisyphean nature of the *telos* belittles individual attempts to understand their place in things, and cheats thinkers of any firm foundation on which to face their own deaths, and the cycles of life and death that characterise the real world.[73] More simply still, as Thomas Berry notes, 'a picture of

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[72]   If the knowing Human subject represents mind, thought, reflection, reason, then the World, by contrast, becomes associated with the senses and sensate experience, which are cast as crude, unreliable, irrational, misleading, leading researchers to focus on the mind and its ways of knowing, as opposed to insights from their senses, or knowledge about the world outside of mind. Rational objectivism, as Kronman notes, scorns experience: above n 67, 67.

[73]   See Albert Camus, *The Myth of Sisyphus* (Penguin, 2005). Such regulative ideals are like Jay Gatsby's tragic yearning for the green light on the far dock, as he chases the 'orgiastic future that year by year recedes before us. It eluded us then, but that's no matter — tomorrow we will run faster, stretch out our arms farther ... And one fine morning — So we beat on, boats against the current, borne back ceaselessly into the past.': F Scott Fitzgerald, *The Great Gatsby* (Scribner, 2004) 180. See also Plutarch, *Pyrrhus* (75) <http://classics.mit.edu/Plutarch/pyrrhus.html>.

nature' will not sustain the human species: thought or discussion alone cannot provide for the material survival of human communities.

Academics spend years, sometime decades, bringing themselves up to speed on all that has been said by others. Many of them then build careers and spend lives speaking exclusively in terms of these past discourses. They define themselves with reference to the past, which confines them; the accretion of meaning around the terms in which they speak confines them even more. In this way, teleological inquiry facilitates a slip into a life focussed entirely, and safely, on mental constructs, ideas, arguments and theses that exist in the mind, but which allow a forgetting of the real world and its ecological crises. Legal philosophers argue about whether or not the common law has 'fused' with equity; whether a particular philosopher's approach can *really* be categorised as 'neo-Kantian', or is perhaps more 'Kantian-Dworkinian'; whether 'inviolable duties' exist in statutes to defeat privative clauses; whether particular tort cases have or have not extended the scope of hypothetical duties, while beyond their towers, Rome burns.

The work of those in the past is often venerable and intellectually groundbreaking, and provides much from which to draw in contemplating the present. As former Justice Michael Kirby observes, however, in the context of a particularly vexed debate amongst the academic legal community, 'proper respect for [a] great judge should include an acknowledgement that occasionally, changing social circumstances and other legal developments require adaptation of what he wrote 60, 70 or 80 years ago.'[74] This is truer still of philosophical thought: it belittles the intellectual struggles of the great thinkers of the past, and their deep struggles to engage sincerely with the real world in which they lived, to use their thought as an excuse to ignore contemporary problems. Teleological inquiry, in fostering 'knowledge of knowledge' and self-referential discourse, cuts thinkers further and further off from their physical worlds.

K. VALORISING AN UNREALISTIC, UNSUSTAINABLE STATIC MODEL OF A FUTURE WORLD

The *telos* of teleological inquiry — that world of perfect knowledge, divorced from the real world — is static. This, in turn, imports a concept of perfection as stasis: as lack of movement,[75] leading to a more general orientation away from change, towards harmful conservatism of thought. It implies the possibility of some future moment at which the work of thought, and so life, will be 'completed': the achievement of a world of pure

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74   Michael Kirby, *Equity's Australian Isolationism* (2008) <http://www.law.qut.edu.au/ljj/editions/v8n2/pdf/10_CurrentIssues_Equity_KIRBY. pdf>.

75   Cf Daniel Quinn, *Ishmael* (Bantam/Turner, 1995) 21. Quinn discusses an interpretation of the biblical story of dominion, whose logical endpoint is utter domination by humans of everything (which presumably brings about the death of the species).

knowledge, leading to a universal halt. Obviously this is unrealistic. The real world is characterised by constant flux, change and movement. Ecosystems represent complex communities of living and non-living entities and phenomena, whose continued healthy existence depends on the fluctuation and interplay of all other entities and phenomena, such that the whole maintains equilibrium. In advocating a concept of static perfection, teleological inquiry makes itself unable to recognise or engage meaningfully with this state of affairs. Moreover, it promotes thought that is empirically false, harmful, and self-destructive.

L. POSSIBILITIES: CONFIGURATIONS OF METHODS IN AN ECOCENTRIC EPISTEME

What alternatives to teleological inquiry exist? Again, concepts developed out of Deleuzean/Whiteheadean frameworks come to mind. Their emphasis on immanence and becoming might pave the way for an epistemic method more intimately and humbly engaged with the present. As for epistemic objects, there is great potential for synthesising these concepts with methods of inquiry that contextualise 'knowing' in the context of processes and cycles identified in evolutionary theory, systems theory and cybernetics. David Christian's 'Big History' is fascinating in this regard: Christian presents a view of the human species, and the Earth itself, conceived of in evolutionary terms.[76] Extrapolated, this could lead to an epistemic method that knows its objects in terms of complexity and the flow of energy, and more generally still in terms of tensions between order and entropy. Such methods could facilitate the much-needed focus on the world in its spatiotemporal diversity, the human in its context, and the endlessly-unfurling immanence and becoming of human interpretation of the world.

V.   Epilogue: sand washed clean

> [So man arrives,] not at the very heart of himself but at the brink
> of what limits him … and makes us believe that something new
> is about to begin, something we glimpse only as a thin line of
> light low on the horizon … the scattering of the profound stream
> … by which he felt himself carried along.

> Foucault[77]

After the storm, a creature walks along the beach, along the expanse of sand at the edge of the world. Its face is light, warm in the sun of early morning. It stands in the wash and looks at the cliffs over its shoulder, in the distance. The clouds above them are dark, but they recede. The sky is clearing.

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[76]   David Christian, *Maps of Time: An Introduction to Big History* (University of California Press, 2nd ed, 2011).

[77]   Foucault, above n 1, 418–20.

The water is cold, and the sound is loud; the creature bends down, and traces its fingers through the wash as the water returns. For a moment there was an outline, of something familiar, an image underneath the foam. But when the creature looks again, the sand is clean. It watches as the tide flows back again, towards its feet, around them. Then it stands, as the water ebbs, and continues on.

'The erasure of the human' has two readings: one immediate and daunting, and another quieter, more promising. With this alternative reading hope returns, for the human as species, and for the Earth and its entities. It returns for several reasons — because there are still possibilities for great work, for *a* great work,[78] even in the face of all that has gone wrong: because we may still choose, rather than marching blindly forwards. Hope returns because the human species stands not on a single path, but at a fork in the road;[79] at a moment where, even in the darkness, more day is still to dawn;[80] where there is light, 'low on the horizon';[81] at the founding of a new *episteme*.

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[78]   Berry, above n 11.
[79]   See Rachel Carson, *Silent Spring* (Mariner, 2002) 277 (citing Robert Frost, 'The Road Not Taken' in *Mountain Interval* (Henry Holt and Co, 1916)).
[80]   Henry David Thoreau, *Walden: An Annotated Edition* (Houghton Mifflin, 1995) 324.
[81]   Foucault, above n 1, 149.