Journal of international and digital communication:
Sustainability perspectives

2025 Edition

Theoretical Impulses + Case Studies

Sustainability Beyond Human-Centrism: Cultural Perspectives on the Rights of Nature

Prof. Dr. Milena Valeva,
Prof. Dr. Kathrin Nitschmann (Ed.)

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Institut für Internationale & Digitale Kommunikation

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Preface

This issue presents the contributions of the participants of the international DAAD Blended Mobility Project "Giving nature its own rights - ethical and legal perspectives and the influence on the realization of selected SDGs" which took place in wintersemester 2025 at Trier University of Applied Science, Environmental Campus Birkenfeld (UCB) under the guidance of Prof. Valeva and Prof. Nitschmann and in collaboration with the Pontifical Catholic University of Peru and the University of Coimbra supported by Prof. Zegarra (PUCP) and Prof. Aragão (University of Coimbra).

The DAAD funded project used the concept of global education to strengthen students' democratic competences and social participation and integrates intercultural dimensions into teaching. Its content is in the context of Education for Sustainable Development (ESD) and is linked to the curricular content of the studies "Non-Profit Management", "Environmental Economics and Environmental Law" and "Sustainable Business and Technology" at the UCB. As part of the project, students and professors from Peru and Portugal visited the UCB for a workshop week in the winter semester 2024/25.

Understanding and methods for interpreting the global agenda of the UN regarding the SDGs were developed within the framework of this ESD project. Students worked together in teams virtually and in person under the guidance of experts to critically evaluate existing anthropocentric systems and their imbalances and to develop strategies for overcoming the challenges of an eco-centered approach for the law and the system in general (institutions, companies, civil society).

Ahead of the mobility phase and the technical content on the SDGs and diverse Rights of Nature (RoN) perspectives, language and culture were key themes in the two virtual kick-off events. This approach made it possible to raise transcultural and ecological awareness and thus paves the way for interdisciplinary knowledge building in teams. The intense mobility week started off with creating international mixed teams which were the work groups for the whole week. Input was given by experts within moderated panel discussions referring to different perspectives such as ethics and society and law and culture.

The project focused on the Hunsrück-Hochwald National Park as a natural entity and local example, serving as a starting point for case studies from selected countries to provide a broad basis for interpreting SDGs 13, 14, 15, and 16. Students were introduced to the biodiversity of the park by an expert ranger and used it as an experience-oriented and stimulating place to experience the intelligence of nature.

To perform a well-prepared simulated parliament debate, four internationally composed teams were defined, whereby a particular real case study in the area of RoN was assigned to two teams. The preparation of the debate included the assignment of the debate's roles to the team's members and clarification of the functions of the given roles. The material preparation included research for and discussion about the relevant information, and the training of the argumentation scenarios. They prepared themselves for two possible scenarios: confirmation of the launching of RoN or rejection of it. The two case studies were defined as follows:

1. Grant legal rights to the Maranon River, demanding its protection as a rights-bearing entity, now!
2. Grant the status of a subject of rights to the little fox "Run Run", now!

The debate concept allowed the students to transfer their theoretic knowledge in practical skills and thus contributes to the learning outcome of defending democratic values by contributing actively in democratic processes. With the idea to perpetuate the outcome of the project this issue publishes the student works related to the final debate and is completed by professors' perspectives.

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Foundations for a theory of radical legal eco-innovation: the paradigm of Rights of Nature

Author: Prof. Dr. Alexandra Aragão

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1 The urgency of legal effectiveness in state of emergency

Pursuing and achieving legal effectiveness is crucial for the Law to fulfil its role as an instrument of social transformation. On the European scale, legal effectiveness is enshrined in Article 13 no. 1 of the Treaty on European Union: "the Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions". In the context of the climate and environmental emergency, proclaimed by the European Parliament Resolution since 2019, effectiveness is of paramount importance. Paving the way for the European Green Deal[1], the Resolution "declares a climate and environment emergency; calls on the Commission, the Member States and all global actors, and declares its own commitment, to urgently take the concrete action needed in order to fight and contain this threat before it is too late"[2]. The proclamation of state of emergency is the recognition that the environmental and climatic foundations of life are under threat. Living in a state of exception, the European Union faces a period in which extraordinary efforts must be made and resources must be invested to drive structural change, enabling the transition to a new development path.

In a status of proclaimed emergency and in accordance with the principle of progress enshrined in article 37 of the Charter of fundamental Rights of European Union[3], the EU had no other option but to institute the European Green Deal. The Green Deal is a Pact "to bring together citizens in all their diversity, with national, regional, local authorities, civil society and industry working closely with the EU's institutions and consultative bodies". The Green Deal aims to "put Europe firmly on a new path of sustainable and inclusive growth", through the design of "a set of deeply transformative policies".

2 A theory of legal eco-innovation

In exceptional times of environmental and climate emergency, the European Green Deal is a licence to innovate. A duty of legal eco-innovation is emerging.[4]

Legal-eco-innovation is the systematic process of creation of novel legal instruments designed[5] for attaining pro-environmental objectives more effectively through transformative change.

The theory of legal eco-innovation is a subtype of the theory of change[6] based on innovation for environmental sustainability. It is a narrative explaining how a specific innovative action or set of actions will lead to the desired change towards higher levels of sustainability. The theory of legal change presents the innovative legal steps needed to achieve a pressing goal, the reasons supporting the need to eco-innovate and the logic behind the journey from the current state of deep ecological crisis to the desired societal transitioning to environmental and climate sustainability.

[1] Communication from the Commission on The European Green Deal (Brussels, 11.12.2019 COM(2019) 640 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN).

[2] The Resolution was adopted by the only institution of the EU that is democratically elected by the European citizens, the European Parliament, on the 28th November 2019 (https://www.europarl.europa.eu/doceo/document/TA-9-2019-0078_EN.html) and should benefit nearly 450 million European inhabitants.

[3] Article 37 on Environmental protection reads: "a high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development".

[4] Alexandra Aragão (2023) Duty of Legal eco-innovation for sustainability, Implementing the UN SDGs- Regional Perspectives, SDGs in the European Region, Springer https://link.springer.com/referenceworkentry/10.1007/978-3-031-17461-2_96 .

[5] An historic example is the creation of the administrative procedure of environmental impact assessment, which was a new legal instrument developed expressly to meet preventive and participatory objectives before the approval of projects likely to have environmental impacts (J. Glasson, R. Therivel, A. Chadwick (2005) Introduction to Environmental Impact Assessment, Routledge, Oxfordshire.

[6] Paul Brest (2010) The Power of Theories of Change, Stanford Social Innovation Review, Spring 2010 (https://ssir.org/articles/entry/the_power_of_theories_of_change#). Dana H., Taplin, Heléne Clark (2012) Theory of Change Basics. A primer on theory of change, AktKnowledge, https://www.theoryofchange.org/wp-content/uploads/toco_library/pdf/ToCBasics.pdf

[7] In an industrial context, J. M. Utterback and W. J. Abernathy defined, back in the 70's, the basic distinction between incremental and radical innovation. J. M. Utterback and W. J. Abernathy (1975) A dynamic model of process and product innovation, Omega, Vol. 3, p. 639-656, (https://wilsonzehr.com/wp-content/uploads/2021/04/1975-Abernathy-Utterback-A-dynamic-model-of-process-and-product-innovation.pdf)

[8] Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, the Natura 2000 Directive (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31992L0043).

[9] Paragraph 1 of the preamble of the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (https://eur-lex.europa.eu/eli/dir/2000/60/oj)

[10] According to Art. 192 n.2, the Council shall act unanimously in accordance with a special legislative procedure and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions.

[11] Paragraph 4 of the preamble of the Natura 2000 Directive.

[12] Paragraph 1 of the preamble of the water framework Directive.

[13] Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0035).

[14] Regulation 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1991).

[15] The characterization of the river basin can be seen from the French and Brazilian perspective: https://eauguyane.fr/l-eau-en-guyane/presentation-du-bassin-hydrographique-guyanais (France) www.aguaesaneamento.org.br/municipios-e-saneamento/ap/oiapoque.

[16] Regulation 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation.

[17] According to the Intergovernmental Panel on Biodiversity and Ecosystem Services, telecoupling refers to "socioeconomic and environmental interactions over distances. It involves distant exchanges of information, energy and matter (e.g. people, products) at multiple spatial, temporal and organizational scales" (www.ipbes.net/glossary-tag/telecoupling).

[18] M. E. Odijie (2021) Unintentional neo-colonialism? Three generations of trade and development relationship between EU and West Africa, Journal of European Integration, 44:3, 347-363 (www.tandfonline.com/doi/full/10.1080/07036337.2021.1902318)

[19] Anu Bradford (2020) The Brussels effect: how the European Union rules the world, New York: Oxford University Press.

The goal of the present study is to understand the need, the nature and the conditions for the legal acceptability of radical legal eco-innovation, taking Rights of Nature as an example.

3 The legal innovation spectrum

The innovation needed for the enhancement of legal effectiveness can be incremental or radical innovation[7]. Labelling an innovation as incremental or radical is not obvious and depends on the perspective from which the legal innovation is analysed. What is conventional practice in one context, can be a radical innovation in another. What is an innovation today, soon will become standard practice.

The same relativity applies when discussing legal innovation. A legal initiative may be an innovation in one legal system, but not in another. What is an incremental innovation in one area of law, can be radical innovation in another. But labelling legal innovations as incremental or radical is not black or white. There is a continuum between incremental and radical legal innovation. It can be hard, in the abstract, to determine where to place a legal innovation in the innovation intensity scale. In concrete terms, however, it is possible to determine whether a case of legal innovation occurring in specific times and in a certain legal system can be characterized as representing a continuous improvement of legal instruments or a gradual enhancement of legal processes – incremental – or a ground-breaking legal remedy or an unprecedented legal solution – radical innovation.

4 A legal innovation compendium

After the European Green Deal, examples of legal eco-innovation abound. Nature conservation and climate are areas of environmental law where legal eco-innovation is vital. Within the framework of European Union environmental policy and law, incremental and radical legal eco-innovations will be illustrated with actions already taken or discussed at the European Union level regarding nature conservation.

Following a lifecycle approach to the process of norm production and application, the examples of legal eco-innovation concern the juridical form chosen for the legal act, the legal entitlements established, the choice of the geographic scope of application, the assignment of competencies, the follow-up action, the oversight of implementation, and the criminal sanctioning.

4.1 Examples of incremental innovation

The rights and duties established for the protection of nature, are an example of radical innovation. All the other cases are examples of incremental innovation. The presentation will start with the incremental and only afterwards, the radical innovation.

4.1.1 Innovation regarding the form: European regulations for less State discretionarity

Considering that the environment is a shared competence between the European Union and the Member States, directives has been preferred so far, over regulations. The reason for preferring directives is their flexibility, leaving a larger margin of appreciation to the States, thus allowed to design an internal legal regime for the protection of nature in accordance with the national context and idiosyncrasies. Even on critical matters, such as the protection of species and habitats[8], or the protection of water,[9] the EU chose the legislative form of directives stressing the prevalence of state sovereignty on such matters.

In the framework of the competence sharing criteria of EU law, this seemed like a logic arrangement, considering that any measures affecting town and country planning, land use and quantitative management of water resources, were to be adopted not in accordance with the ordinary legislative procedure (based on majority voting) unanimously, departing from the majority rule.[10]

And yet, in the two cases mentioned, there were strong reasons to opt for a regulation. Why? For the supranational nature of the protected object. In the case of Natura 2000, species and habitats are viewed as "threatened elements of the Union's natural heritage".[11] In the case of water bodies, water is also regarded as "a heritage which must be protected, defended and treated as such".[12]

Besides, the duty to restore degraded ecosystems already existed in previous EU directives, such as the previously mentioned nature conservation and water protection directives but also in the environmental liability directive.[13]

That is why the adoption of the nature restoration Regulation in 2024[14] came as some surprise. Despite the convincing preambular reasoning regarding respect for the principles of subsidiarity and proportionality, it still represents a significant shift from the EU's traditional approach to these matters.

In the words of the Regulation, its objectives are "to ensure the long-term and sustained recovery of biodiverse and resilient ecosystems, across the European territory of the Member States, through restoration measures to be put in place by the Member States to collectively meet a Union target for the restoration of land areas and sea areas by 2030 and all areas in need of restoration by 2050, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures". The preamble concludes that this approach is "in accordance with the principle of proportionality" and "does not go beyond what is necessary in order to achieve those objectives".

This formal innovation has the potential to promote faster and more effective practices in accordance with EU law at the national level, when compared with legal progress based on EU directives.

4.1.2 Innovation regarding the scope: extra-territorial application of EU law

European norms on nature protection are essentially applicable to the territories of the Member States in the European continent and adjacent islands. In exceptional cases, the European environmental legislation, applies outside the European Continent, in the small European territories situated in the American, African and Asian regions (French overseas territories and Spanish and Portuguese outermost regions). This is the case of the water framework Directive, for instance, applicable to the French Guiana and particularly to the river Oyapock, an international river and river basin shared with Brazil.[15] Despite being a shared resource, the obligations imposed by the European water directive are only applicable to the French authorities and in the French territories.

In 2023, the so-called deforestation regulation[16] created, for the first time, a legal regime for placing on the European market of wood, oil palm, soya, rubber, cattle, cocoa and coffee regardless of whether it was produced in the European Union or in the rest of the world. According to the regulation, access to the market depends on the demonstration that the commodities are deforestation-free.

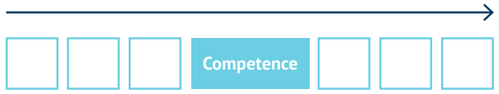
Regarding the principles of subsidiarity and proportionality, the Regulation considers that the objective of "fighting against deforestation and forest degradation by reducing the contribution of consumption in the Union, [which] cannot be sufficiently achieved by the Member States but can rather, by reason of its scale, be better achieved at Union level".

From the European perspective, the symmetry of the legal regimes – internal and external – is the expression of political coherence and contributes to sustainability worldwide. As a matter of fact, protecting European seas and forests, while ignoring the telecoupled[17] indirect effects of forest and sea degradation occurred in distant places, could be labelled as a myopic and selfish approach.

From the third countries' perspective (mainly developing countries whose economies depend on European market), it is an expression of neo-colonialism[18] or at least it reflects the Brussels effect.[19]

Despite all the criticism faced by the Regulation,[20] the broad scope of application of the European legal regulation on deforestation-free products is an innovation contributing to world wide sustainability.

4.1.3 Innovation regarding the competencies: European Technical Support Instrument



After the Green Deal, a Technical Support Instrument[21] was created to promote the Union's economic, social and territorial cohesion, by strengthening Member States' institutional, administrative and judicial capacity, and harmonising the legislative frameworks and sharing relevant best practices for the implementation of policy objectives to facilitate socially inclusive, green and digital transitions, in accordance with the Paris Agreement on climate change, the Union's 2030 climate and energy targets and climate neutrality by 2050 target, and the United Nations Sustainable Development Goals and the European Pillar of Social Rights. Besides, the Instrument should also "tackle broader environmental and social challenges within the Union, including the protection of natural capital, preserving biodiversity and the support to the circular economy and the energy transition, in accordance with the 2030 Agenda for Sustainable Development".[22]

According to the Regulation establishing the Technical Instrument, 'technical support' means measures that help national authorities to implement institutional, administrative and structural reforms that are sustainable and resilience-enhancing, strengthen economic, social and territorial cohesion and support the public administration in the preparation of sustainable and resilience-enhancing investments.

The establishment of a technical instrument constitutes an innovation and potentially a major advancement in terms of competences.

4.1.4 Innovation regarding follow-up: accessory obligations of the Member States

Legal effectiveness can be measured,[23] monitored and reported. Monitoring and reporting are accessory obligations imposed on Member States when transposing European directives or implementing European regulations.[24] A recent example of accessory follow-up duties is contained in the European Regulation on Nature restoration.[25] This regulation allows for a variety of control systems to meet the requirements for monitoring coastal, freshwater, marine, urban, forest and agricultural ecosystems. The regulation validates seven monitoring systems relying on varied methods, technologies, and functioning principles: electronic databases, geographic information systems, remote sensing technologies, earth observation, in-situ sensors and devices, citizen science data, artificial intelligence (for advanced data analysis and processing).[26] Subsequently, the Member States shall report electronically all the data to the Commission, next the EEA shall provide to the Commission a Union-wide technical report on the progress towards meeting the targets and fulfilment of the obligations set out in the Regulation on the basis of the data made available by Member States (article 21 n.5), and finally the Commission shall report to the European Parliament and to the Council on the implementation of the Regulation.

4.1.5 Innovation regarding oversight: duty of cooperation and the governance system

Beyond all the monitoring and reporting obligations determined by the legal regimes applicable to nature conservation, (on habitats, birds, water, liability, etc.) a broad performance evaluation for the implementation of EU environmental law by the Member States was also established. The overarching Environmental Implementation Review is a regular reporting tool designed to improve the cooperation between the Member States and the European institutions and reinforce the implementation of EU environmental laws and policies since 2017.[27] Country reports were produced in 2017, 2019 and 2022.

The reports are divided in two main parts: thematic areas (circular economy and waste management, biodiversity and natural capital, zero pollution, climate action) and implementation tools (financing, environmental governance).[28] In the final part, the report enumerates the environ-

[20] In December 2024 the deforestation Regulation was postponed by one year. (European Parliament legislative resolution of 17 December 2024 on the proposal for a regulation of the European Parliament and of the Council amending Regulation 2023/1115 as regards provisions relating to the date of application (https://www.europarl.europa.eu/doceo/document/TA-10-2024-0058_EN.pdf).

[21] Regulation 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0240).

[22] Paragraph 7 of the Preamble.

[23] Prieur, M.; Bastin, C.; Mekouar, A. (2021) Measuring the Effectivity of Environmental Law Legal Indicators for Sustainable Development, Peter Lang (https://www.peterlang.com/document/1114411). Prieur, M.; Mekouar, A. (2021) "Fostering Legal Indicators for Sustainable Development", Perspectives, issue n.40 Civil Society Unit Governance Affairs Office UN Environment Programme (UNEP) (https://wedocs.unep.org/bitstream/handle/20.500.11822/36277/Perspective%202021%20MAY%20D3_final.pdf?sequence=1&isAllowed=y).

[24] E. Bondarouk, E. Mastenbroek (2017) Reconsidering EU Compliance: Implementation performance in the field of environmental policy, Environmental Policy and Governance, Vol. 28, Issue 1, 2018, p. 15-27 https://onlinelibrary.wiley.com/doi/full/10.1002/eet.1761.

[25] Regulation 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1991).

[26] Article 20 n.9 of the Nature Restoration Regulation.

[27] The reports are all available online in EN (https://environment.ec.europa.eu/law-and-governance/environmental-implementation-review_en#country-reports).

[28] See, for instance, the German report for 2022 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0265).

[29] Directive 2024/1203 of the European Parliament and of the Council of 11 April 2024, replacing Directives 2008/99/EC and 2009/123/EC (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401203).

[30] Article 3 n.3 of the 2024 Directive.

ment-related projects supported by the Technical Support Instrument in each Member State.

The goal of the Environmental Implementation Review is to assess the degree of Member States compliance, bringing to the light the main implementation gaps and underlying root causes. However, by making the information accessible to all stakeholders, the Implementation Reviews also act as innovative incentives to nudge the Member States to enhance the effectiveness of EU law.

4.1.6 Innovation regarding criminal sanctioning: enforcement-driven approach

The last example of innovative measures to increase effectiveness gradually, is environmental neo-criminalization. In 2024 the European Union took a big step and adopted a new directive on the protection of the environment through criminal law.[29] The 2024 Directive imposes severe penalties for conducts "comparable to 'ecocide'". In European Union Law, these crimes are qualified criminal offences relating to intentional conducts that can lead to catastrophic results, such as widespread pollution, industrial accidents with severe effects on the environment or large-scale forest fires.

The punishment for *ecocidal offenses* is more severe than for other environmental crimes due to its catastrophic consequences. These include the destruction of large ecosystems or those of significant environmental value, the loss of habitats within protected areas, or widespread and substantial damage to air, soil, or water quality, provided the damage is either irreversible or long-lasting.[30]

This said, the real-world effects of the new criminal offences and the impact of the new criminal sanctions on the prevention of crimes remains to be seen. Depending on weather the transposition and application by Member States is ambitious or prosaic, and progressive or conservative, the criminalization of conducts "comparable to 'ecocide'" can be a ground-breaking innovation at the EU level or a continuous improvement of criminal law through incremental eco-innovation in the EU.

[31] Constitución de la República de Ecuador (2008) articles 70 to 75 on Mother Earth's (or "Pachamama") rights www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf

[32] The Law of rights of Mother Earth reflects the Indigenous concept of "Vivir Bien" (Living Well), which prioritizes harmony between humans and nature over unchecked economic growth. Ley de derechos de la Madre Tierra - Ley 071 of the 21 December 2010 www.planificacion.gob.bo/uploads/marco-legal/Ley%20N%C2%B0%20071%20DERECHOS%20DE%20LA%20MADRE%20TIERRA.pdf

[33] Colombia (2016), Chile (2022), Perú (2021).

[34] Legal provisions recognizing the Rights of Nature, sometimes referred to as Earth Jurisprudence, include constitutions, national statutes, and local laws in 30 countries around the world and can be accessed at www.harmonywithnatureun.org/rightsOfNature

[35] Resolution 63/278 on the International Mother Earth Day adopted by the General Assembly on 22 April 2009 https://documents.un.org/doc/undoc/gen/n08/487/47/pdf/n0848747.pdf.

[36] President of the UN General Assembly (2023) Interactive Dialogue of the United Nations General Assembly to Commemorate International Mother Earth Day (Monday, 24 April 2023). Concept Note, http://files.harmonywithnatureun.org/uploads/upload1301.pdf

[37] António Guterres (2019) Sustainable development Harmony with Nature, Report of the Secretary-General (A/74/236) during the seventy-fourth session on the 26th July 2019, https://documents.un.org/doc/undoc/gen/n19/232/63/pdf/n1923263.pdf

[38] David R. Boyd (2017) The Rights of Nature: A Legal Revolution That Could Save the World, ECW Press https://books.google.pt/books?id=6mS1DgAAQBAJ&printsec=frontcover&hl=pt-PT&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false .

[39] Julien Bétaille (2024) A human's Liberty to Protect Wild Animals: Challenging Nature Rights Dogmas and Renewing of European Environmental Legal Culture, ELNI Review https://www.elni.org/elni/elni-review/archive.

[40] Julien Bétaille (2019), Rights of Nature: why it might not save the entire world? Journal for European Environmental & Planning Law, no 16, 2019, p. 35. https://www.academia.edu/77338551/Rights_of_Nature_Why_it_Might_Not_Save_the_Entire_World.

4.2 Radical legal innovation: Rights of Nature as a case study

One example of a potentially radical legal eco-innovation is the initiative of conferring subjective rights to elements of nature, also known as RoN.

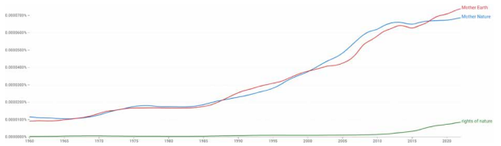


Figure 1: Ngram viewer result for the key-words "Mother-Earth", "Mother Nature" and "rights of nature" in 40 million Google Books.

The movement to confer rights to natural elements is a legal eco-innovation that is gaining recognition worldwide. The debate over Rights of Nature in the European Union at different scales will be used as a case study to start building a theory of legal change through eco-innovation.

4.2.1 RoN in the UN and worldwide

Pushed by the pioneers of the transformation of "Mother Earth" into a legal concept (Ecuador[31] and Bolivia[32] followed by other Andean countries[33]), the United Nations Organization has echoed the protection of Mother Earth as a legal entity with legal rights. An extensive collection of cases recognizing the Rights of Nature in 30 states around the world can be found at www.harmonywithnatureun.org[34], an updated database of UN and national initiatives to promote "Harmony with Nature in order to achieve a just balance among the economic, social and environmental needs of present and future generations".[35]

Another database providing broader updated information on Earth centred Law is the *Eco Jurisprudence Monitor* (www.ecojurisprudence.org/initiatives/), an interactive platform compiling 543 examples of ecological jurisprudence globally. The compilation of Rights of Nature initiatives reveals the varied legal sources and shapes that RoN can assume, in correspondence with culturally distinct expressions of ecological jurisprudence.

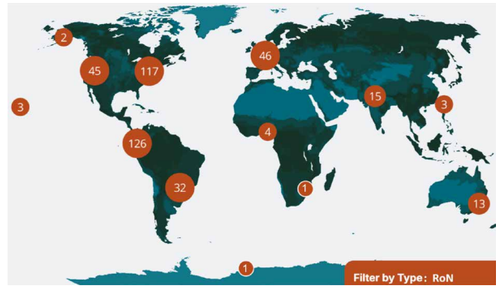


Figure 2: Eco Jurisprudence Monitor results for RoN world-wide.

Academic conversations, scientific studies, and legal research worldwide are focusing on the transitioning to a "non-anthropocentric paradigm", where Nature should not be objectified or commodified. The new paradigm recognizes an Earth-centered law, encompassing multiple perspectives, worldviews, and understandings of Nature, embracing, in particular Indigenous Peoples and local communities' traditional knowledge.[36]

The 2019 Report of the UN Secretary-General intitled "Harmony with Nature" contained an outline of the main National legislation granting rights to Nature until that date. The report concluded that "over the last decade, Earth jurisprudence can be seen as the fastest growing legal movement of the twenty-first century".[37]

4.2.2 RoN in the European Union

RoN is also an emerging topic associated Earth Jurisprudence in the European Union, and is gaining prominence in the discussions about the future evolution of EU law. The initiatives at the level of the Member States are multiplying.

While some scholars claim that granting legal rights to Nature is the solution that will save

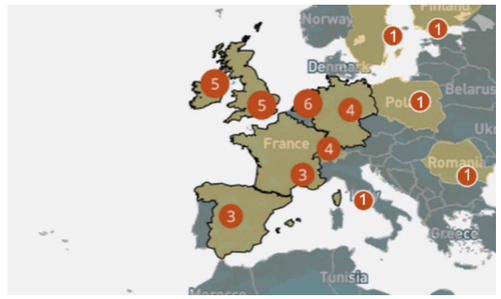


Figure 3: RoN in EU Member States (Eco Jurisprudence Monitor)

the world,[38] others defend that the current environmental law is fit for purpose,[39] and as a result radical innovation is senseless and unnecessary,[40] while others claim that laws on Rights of Nature weaken legal security and violate fundamental principles and procedural norms because the natural elements only have rights but not duties.[41] A controversial legal subject that causes such significant division among scholars warrants even greater attention.

Yet, in the European Union, the discussion of Nature as subject of rights has gone beyond a mere academic hypothesis. The scenario was raised a few times in legal expert opinions requested by EU bodies. First, in 2020, by the advisory body of the European Union, representing the organized civil society in the decision-making process, the European Economic and Social Committee (EESC)[43]. Then, in 2021, by the Committee for Legal Affairs of EU's top legislative body, the European Parliament.[44] Recently, in 2024, by one political group of the European Parliament.[45] In every case, the legal analysis was prepared by highly specialized experts in EU Environmental Law, to assess the legal admissibility for such a radical innovation in the framework of EU powers.

The underlying assumptions, the arguments constructed, and the conclusions drawn by these studies, may not coincide, but this is not relevant for the purpose of the current analysis. The very existence of numerous reports, publications and research projects addressing and taking a stand on RoN, clearly indicates that RoN in the EU is within the realm of possibility.

Based on the assumption that legal innovation is made necessary by the environmental and climate emergency we are facing, this is also the perfect opportunity to begin constructing a theory of legal change linked to eco-innovation.

5 Radical legal eco-innovation: the proportionality test

RoN is also an emerging topic associated Earth Radical legal eco-innovation is a bold step that can involve some risk. Therefore, the acceptability of radical legal eco-innovation depends on overcoming a hard challenge: the proportionality test. According to the standard three-step proportionality test, the legal innovation must, first of all, be necessary to achieve the intended purpose. Secondly, it must be suitable to achieve the desired end. Finally, it must not pose excessive risks.

5.1 The necessity test

The necessity test is the first check that must be performed before undertaking radical legal eco-innovation. Whenever the environment is in a degraded status, and the legislative and administrative paraphernalia in force, with the support of the Courts, has failed to induce the recovery of the state of the environment, urgent, strong and effective measures are required. The necessity test is based on historic data: when, despite all the legal measures taken in the past, the status of the environment still does not achieve the desired quality level, that's where drastic innovation is needed. Drastic does not inevitably mean using last resort strategies, such as heavier criminal sanctions or novel categories of crime. It can simply mean innovative approaches characterized by strong effectivity, such as nudging.[46]

5.2 The suitability test

The next probe is the suitability test. This examination is more complex because it implies prospective judgments. Based the analysis of trends, on the use of analogies, on the production of scenarios and forecast models, the expected effects of the innovative measures are estimated. Prognosis can be extremely difficult when the legal innovation consists of unprecedented measures and legal approaches that don't resemble any existing legal solution. Still, there are other cases where the legal eco-innovation is inspired by a legal solution adopted somewhere else, in a different legal system, in another branch of law, in a diverse social context or in a previous period in history. In any of these situations, the risk of misinterpretation or forced analogy is very high. The tendency to believe in the symmetry of the legal instrument may lead the decision-maker to a premature acceptance or a rushed rejection of the legal solution. As a matter of fact, when legal innovation is the result of the so-called circulation of legal models,[47] some features of the legal instrument may change, the socio-economic and socio-cultural context are different. The result is the fading away the apparent symmetry, and the development of a virtually dif-

[41] Blanca Soro Mateo, Santiago M. Álvarez Carreño (2024) Derechos de la naturaleza y Constitución, a propósito del caso de la laguna del Mar Menor, Revista d'Estudis Autonòmics i Federals | Journal of Self-Government 39 June 2024 p. 61-122 https://raco.cat/index.php/REAF/issue/view/32336/1101

[42] Seemingly ignoring that cases of rights without duties are frequent in every legal order, such as infants, people with cognitive disabilities, persons legally declared incapacitated due to conditions like dementia or other illnesses are just some examples.

[43] Economic and Social Committee (2020) 'Towards an EU Charter of the Fundamental Rights of Nature' (www.eesc.europa.eu/en/our-work/publications-other-work/publications/towards-eu-charter-fundamental-rights-nature#:~:text=This%20study%20aims%20to%20set%20a%20framework%20for%20the%20legal).

[44] Jan Darpo (2021) Can nature get it right? A Study on Rights of Nature in the European Context, study commissioned by the European Parliament, at the request of the JURI Committee (www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2021)689328#:~:text=The%20study%20delves%20on%20the%20ideas%20of%20rights%20of%20nature).

[45] Nathalie Hervé-Fornereau (2024) Changing the Legal Paradigm for a New Environmental Law, A study commissioned by the Greens/EFA political group in the European Parliament (https://static1.squarespace.com/static/63f76b491ccf5e475792d0d1/t/6617dfc25d23c81a72b8f842/1712840646357/NatureRights-Study-Herver-Fournereau-EN.pdf).

[46] Richard H. Thaler, Cass R. Sunstein (2008) Nudge: Improving Decisions about Health, Wealth, and Happiness, Yale University Press.

[47] Ivano Alogna (2014) "The Circulation of Legal Models: Towards the Evolution of Environmental Law" in: V. Sancin and M. Kovič Dine (eds.), International Environmental Law: Contemporary Concerns and Challenges, GV Publishing, www.researchgate.net/publication/305487973_The_Circulation_of_Legal_Models_Towards_the_Evolution_of_Environmental_Law

[48] Ley 071 of the 21 December 2010 www.planificacion.gob.bo/uploads/marco-legal/Ley%20N%C2%B0%20071%20DERECHOS%20DE%20LA%20MADRE%20TIERRA.pdf

[49] Ley 19/2022, of September 30, 2022 https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-16019

[50] María Teresa Vicente Giménez (2023) Justicia Ecológica y Derechos de la Naturaleza, Tirant Lo Blanch.

[51] Bolivia being a "Plurinational Communitarian State of Law, free, independent, sovereign, democratic, intercultural, decentralized, and with autonomies" (article 1 of the Bolivian Constitution (https://aaps.gob.bo/images/MarcoLegal/Leyes/CPE.pdf) and Spain defined as a "social and democratic state of law, which promotes as the supreme values of its legal system freedom, justice, equality, and political pluralism" (Art. 1 of the Constitution https://app.congreso.es/consti/constitucion/indice/titulos/articulos.jsp?ini=1&fin=9&tipo=2).

[52] Judgment of the European Court of Justice of 14 March 2024, in Case C-576/22 against the Kingdom of Spain for failure to fulfil obligations of protection of waters against pollution caused by nitrates from agricultural sources. In the words of the Court: "concerning the Autonomous Community of the Region of Murcia, while it is true that, in its application, the Commission referred to events which took place in 2019 and 2021, and thus to facts which were not covered by the administrative phase of the procedure, that institution explained, without being contradicted in that regard by the Kingdom of Spain, that it had referred to those facts in its application in order to illustrate that the measures which had been adopted by the Spanish authorities on the date of expiry of the time limit laid down in the reasoned opinion were not sufficient. In any event, it should be noted that the law referred to in paragraph 139 of this judgment, adopted on 27 July 2020, expressly acknowledges that the measures in the action programme existing at the time were not sufficient to prevent and remedy nitrate pollution of the groundwater body in a certain region of that autonomous community. Furthermore, the Kingdom of Spain does not dispute the Commission's finding, set out in its reply, that it was expressly apparent from the new action programme which was being prepared on the date of expiry of the time limit laid down in the reasoned opinion that further additional measures and reinforced actions were still necessary".

[53] An impressive list of measures based on studies, interventions, surveillance, sanctioning, is listed in a report prepared while the case against Spain was pending at the European Court of Justice (MITECO, (2022) Informe de situación de las actuaciones para la recuperación del Mar Menor, www.miteco.gob.es/content/dam/miteco/es/prensa/mar_menor_actuaciones_miteco_tcm30-525050.pdf).

[54] In 2024, at the 23rd Session of the UN Permanent Forum on Indigenous Issues, the Vice-Presidency of the Plurinational State of Bolivia launched the Platform "Plural Wisdoms of Indigenous and Native People Towards a Cosmobiocentric World from the Codes of Living Well" to reaffirm the voices of the Indigenous Peoples of the world and promote their self-determination within the framework of the United Nations Declaration on the Rights of Indigenous Peoples, recognizing them as caretakers of Mother Earth or Nature (https://codigosvivirbien.bo/en/)

[55] The Plurinational Authority of Mother Earth, created by Law No. 300 establishing a Framework of Mother Earth and Integral Development for Living Well (2012), is a strategic and autonomous public law entity with administrative, technical, economic, and legal autonomy under the supervision of the Ministry of Environment and Water (https://madretierra.gob.bo/).

[56] Foundations must pursue goals of general interest, such as, among others, the defense of human rights, the rights of victims of terrorism and violent acts, social assistance and inclusion, civic, educational, cultural, scientific, sports, health, labor, institutional strengthening, development cooperation, promotion of volunteerism, social action, environmental protection, promotion of social economy, support for individuals at risk of exclusion due to physical, social, or cultural reasons, promotion of constitutional values and defense of democratic principles, fostering tolerance, development of the information society, or scientific research and technological development" (Art. 3 of Ley 50/2002, of 26 December on foundations www.boe.es/buscar/act.php?id=BOE-A-2002-25180).

[57] Art. 4 of the Law on foundations.

[58] Art. 2 n. 2 of the Mar Menor Law www.boe.es/diario_boe/txt.php?id=BOE-A-2022-16019.

[59] Art. 6 refers that "all Bolivian women and men, as part of the community of beings that make up Mother Earth, exercise the rights established in this Law, in a way that is compatible with their individual and collective rights".

[60] Article 3:
1. The representation and governance of the Mar Menor lagoon and its basin is organized into three bodies: A Committee of Representatives, composed of representatives from the Public Administrations involved in this area and citizens from the surrounding municipalities; a Monitoring Commission (the guardians of the Mar Menor Lagoon); and a Scientific Committee, which will include an independent commission of scientists and experts, universities, and research centers.
The three bodies mentioned—Committee of Representatives, Monitoring Commission, and Scientific Committee—will form the Mar Menor Mentorship.

2. The Committee of Representatives will be composed of thirteen members, three from the General Administration of the State, three from the Autonomous Community, and seven from the citizens, who will initially be the members of the Promoter Group of the Popular Legislative Initiative. The Committee of Representatives has among its functions the proposal of actions for the protection, conservation, maintenance, and restoration of the lagoon, as well as the monitoring and control of the compliance with the rights of the lagoon and its basin, based on the contributions of the Monitoring Commission and the Scientific Committee.

3. The Monitoring Commission (guardians) will be composed of one regular member and one substitute from each of the riparian or basin municipalities (Cartagena, Los Alcázares, San Javier, San Pedro del Pinatar, Fuente Álamo, La Unión, Murcia, and Torre Pacheco), designated by the respective Town Halls, who will be renewed after each municipal election period. It will also include one regular member and one substitute representing each of the following economic, social, and environmental defense sectors: business associations, trade unions, neighborhood associations, fishing, agriculture, livestock – with representation from organic and/or traditional agriculture and livestock – environmental defense, gender equality, and youth organizations.
These individuals, who must have a previous track record in defending the Mar Menor ecosystem, will be designated by agreement from the most representative organizations of each of the mentioned sectors, under the call and supervision of the Promoting Commission, for a renewable period of four years. The Monitoring Commission will be constituted no later than three months after the publication of this law.
The Monitoring Commission has among its own activities the dissemination of information about this law, monitoring and controlling the respect for the rights of the lagoon and its basin, and periodic reporting on the compliance with this law, considering the indicators defined by the Scientific Committee to analyze the ecological status of the Mar Menor in its reports.

4. The Scientific Committee will be composed of independent scientists and experts specialized in the study of the Mar Menor, proposed by the Universities of Murcia and Alicante, the Spanish Institute of Oceanography (Murcia Oceanographic Center), the Iberian Society of Ecology, and the Spanish National Research Council, for a renewable period of four years.
The independence of the Scientific Committee will be guaranteed by two conditions for its members: recognized scientific prestige and non-remuneration.
The Scientific Committee will have among its functions advising the Committee of Representatives and the Monitoring Commission, and identifying indicators on the ecological state of the ecosystem, its risks, and the appropriate restoration measures, which will be communicated to the Monitoring Commission".

ferent legal instrument, under the same name. The differences and distinctive features of the homonym legal eco-innovation must be carefully considered when taking a decision on the acceptance or rejection of the legal eco-innovation.

5.3 The stricto sensu proportionality test

The final trial is proportionality stricto sensu. The radically innovative measure is proportional if the benefits it is likely to generate and the burdens is likely to impose are balanced. The measure must be compatible with the structural elements of the receiving legal system. It is proportional if it is not unconstitutional, or does not require constitutional changes.

6 Radical legal eco-innovation: the proportionality test

In a non-academic context, a real-world assessment of legal innovation would require an exhaustive comparative study of the inspiring and the inspired legal systems. For the European Union, it would require an assessment of the competences of the EU, in the light of the main principles steering the exercise of competences by the European Union: subsidiarity and proportionality, both being fundamental principles of EU Law, laid down in Article 5 of the Treaty on European Union and in the annexed protocol no. 2 on the application of the principles of subsidiarity and proportionality.

Nonetheless, for the mere purpose of laying the foundation for a theory of legal eco-innovation a brief outline is adequate.

Consequently, the exploratory assessment of the admissibility of RoN in a European framework will be performed in a simplified manner, based on innovative laws granting rights to nature that are already in force: the 2010 Bolivian Law of the Rights of Mother Earth[48] – the inspiring law – and the 2022 Spanish Law for the recognition of legal personality of the Mar Menor lagoon and its basin[49] – the inspired law.

Considering that both laws were adopted at the national and not supranational level, only the threefold test of necessity, suitability and proportionality test will be applied to provide a clear perception of the admissibility of RoN as a legal eco-innovation.

Granting *ope legis* personhood to the Mar Menor lagoon and its basin, can be considered as a case of circulation of a legal model, inspired by the Latin American experience of Mother Earth Laws.[50] From this perspective, awarding legal rights to Nature does not seem like a huge legal innovation. However, considering the profound differences in the socio-cultural and legal-constitutional context, granting legal personhood to a non-living entity in the Spanish legal system, is indeed a ground-breaking legal move and a radical legal eco-innovation. Consequently, it is essential to apply the proportionality test.

6.1 The necessity of RoN

Regarding the necessity test, the recent condemnation by the European Court of Justice of Spain for not doing enough to ensure the protection of the Lagoon against pollution caused by nitrates from agricultural sources and the need to adopt "further additional measures and reinforced actions"[52] is enough to demonstrate the necessity of legal eco-innovation.

It's not that the Kingdom of Spain and the Autonomous Community of Murcia are inert in the face of the environmental catastrophe affecting the Mar Menor for decades. It's just that the array of measures adopted[53] is not sufficient.

6.2 The suitability of RoN

In what concerns the suitability test, there are differences between the Madre Tierra paradigm and the paradigm of the Mar Menor as a legal person. The differences are so significant that any inferences must be made with great caution.

Even if the two laws have in common the material substrate, composed of valuable elements of nature whose existence is threatened by human-induced dangers, the key difference is the very essence of the Laws. While Mother Earth Law is a legal reflection of indigenous cosmovisions[54], Mar Menor Law is nothing but a technical expedient – *a fictio iuris* – designed to achieve a specific outcome.

In reality, Latin American countries are deeply influenced by indigenous traditions and cosmologies, which rely on the interconnectedness of all life forms embodied in the concept of Mother Earth. In a plurinational state like Bolivia, granting legal recognition to a pre-existing entity with

wide social acceptance, via Mother Earth Law, is a codification of a customary right.[55]

In Spanish Law, the *ope legis* creation of a legal person, ex nihilo, is a legal innovation that has more in common with other national laws granting legal personality to collections of assets constituted with a general interest, such as foundations[56]. Just like the legal personality of foundations[57] the legal personality of the coastal lagoon is a legal fiction with very concrete objectives of general interest:

a) Right to exist and evolve naturally: The Mar Menor is governed by a natural order or ecological law that enables it to exist as a lagoon ecosystem and as a terrestrial ecosystem in its watershed. The right to exist means respecting this ecological law to ensure the balance and regulatory capacity of the ecosystem in the face of the imbalance caused by anthropogenic pressures, mostly from the surrounding watershed.

b) Right to protection: The right to protection involves limiting, halting, and not authorizing activities that pose a risk or harm to the ecosystem.

c) Right to conservation: The right to conservation requires actions to preserve terrestrial and marine species and habitats, as well as the management of associated protected natural areas.

d) Right to restoration: The right to restoration requires, once damage has occurred, reparative actions in the lagoon and its surrounding watershed to restore natural dynamics and resilience, as well as the associated ecosystem services.[58]

In this context, another difference is the fact that the recognition of legal personhood through Mother Earth Law only has declarative effects, while the recognition of legal personhood to the Mar Menor lagoon, has constitutive effects.

This is also the reason why in the case of Bolivia, human representatives of Mother Earth are barely mentioned[59], whereas in the Spanish case, the law goes very far in detailing the composition and competences of the representative organs.[60]

Another marked difference is the extent of legal personhood. Mother Earth corresponds virtually to the whole planet and its living elements, including human beings and their communities. Mar Menor is a limited geographic area of 1,600 km² in the south east coast of Spain.

Besides the geographic extent, the contrasting characterization and scope of the entities to which legal personhood is granted is yet another major disparity.

In the case of Bolivia, Mother Earth is defined as the "dynamic living system composed of the indivisible community of all life systems and living beings, interconnected, interdependent, and complementary, sharing a common destiny".[61]

In the case of the Mar Menor it is defined as "a biogeographical unit consisting of a large inclined plane of 1,600 km² with a northwest-southeast direction, bordered to the north and northwest by the eastern foothills of the Betic mountain ranges, made up of the pre-coastal mountain ranges [...], and to the south and southwest by coastal mountain ranges [...], including the watershed and its drainage networks (ramblas, riverbeds, wetlands, cryptowetlands, etc.)", including as well "the set of aquifers (Quaternary, Pliocene, Messinian, and Tortonian) that can affect the ecological stability of the coastal lagoon, including the intrusion of Mediterranean seawater".[62]

The marked differences between RoN in a European framework and RoN in a plurinational context demonstrates that granting legal rights to non-human natural elements – such as lakes, rivers, forests, mountains, waves, etc. – is not an acritical imitation or a legal transplant of laws, doctrines, theories or judicial decisions, already in place in different legal systems, but rather a legal innovation motivated by the state of ecological emergency.

6.3 The stricto sensu proportionality of RoN

The innovative measure is acceptable if it is proportional stricto sensu, meaning that it fits in the legal order without serious disruption or inacceptable shock with the structural foundations of the legal system. In practical terms, in the case of the Mar Menor Law, proportionality means that the law granting legal rights to a lagoon is not unconstitutional. This was blatantly declared by the Spanish Constitutional Court in November 2024: "it is a new technique in our environmental law, although it is part of a growing international movement in the last decade that promotes the recognition of the so-called Rights of Nature".[63]

7 Conclusion

The theory of legal eco-innovation elucidates and streamlines the processes by which innovative legal actions contribute to driving the necessary transition towards sustainability.

The goal of the present study is to understand the need, the processes and the conditions for the legal acceptability of radical legal eco-innovation, taking RoN as an example.

In practice this means that the legal fiction of Rights of Nature should not be interpreted as an exoteric proposal of eccentric lawyers but rather as a wise and coherent legal eco-innovation initiative with a strong effectiveness potential in the European framework.

[61] Article 3 of Mother Earth Law.

[62] Article 1 of the Mar Menor Law.

[63] Information Note n. 115/2024 of the 21st November 2024 stating that the Plenary of the Constitutional Court rejects the unconstitutionality appeal of the VOX Parliamentary Group against Law 19/2022 for the recognition of legal personality for the Mar Menor Lagoon and its basin. www.tribunalconstitucional.es/NotasDePrensaDocumentos/NP_2024_115/NOTA%20INFORMATIVA%20N%C2%BA%20115-2024.pdf

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Directive 2024/1203 of the European Parliament and of the Council of 11 April 2024, replacing Directives 2008/99/EC and 2009/123/EC (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401203)

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Panel Discussion on Democracy, Rights of Nature and Social Norm Dynamics

Author: Prof. Dr. Milena Valeva

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This report summarizes the arguments presented by *Prof. Dr. Milena Valeva* during the second panel discussion, which was held in preparation for the planned simulated parliamentary debate of the students. The experts, *Prof. Dr. Alexandra Aragão* and *Prof. Dr. Milena Valeva,* shared their insights from the fields of political theory, environmental ethics, and human rights on the topic of Democracy, Rights of Nature (RoN) and social norm dynamics.

The basis for *Valeva's* arguments was provided by the central claim of *Aragão* to emphasize the role of Environmental Pragmatism, which rejects the notion that effective environmental action requires a radical transformation of human value systems or adherence to one ultimate ethical principle. Instead, it promotes open-ended inquiry and adaptive democratic decision-making to navigate complex, real-world ecological challenges. The Paris Agreement, which employs a bottom-up and iterative approach, favoring flexible "pledge and review" systems, is celebrated as an embodiment of pragmatic climate diplomacy that fosters ambition through mutual accountability and continuous reassessment.

To further deliberate on this central claim, Valeva elaborated on the following two central questions, which refer to her paper titled *"From Human Dignity and Human Rights to Sustainability within the Context of Democracy,"* published in *Interdisciplinary Perspectives on the Interplay between Human Rights and Sustainability (Special Issue 2/2024).*

- **What are the limits of liberal democracy in dealing with sustainability and RoN?**
- **What is the potential of republican democracy for executing sustainability and RoN?**

1 Limits of Liberal Democracy

Valeva acknowledges the historical strengths of liberal democracy, including the protection of individual rights, institutional checks and balances, and economic prosperity. However, several inherent limitations that liberal democratic systems face when addressing the systemic and long-term demands of sustainability and environmental justice should be emphasized.

Short-term electoral cycles make it difficult to implement sustainability strategies that demand long-term commitment and refraining. Furthermore, the emphasis on individual autonomy and freedom of choice – as the main market economy principle – often lead to resistance against regulatory measures that restrict consumption or corporate activity, even when such regulations are crucial for climate action. Liberal democracies, which follow anthropocentric presumptions, are incompatible with ethical and legal frameworks like the RoN, which recognize ecosystems as legal subjects – a shift pioneered in countries like Ecuador and Bolivia.

The inherent tension between individual liberties and collective ecological stewardship frequently leads to policy paralysis, particularly in societies characterized by pluralism, where interests are fragmented.

2 Potential of Republican Democracy

The second half of the discussion on democracy and RoN turned to republican democracy and its potential to overcome the above limitations. Republican democracy, with its emphasis on civic responsibility, the common good, and collective decision-making, aligns inherently more with the demands of sustainability. Republicanism encourages a shared conception of political responsibility, where citizens are not only rights-holders but also active participants in shaping ecological and social futures. In the context of human agency sustainability depends not only on dignity (as protection) but also on human agency (as responsibility). Republican democracy allows for this shift from passive protection to active moral obligation. Furthermore, republican structures are more advantageous to integrating the RoN. By recognizing non-human entities as subjects of moral and legal concern, republicanism opens the door to post-anthropocentric legal orders. In republican democracy, the RoN can be embedded not as an exception, but as an extension of civic virtue.

Valeva's suggestion to link human dignity, human rights, and RoN within a republican democratic context marks the transition to the second part of the panel discussion – on norm dynamics, social change, and the role of norm entrepreneurs. The following statements of *Valeva* refer to the scientific paper of *Nicole Nisbett & Viktoria Spaiser* "*Moral power of youth activists – Transforming international climate Politics?*" (2023). Two key questions guided the second part of the panel discussion:

- **What do the dynamics of norms mean according to the Cycles of Norm Change theory?**
- **Do you consider the role of social movements as norm entrepreneurs to be a crucial one?**

3 Norm Dynamics in the Cycles of Norm Change Theory

The discussion opened with an explanation of norm dynamics as outlined in the Cycles of Norm Change theory, a model developed to understand the life cycle and transformation of social norms in transnational governance contexts. Norm dynamics is the process by which values and ideas are articulated, institutionalized, contested, and potentially replaced through cyclical interaction between actors and structures. The Cycles of Norm Change theory describes norm development as a dynamic, non-linear process involving stages such as emergence, contestation, diffusion, institutionalization, and adaptation. Herein, the role of norm entrepreneurs is crucial for framing issues in morally convincing ways. Through public discourse and political struggle, these new morally framed ideas may gain traction and reach a tipping point – what's known as a norm cascade. If successful, they become embedded in institutional frameworks. However, norms are continually subject to reinterpretation, resistance, and revision, leading to new cycles of change. This model highlights the recursive nature of normative transformation in global governance. The "normative pendulum" may swing between competing moral narratives – particularly evident in climate politics, indigenous rights, or the RoN. Here again, the link to deliberative democratic theory is made visible, where the process of norm change is not merely a strategic competition but also a dialogical, value-laden negotiation about possible futures.

4 The Role of Social Movements as Norm Entrepreneurs

The second part of the discussion on norm dynamics focused on the significant role of social movements in initiating and sustaining normative change. *Valeva* highlighted the crucial role of social movements as norm entrepreneurs, particularly in the transnational governance landscape. Social movements serve as conscience leaders, reimagining values in novel ways, such as reframing climate change as not only an environmental concern but also a human rights crisis. This reframing is pivotal for disrupting established norms. Unlike state or market actors, the legitimacy of social movements is derived from

Unlike state or market actors, the legitimacy of social movements is derived from their embeddedness within communities, giving voice to marginalized perspectives and calling for alternative futures, including degrowth, post-extractivism, and RoN frameworks.

their embeddedness within communities, giving voice to marginalized perspectives and calling for alternative futures, including degrowth, post-extractivism, and RoN frameworks. In the global arena, movements collaborate through networked alliances, exerting influence on institutions such as the United Nations, the European Union, and various environmental regimes. Their impact encompasses agenda setting, policy innovation, and norm institutionalization. The narratives surrounding RoN, fossil fuel divestment, and climate justice owe their very existence to the efforts of social movements. The case of indigenous communities, who have played leading roles in pushing for non-anthropocentric legal frameworks – a point directly tied to a critique of Western normativity and the support for plural epistemologies. *Valeva's* elaborations bridged transnational norm change theory and political innovation.

In conclusion, this panel discussion highlighted the pressing need to rethink democratic governance architectures considering the ecological crisis and the normative shifts accompanying the global sustainability transition. Republican democracy, with its emphasis on civic responsibility and the common good, was presented as a promising framework for embedding RoN and sustainability within democratic legitimacy. The second part of the discussion, grounded in norm change theory, shed light on the non-linear, and recursive nature of normative change, particularly within global environmental governance. The role of social movements in challenging existing power structures, reframing dominant narratives, and driving legal and institutional change was explicated. These actors not only bring new moral claims into global discourse but also anchor them in lived experiences and grassroots legitimacy. Altogether, the panel discussion reinforced the view that sustainability transformations are normative and polyphonic and political processes require democratic innovation, and inclusive deliberation.

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Researching the problem: Would an Rights of Nature Concept be THE solution?

Author: Prof. Dr. Kathrin Nitschmann

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In preparation for the planned simulated parliamentary debate of the students in favour of and against the rights of nature, the experts' panel discussion allowed the students to experience contrasting points of view and at the same time to deepen their knowledge of the different countries and disciplinary perspectives. The second panel discussion was based on four papers (Hsiao, 2012) which had been delivered to the students in advance and focussed on the legal and political perspectives of Peru and Germany on the precautionary implementation of environmental protection.

Prof. Diego Zegarra identified in particular the challenges of climate change and ecological protection from a Peruvian perspective and, against the background of the 2030 Agenda, described measures with which the state is counteracting these and whether and to what extent the introduction of a concept of the rights of nature could be helpful in the fight against climate change and for the protection of ecosystems.

1 What we can learn from Whanganui River Case

With a focus on the historical-political impact on the protection of the ecosystem, *Prof. Dr. Nitschmann* referring to Hsiao (2012) began with the Whanganui River case and used this example to show how law can be successfully used as an instrument for status quo conservation over centuries in favour of economic interests in an anthropocentric system, questioning during her reflections if a Rights of Nature concept is THE solution to actual environmental challenges.

She emphasised that the long history of the Wanganui River Agreement between the Wanganui River minority and the New Zealand government in 2012 is a good example to examine the interplay of politics and law in relation to the rights of nature. The Aboriginal struggle for the environment, which dates to the mid-19th century or even longer, must be seen in the context of the history of colonisation.

According to *Nitschmann*, it can therefore be assumed that shortly after the founding treaty of New Zealand between the British and the Maori, the struggle for the rights of nature began and can be interpreted as a struggle for colonisation. Two diametrically opposed positions characterised this struggle. On the one hand, the Maori idea: the 'I am the river, and the river is me - paradigm' and the European ideal of civilising and harnessing the uncivilised wilderness. The latter also meant the imposition of order at all levels of political, social, cultural, legal and economic life in the spirit of European imperialism.

Instead of enforcing the idea of Maori sovereignty enshrined in the founding treaties, control of the river was placed in the hands of the colonists. Ignoring the rule of pacta sunt servanda the colonists began to continually exploit Maori land, and this process was supported by new legislation that condoned this behaviour. This violated not only the existing contract and weakened the Maori's customary rights but also destroyed their natural environment and with this the fundaments of holistic vision of their existence.

Although there were repeated negotiations and petitions throughout the 20th century, this process progressed. In this political context, law can be seen as a powerful tool to weaken the position of natives. Government legislation was adapted to the detriment of Maori interests and laws were interpreted against Māori; various governments engaged in legal processes that can be seen as systematic abuse to maintain or improve the status quo of colonisers over a period of more than 150 years. The development of the legal systems proves, that the holistic concept of the Maori was totally ignored in reality. As crucial example can be seen the refuse of the colonisers to understand the river as a single entity but fragmenting it when claims were made. According to *Nitschmann*, the case shows how the law can be used as a powerful instrument to coolly enforce politically desired conditions over decades and in this sense is also comparable with the global history of environmental protection in general.

2 The Power of the Precautionary Principle

With regard to *Nitschmann* (2024), these considerations then led to the question of how the globally recognised precautionary principle can be used for or against the introduction of a model of the rights of nature. According to Nitschmann, as the Whanganui River Case shows, the decisive factor is the extent to which such protection is politically desired, which also places the precautionary principle in the context of political intentions and the desire for its application. In an attempt to interpret the need to introduce a RoN, it could be argued that the protection of nature is so intrinsic to the principle that there is no need to recognise nature's own rights. In particular, the strength of the principle lies in its potential to adapt to current developments - it is a way of transporting the findings of earth system science into law as a normative component. It helps to incorporate ecological concerns into the balancing of interests - while observing the limits of fair compensation, which means that no interest may be favoured in principle.

According to *Nitschmann*, this interpretation could be influenced by the most recent case law of the German Constitutional Court from 2021 in favour of environmental protection. In its 2021 climate decision, the Federal Constitutional Court stated that the precautionary principle imposes a permanent duty on legislators to adapt environmental law to the latest developments and failures of science.

On the other hand, it could also be argued that it is precisely the unpredictability of the precautionary principle that could give rise to the need for a more reliable RoN concept. In addition, there is the decades-long enforcement deficit in environmental protection, which means that it is now time for the idea of nature's own rights to be recognised in positive law in European countries too.

Thus, *Nitschmann* explained, there is both a dimension of the precautionary principle that speaks against and one that speaks in favour of recognising the rights of nature.

3 Do we need a European RoN Concept?

In the following *Nitschmann* emphasised the need for the introduction of a concept of RoN

According to Nitschmann, the Whanganui River case in New Zealand can be used as an example to show how law can be successfully used as an instrument for status quo conservation over centuries in favour of economic interests in an anthropocentric system.

in the further course of the discussion regarding written law, law enforcement and jurisdiction. In the case of the Maori, the colonists had a precise idea of what they wanted and, disregarding the sovereignty guaranteed to the Maori by treaty, adapted the further written law to their interests and implemented it consistently.

As already mentioned, it can be said that positive written law - especially based on a political power imbalance - can help to legitimise conditions or desired conditions. In Europe, however, we are facing a different scenario. Since the 1960s/70s, we have seen a continuous development of written positive law with the (supposed) intention of protecting nature. At the same time, there has always been a political reluctance in favour of economic interests to fully apply the protective legal framework or even to extend it in favour of a right of nature or to enforce existing law. If we consider the reception and interpretation of the precautionary principle and the relevant legislation as well as case law, we realise that despite existing provisions with a high protection potential for nature, the implementation of protection has always been very patchy and hesitant. Thus, written law must be considered separately from its enforcement: Positive written law can function as a basis for political and legal action, but it is at the disposal of the (more powerful) actors.

So if one continues to assume a lack of political willingness to use the existing protection system in favour of the environment, one could of course argue that positive written rights of nature are necessary to shake up the existing system and initiate a new order. Nevertheless also the effectiveness of a paradigm shift would depend on the responsible actors.

Otherwise - and with particular reference to consistent enforcement of the law - it could of course be argued that the existing legal systems are strong enough to protect nature without the need for a complete paradigm shift.

In Europe, the quest for liberation from economic growth at any price and from excessive capitalism could probably be a comparable driver if we are looking for something detached from pure nature conservation. For it was not pure nature conservation or ecocentrism that drove the Māori, but their vision of life – a comprehensive worldview in which humans and natural entities are inseparably connected, bound by reciprocal obligations, spiritual meaning, and a profound sense of kinship.

Since the 1960s/70s, we have seen a continuous development of written positive law with the (supposed) intention of protecting nature. At the same time, there has always been a political reluctance in favour of economic interests to fully apply the protective legal framework or even to extend it in favour of a right of nature or to enforce existing law.

4 The Efficiency to the existing German System

Nitschmann then went into the legal perspective in greater depth with a sketchy look at Germany and the German legal system as well as the elements that could serve as arguments in favour of or against the invention of rights for a nature model.

Although the existing provisions on environmental protection have great potential, *Nitschmann* stated that the consistent interpretation and application of existing law in favour of the needs of environmental protection could also be criticised in Germany. She referred to Section 1 of the German Building Code (BauGB), which - continuously differentiated over the years regarding environmental and climate protection issues - is an outstanding positive example of the complexity of the balancing process and perfectly illustrates the pillars of sustainability as a requirement for urban land-use planning.

However, it has of course also been observed in Germany that economic interests very often prevail in the actual balancing process, while microclimatic effects, for example, have been completely neglected. A finding that would, of course, have to be corrected with regard to the case law of the Federal Constitutional Court, as it fails to recognise the 'drop in the ocean' argument and the global responsibility for the consequences of local action.

It is also possible that the Constitutional Court's paradigm shift towards recognising an intertemporal right to freedom that combines the precautionary principle and freedom of action in such a way that it already generally protects future generations from encroachments on their rights would counteract the need to introduce a Rights of Nature concept. For against this background, existing laws should be given more force.

According to *Nitschmann*, there is also a very strong movement in the specialist legal literature towards recognising a right to an ecological minimum subsistence level. This idea goes even further and has been developed in the sense of an ecological constitution by Kerstens, in which the ecological idea is eminent at all levels, so that the German state could not only be described as a democratic welfare state, but also as an ecologically constituted state. There is great potential here for far-reaching change.

Remains then the question, as *Nitschmann* pointed out, how to deal with the systemic conflicts that would undoubtedly arise if rights for nature were recognised - friction with fundamental legal concepts would be pre-programmed. Just think of the following: Equalising nature with humans would also mean that nature has a kind of dignity. Since human dignity is inviolable, it cannot be quantified and qualified; how would we want to decide if it were a matter of saving a human being at the expense of nature.

Ultimately, according to *Nitschmann*, a Rights of Nature concept certainly harbours the opportunity of an enormous ecological dynamic - whether it would be THE solution, however, remains to be seen.

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The Te Awa Tupua Act: How Nature's Legal Standing Strengthens Indigenous and Human Rights

Author: Nina Giordano

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1 Introduction

The debate over nature's rights in relation to the rights of Indigenous peoples in New Zealand has intensified in response to recent political and societal developments.

In November 2024, the right-wing, economically liberal-conservative ACT Party (Association of Consumers and Taxpayers) introduced the "Treaty Principles Bill" to Parliament. The legislation aimed to codify the principles of the Treaty of Waitangi into statute, replacing the previous reliance on flexible interpretations by courts and government agencies. The ACT Party argued that the current approach resulted in unequal treatment based on ethnicity and that the bill would enshrine equality and universal rights for all citizens. However, opponents — including Māori communities, activists, as well as left-wing and Green politicians — perceived the proposal as a threat to existing indigenous rights and the already established Rights of Nature (RoN). They argued that the bill would undermine core principles such as partnership, participation, and protection, which have been developed over decades, thereby weakening foundational treaty agreements (Corlett, 2024).

In response, the "Hīkoi mō te Tiriti" (a nine-day march advocating for the Treaty) mobilized thousands of Māori and supporters nationwide to demonstrate against the bill. The hīkoi covered nearly 1,000 kilometers across the country before reaching the capital, Wellington. On the final day, more than 42,000 people joined the march at Parliament to voice their opposition (Perese, 2024). Following months of sustained public pressure, widespread outrage, and protests, the bill was ultimately rejected by Parliament in April 2025 (Armstrong, 2025).

This chapter illustrates the interconnections between indigenous peoples' rights, human rights, and environmental protection, highlighting their potential to reinforce each other within the context of the RoN. Through the case study of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, the discussion examines the implementation of RoN in Aotearoa, New Zealand, its alignment with Māori legal and spiritual traditions, and the broader implications for the country's environmental policy, justice frameworks, and decolonization efforts.

2 A History Steeped in Colonialism

The recognition of the Whanganui River as a legal person does not originate from environmental or RoN activism, as many might assume, but rather from the Māori (land) rights movement. The pioneering work in environmental law is the result of years of negotiations between Māori and the British Crown regarding violations of property rights and breaches of obligations under Te Tiriti o Waitangi (Tănăsescu, 2022).

2.1 Breaches of the Treaty of Waitangi

The 1830 treaty negotiation forged a partnership uniting two cultures and their separate legal and ethical frameworks (Bioethics Panel, 2019). The agreement with only three articles was signed between representatives of the British Crown and over 500 rangatira (Māori chiefs) (Bader-Plabst, 2023). There were two official versions, one in te reo Māori and one in English (Jones, 2016). Since the Māori translation did not align with the English version, the treaty resulted in severe disadvantages for the Māori tribes.

In Art. 1, the Queen's claim to sovereignty was translated using the word kawanatanga, the right of governance or governmental authority. However, Māori had no understanding of government in the sense of sovereignty and the right to govern in Maori society was qualified by an obligation to protect Māori interests and the wellbeing of mother nature (Waitangi Tribunal, n.d.(a)). In the Māori version, Art. 2 uses rangatiratanga to affirm the tribes' longstanding authority over their lands and taonga (treasure; applied to anything considered to be of value). Although the term varies in meaning from "self-government" or "chieftainship" to "full authority", it carries strong spiritual connotations and underscores both the status and authority of Māori leaders. In contrast, the English version states that the Queen assures Māori undisturbed possession of their lands, forests, and fisheries for as long as they wish to retain them. In this context, rangatiratanga was misinterpreted as mere property and ownership rights (Waitangi Tribunal, n.d.(a)), which led to two key issues: First, in Māori worldview, animals, lands, and oceans are considered as ancestors and kin. Therefore, the concept of owning natural resources or treating them as property does not align with Māori beliefs (Bioethics Panel, 2019). Second, in Māori culture, rangatiratanga holds a higher status than kawanatanga (the governance granted to the Crown). As a result, Māori chiefs believed that the treaty would strengthen their authority while also allowing them to rely on the Crown's support (Bader-Plabst, 2023).

Moreover, by signing the treaty, the Māori agreed to sell their land solely to the Crown, granting it the exclusive right of preemption (Waitangi Tribunal, n.d.(a)). In the years following the signing of the treaty, the British Crown pursued a deliberate strategy of large-scale land acquisition through aggressive purchasing policies. Additionally, increasing amounts of Māori land were confiscated under questionable legal justifications (Macpherson, 2019, as cited in Bader-Plabst, 2023).

2.2 The Waitangi Tribunal

In 1975, the Waitangi Tribunal was established under the Treaty of Waitangi Act to investigate and

Rangatiratanga was misinterpreted as merely property and ownership rights, leading to two key issues. First, in the Māori worldview, animals, land, and oceans are regarded as ancestors and kin; thus, the notion of owning natural resources or treating them as property is incompatible with their beliefs. Second, in Māori culture, rangatiratanga holds a higher status than kawanatanga – the governance delegated to the Crown.

make recommendations on Māori claims regarding treaty breaches. Initially, the commission of inquiry could only examine violations after 1975, but a 1985 amendment extended its scope to historical claims dating back to 1840, leading to a surge in cases (Waitangi Tribunal, n.d.(b)). A milestone was reached in 2014 when the Tribunal issued a landmark report that underscored and provided evidence that the tribes who signed the treaty did not cede sovereignty to the Crown. This challenged long-standing interpretations of the treaty and emphasized the need for a more nuanced understanding of Māori self-determination (Jones, 2016).

3 Te Ao Māori and the the concept of guardianship

Māori believe in the interconnectedness of the spiritual and physical worlds, each influencing the other (Ministry of Justice, 2001). Their worldview, Te Ao Māori, is deeply rooted in the spiritual origins of the world. It is a cyclical and holistic concept, highlighting the connection between humans and all things on Earth, animate and inanimate (Environmental Protection Authority, 2020). Whakapapa, as a philosophical construct, refers to the genealogical connections that link an individual to their ancestors – not only the lineages of people, but also to places, animals and the entire universe (Roberts, 2013). All things are ultimately connected as they all descend from a single pair of primordial parents, Rangi-nui (rangi, sky father) and Papa-tū-ā-nuku (papa, earth morther) (Roberts et al., 2004). The two parents, once inseparable as Iomatuakore, the supreme being (Jones, 1960, as cited in Roberts et al., 2004) had many children – the wind, the sea and rivers, the forest and the plants and animals – who are often referred to as atua or Māori gods (Harmsworth & Awatere, 2013). Thus, each tribe is spiritually connected to a specific river, lake, mountain, or forest, creating a mutual dependence in which the well-being of one is intrinsically tied to the other (Mika, 2021).

Tikanga refers to Maori customary practices and values and derives from the word tika, which encompasses a variety of meanings, such as right, honest, proper or true (Hohepa et al., 1996, as cited in Ministry of Justice, 2001). "Tikanga might be thought of as the right way of doing things according to conventions, rules or protocols that have helped kin communities in the past in terms of social, economic, political and environmental survival" (Just Transitions Aotearoa Group, 2023, p. 16). Being developed over time and deeply embedded in Māori social life, tikanga guides decision-making and shapes the ethical code of behaviour of individuals and within groups and iwi (tribes) (Stokes et al., 2021). Tikanga cannot be compared to a codified legal system like those found in European societies. Instead, it is a value- and tradition-based framework that operates more like customary law rather than a fixed set of rules and norms (Bader-Plabst, 2023).

Being developed over time and deeply embedded in Māori social life, tikanga guides decision-making and shapes the ethical code of behaviour of individuals and within groups and iwi. It cannot be compared to a codified legal system like those found in European societies. Instead, it is a value- and tradition-based framework that operates more like customary law rather than a fixed set of rules and norms.

Mana and tapu are two major principles, closely linked to whakapapa, that shape traditional Māori society. Mana is the spiritual power or customary authority that individuals, communities, and even places can possess. Mana can be strengthened or diminished through actions and is directly connected to tapu, the concept of sacredness and protection. Tapu can apply to people, objects, or places and serves as a guiding framework for respectful interaction with the world (Ministry of Justice, 2001). Many natural resources were traditionally considered Tapu, meaning they had to be protected (Harmsworth & Awatere, 2013).

Kaitiakitanga can be translated as guardianship of te taiao. It is a Māori place-based, collective responsibility (McAllister, 2020), that ensures well-being of ecosystems. It relies on MM (Wehi et al., 2019) and is practiced through tikanga (Kainamu & Rolleston-Gabel, 2023). Kaitiakitanga lies at the heart of the reciprocal relationship between Māori and their natural surroundings (Harmsworth & Awatere, 2013). As kaitiaki, Māori do not see themselves as superior to nature (Bader-Plabst, 2023). Guardianship is an important concept for environmental conservation (ibid.) and aligns with the core principles of RoN and Earth Jurisprudence (Kauffman & Martin, 2021).

4 Te Awa Tupua (Whanganui River Claims Settlement) Act 2017

Flowing from the center of the North Island to the Tasman Sea, the Whanganui River is the longest navigable river in NZ (Iorns Magallanes, 2020). It lies within the territory of the Te Atihaunui-a-Paparangi (also known as Atihaunu), who see themselves as its descendants and refer to it as Te Awa Tupua (ancestral river) (Triml-Chiffl ard, 2021). The Whanganui tribes' saying, "Ko au te awa, ko te awa ko au" (I am the river, the river is me), embodies their deep relationship to the river and their responsibility for its care, protection, and use (Iorns Magallanes, 2020, p. 5). Before the arrival of European settlers, the area was densely populated, and surrounded by dense and untouched native forests (Department of Conservation, n.d.).

4.1 Political Protests and Legal Claims

The tribes began asserting land claims through protests, formal objections, and parliamentary petitions from 1873 onward (Waitangi Tribunal, 1999). In 1990, the Whanganui River Māori Trust Board filed a claim with the Waitangi Tribunal, which published a legal investigative report nine years later. The Whanganui River Report documented historical grievances, including land confiscation and the denial of tribal authority. The tribunal found the Crown had violated the Treaty of Waitangi by disregarding Māori ownership and failing to protect their rights (Waitangi Tribunal, 1999). Additionally, government activities – such as riverbed alterations, gravel extraction, intensive agriculture, and diverting water for hydroelectric development – were seen as both breaches of property rights and violations of Māori cosmology, disrupting the river's spirits and the tribes' sacred duty as its guardians (Iorns Magallanes, 2020). The Tribunal paved the way for negotiations between the Whanganui tribes and the Crown from 2002 onward. Finally, in 2014, a Deed of Settlement was signed (Ngā Tāngata Tiaki, 2011), marking the end of the longest legal dispute in NZ's history and bringing over 140 years of litigation to an end (Triml-Chifflard, 2021).

4.2 Core Principles and Legal Framework

The Te Awa Tupua Act which officially passed in 2017, recognises the River as a legal entity (Sec. 14). As the Maori name of the law indicates, "Te Awa Tupua is an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements" (Sec. 12). The previously mentioned Māori saying, was embedded in the legislation as one of its intrinsic values (Sec. 13(c)). The four Tupua te Kawa (values), emphasise how much the tribes identify with the river and serve as the core principle of the Act. They must be considered not only in the implementation of the Te Awa Tupua (Sec. 19(1)) but also in decision-making under other laws (Sec. 15(2)). Recognized as a legal person, the river now belongs to itself, but unlike Te Urewera, Te Awa Tupua's entire area is not owned by the legal entity (Bader-Plabst, 2023). Sec. 40(1) stipulates that only Crown-owned riverbed land is transferred to Te Awa Tupua. The provisions of the Act do not affect the existing property rights of private individuals or businesses engaged in commercial activities, including hydroelectricity and agricultural irrigation (Kramm, 2020). Moreover, the legislation does not affect existing water and navigation rights, fi shing licenses, or the public use of the river (Sec. 46(1&2)). Ownership rights of water were not transferred to Te Awa Tupua due to NZ's common law system, adopted from the British, which prohibits individual ownership of water. Instead, the NZ government retains the rights to all water resources in the country on behalf of the public. Therefore, Sec. 12, which presents Te Awa Tupua as an indivisible whole, appears to be more symbolic in nature and does not refl ect actual legal practice (Bader-Plabst, 2023).

4.3 Management – the river's human face

The Te Awa Tupua's management consists of three distinct bodies; Te Pou Tupua, Te Karewao and Te Kopuka. The first serves as the official representative (Sec. 18), while the other two take on supportive and advisory roles (Geddis & Guru, 2019). The Te Pou Tupua purpose is to be "the human face" of the river (Sec. 18(2)) and to represent it as its guardian to third parties. The office is held by two individuals, one appointed by the Whanganui tribes and one by the NZ government (Sec. 20(1)). In addition to ensuring the protection of the river's status and promoting its health, they also carry out landowner responsibilities and manage relevant registers and funds (Sec. 19). Te Karewao serves as an advisory group to support the official representative (Sec. 27). It consists of three members: one associated with the trust established for Te Awa Tupua, one representative of the Whanganui tribes, and one from local authorities (Sec. 18). Te Kopuka serves as a supporting planning group and is composed of various individuals, local authorities, organizations, and environmental groups with an interest in the Whanganui River (Sec. 29(2)). It consists of up to 17 members, with five seats primarily allocated to Māori (Sec. 32(1)). The primary task of Te Kopuka was to develop a long-term resource strategy (Te Heke Ngahuru, Sec. 30(1)), with a first draft publicly presented in September 2023 (Ellis, 2023). Although the legislation grants new rights to Te Awa Tupua, existing laws (e.g. the Resource Management Act (RMA) 1991) continue to shape its management (RMA, Sec. 14).

5 Conclusion

The Te Awa Tupua demonstrates how the implementation of the RoN not only strengthens environmental protection and conservation but also reinforces the rights of indigenous peoples alongside universal human rights. This case clearly shows how RoN in Aotearoa are applied in a way that respects and integrates Māori legal and spiritual traditions. Te Ao Māori and Māori ways of life have played a crucial role in the recognition and development of RoN. Although they were not the primary focus of Maori resistance against the western anthropocentric worldview and environmental degradation, the RoN align closely with the fundamental principle of living in harmony with nature.

Ultimately, the Act underscores the importance of aligning legal systems with cultural values. It not only embodies Māori concepts of guardianship and kinship with the natural world but also highlights broader implications for environmental governance, the recognition of indigenous sovereignty, justice, decolonization efforts, and the intrinsic value of nature.

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2

Case Study:
Granting legal rights to the Maranon River as a rights-bearing entity

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2

Case Study – Part I
Maranon River
Arguments in favor of confirming the proclaimed position

Granting Rights to Naturals Objects: The Future of Environmental Protection or Cultural Mismatch?

Author: Lynette Annau

Table of contents

1 Introduction

The Marañón River represents a unique case for law makers and environmentalists alike: The river has been granted rights, and is protected through them. The legal construct is deeply rooted in Peru's specific cultural and social context, particularly in the rights of indigenous communities (Eco Jurisprudence Monitor, 2024; Jabiel, 2024). Communities around the World are looking to Peru are finding inspiration in this approach. But is this model truly exportable?

Looking to the West, policy makers are struggling to create adequate tools to protect the environment. When it comes to granting objects of nature rights, Europe doesn't share the same cultural background. Is a cultural background such as the Peruvians have necessary to give rivers their own rights?

Historically, in Western societies, nature and culture are seen as separate from each other. This separation is based on the perception of nature as the opposite of the human world, especially technology and culture. This perception is strongly influenced by the Enlightenment, in which nature became an object (of research) to be controlled and utilized and culture emerged independently of environmental conditions. Notwithstanding this cultural perception, in Western cultures, parts of nature are nevertheless highly valued. Especially animals and certain landscapes are given special symbolic significance and are representative of regional or national identity. There is also an awareness of the need to preserve these valuable cultural landscapes and creatures in order to maintain their uniqueness and character (Kirchhoff, 2020). Western societies perceive nature as separate from society, but still value it.

Arguably, the cultural appreciation of nature has contributed to the existing environmental consciousness, environmental degradation and the negative effects of climate change have led to an increasing number of environmental laws, treaties and regulations in the last decades (United Nations Environment Programme, 2023). Two important international frameworks that are of particular relevant in connection with environmental

and water protection are the *Paris Agreement* and *the EU Water Framework Directive*.

Environmental protection laws are not only born out of a scientific necessity to combat climate change and destruction of nature, but they are also based on and embedded in widely recognized social norms such as sustainability, climate protection, international responsibility and cooperation and protection and conservation of water resources. The importance of such norms is demonstrated by the Climate Special Eurobarometer from 2023, which revealed that climate change is seen as the third most serious problem, with at least 70% of the population in every EU member state supports achieving climate neutrality by 2050. The responses Totally agree and Tend To Agree reached from 99% to 70% (European Commission, 2023). The statistics clearly show that the European population is overwhelmingly in favor of ambitious climate targets.

However, laws do not have a timeless claim to validity due to rapidly evolving environmental conditions. So-called norm entrepreneurs play a central role in the process of further development. Norms are generally accepted standards and expectation of behavior that are regarded a set of rules or guideline for communal coexistence within a particular social group. They develop from the interaction of a community and provide an average value of what is seen as normal (Juwita, 2024). Norms significantly impact the behavior of individuals, groups, companies, and even governments, shaping both personal actions and collective behavior. Social norms, in particular, hold considerable sway, often influencing our actions unconsciously (Spaiser, Nisbett, & Stefan, 2022). Norms and laws have a complex relationship: They influence each other. Laws are shaped by norms, but laws (legal norms) can also change and develop social norms especially through their sanctioning character (Sunstein, 1996).

2 The Making of Norms of the Environment

2.1 Theoretical Underpinnings of Norm Development

This subchapter deals with the change of norms through the commitment of norm entrepreneurs. Norms are dynamic and are constantly in a development cycle regarding their relevance and justification. According to Nisbett and Spaiser (2023), the cycle can be divided in four phases. In the first phase, established norms are followed by various actors. Their own behavior is seen as legitimate and deviant behavior is judged (Nisbett & Spaiser, 2023).

In the second phase, certain norms within the established framework are questioned or reinterpreted, leading to disputes over their meaning or application (Nisbett & Spaiser, 2023). Norm entrepreneurs play a central role when it comes to actively and consciously promoting new norms. Norm entrepreneurs are individuals or organizations that initiate social change by drawing attention to problems with existing social norms and support alternatives (Sunstein, 1996). The third phase involves active disputes and arguments. The main actors – often norm entrepreneurs – confront the established normative framework, bring about a response from the defenders of the status quo, with both sides trying to justify their views and influence others. This phase is strongly characterized by power dynamics. While norm entrepreneurs, such as grassroots activists, may not have significant direct power or structural power, especially compared to powerful states or industries, they often have discursive power. Norm entrepreneurs typically use strategies like information politics (using scientific data and present it in a way that is generally understandable), symbolic politics (telling personal stories, to make the topic more relatable), and leverage politics (focuses on applying moral pressure on powerful actors) to persuade others during debates. With these strategies, they want to create persuasive and morally compelling arguments (Nisbett & Spaiser, 2023).

However, the framing for these arguments needs to be effective. Any new or modified norms must align with existing, widely accepted norms. This is because norms function within complex networks, where related norms interact with each other. These networks become more stable when their norms are cohesive and include legally recognized principles. Norms that fit well into existing networks are generally accepted more quickly and spread more easily, as they are orientated towards established normative structures (Daniel,

Deutschmann, Buzogány, & Scherhaufer, 2020; Nisbett & Spaiser, 2023).

Moreover, credible allies outside the original norm entrepreneurs are key for success. Norm champions whether influential states, prominent individuals or organizations are essential for spreading new norms. These champions often act as early adopters, helping to broaden their acceptance. It is crucial for norm entrepreneurs to gain the support of a critical mass of advocates who can amplify their message, act as connectors, linking various groups and extending the reach of the new norms. It is important that the norms are also accepted by the public. Increasing support creates pressure on the opponents until a tipping point is reached, and others quickly accept the norm. Until then, however, an effort is required from politicians and norm entrepreneurs (Juwita, 2024; Nisbett & Spaiser, 2023).

In the fourth phase, the normative debates from the previous phase led to changes in the existing norms, depending on the level of support each side has received. These changes could be reinforcing the status quo, adopting new norms, or changing the interpretation and application of existing norms, which can ultimately be incorporated into a law (Nisbett & Spaiser, 2023).

2.2 Environmental Crises Triggering the Emergence of Eccocentric Norm Entrepreneurs

One trigger for norm entrepreneurs to become active are environmental legislation and regulations that fall short and fail in practice. In 2023, the highest temperatures ever were measured. According to the Emission Gap Report 2023, a warming of 2.5-2.9 degrees is currently expected and thus clearly misses the Paris Agreement (United Nations Environment Programme, 2024). Another example for the shortcomings of environmental protection is the assessment of the Water Framework Directive and related directives. The evaluation shows that the directives are generally appropriate for their purpose. However, a number of weaknesses have been identified, including insufficient and slow action by Member States, lack of attention to targets in key sectors such as agriculture (Directorate-General for Environment, 2019). Similar problems can be seen in other environmental legislation (United Nations Environment Programme, 2019).

Another example for the shortcomings of environmental protection is the assessment of the Water Framework Directive and related directives. The evaluation shows that the directives are generally appropriate for their purpose. However, a number of weaknesses have been identified, including insufficient and slow action by Member States, lack of attention to targets in key sectors such as agriculture.

In Europe, the population is not satisfied with this state of affairs. Indeed, 67% of respondents believe that their national government is not doing enough to address climate change (European Commission, 2023). And people are not just accepting this failure. Instead, they feel compelled to mobilize and stand up for nature. There are numerous NGOs like the Deutsche Umwelthilfe (Deutsche Umwelthilfe e.V., 2024) that monitor climate and environmental protection laws and enforce them by means of lawsuits. Civil society actors and social movements like Extinction Rebellion and Fridays for future also play a central role in mobilization by organizing themselves and actively involving people in the political process with the aim of collectively influencing climate policy (Extinction Rebellion UK; Fridays for Future; Green, 2018).

Even though prior to Fridays for future, there were many social movements that were committed to environmental protection, Fridays for future stands out, since they truly managed to trigger a global mass movement (Daniel et al., 2020). Through media coverage and major political appearances by Greta Thunberg, the movement received a lot of attention. The initial youth movement has mobilized millions of people across generations around the world to demand climate justice from their governments by complying with the Paris Agreement. Today, it is an established climate protection movement (Nisbett & Spaiser, 2023; Sommer & Haunss, 2020). Studies by Nisbett and Spaiser (2023) and Spaiser et al. (2022) have shown that the Fridays for future as a norm entrepreneur has significantly influenced the entire political discourse, climate policy negotiations, the economy and private behavior. In its normative framework, the Friday for future movement has combined established norms such as human rights, the responsibility for child care and (international) solidarity with scientific evidence, emphasizing the urgency for change. This has led to a fundamental shift in the understanding of climate change. In addition, youth climate activists have formed alliances with influential figures and groups outside the movement who have begun to adopt and promote their normative frameworks. These norm advocates and the scientific evidence helped to increase their legitimacy. Fridays for Future had a lasting impact on the discourse on climate change and positioned itself as an influential actor in shaping climate issues (Nisbett & Spaiser, 2023; Spaiser et al., 2022).

In Europe, active civil society is therefore already campaigning for fundamental changes in environmental policy. Environmental movements have the potential to drive social change and signify a shift toward an ecocentric perspective. As ecological awareness increases, there is a transition from the traditional anthropocentric view to a greater emphasis on environmental and justice issues (Daniel et al., 2020).

3 Where Norms Meet Policy: Granting Rights to Natural Objects

3.1 The Mar Menor and Citizen Initiatives – Legal Personality of Costal Lagoon Demonstrates Shifting Environmental Paradigm

Building on this momentum, Rights of Nature (and therefore an eccentric Perspective) has been present in Europe for some time. A major milestone is the recognition of the legal personality of the Mar Menor, movements are emerging across Europe including Germany, UK, Ireland, Netherlands, Portugal, Sweden, Switzerland, while the European Union itself is beginning to discuss this concept (Ewering, 2024; Killean et al., 2024).

The Mar Menor is the largest saline coastal lagoon in the European Mediterranean region. Due to its special ecological characteristics, the lagoon is an important ecosystem that provides a habitat for many animals and plants. In recent decades, various human activities, including in the catchment areas of the Mar Menor, have caused enormous damage to the lagoon's ecosystem. Due to its uniqueness, the Lagoon is protected by various environmental laws. Since 1990, attempts have been made to preserve the ecosystem at international, European and regional level with various environmental protection measures. None of these laws have been effective. The reasons are the interplay of ineffective regulations, political failures and dominant private interests before the common good and nature (Prinz, 2023; Salazar-Ortuño & Vicente-Giménez).

The lagoon represents a part of the regional identity and heritage with great cultural value. A part of the population is not only economically dependent on the lagoon through for example fishing or tourism, but there is also a personal and emotional connection to the lagoon. The problems are not only ecological, but also have affected the economy of the region and thus many livelihoods. The visible externalization of the destruction led to a change in awareness among the population (Prinz, 2023; Salazar-Ortuño & Vicente-Giménez). It is described that inhabitants experienced a kind of *solastalgia*. Solastalgia refers to the emotional pain experienced when comfort and familiarity are lost due to negative change in one´s home or environment caused by environmental factors (Albrecht et al., 2007).

In 2016, citizens took the initiative for the first time and organized a referendum to give Mar Menor and its catchment area their own rights. This citizens' initiative failed. However, the citizens did not give up and tried again. By means of a legislative popular initiative, which required 500,000 signatures, the campaigners collected 639,824 signatures by 2021. The entire initiative was carried out without any major funding or a Nonprofit

organization in the background. In 2022, the Mar Menor, including the catchment area, was granted legal personality with an unusually high vote in the Chamber of Deputies. From now on, the Mar Menor will be represented by the civil society, whose sole concern is the ecological vitality of the Mar Menor (Prinz, 2023; Salazar-Ortuño & Vicente-Giménez).

Of the initiatives mentioned above, Ireland is one of the closest European countries to incorporating nature rights into its constitution. Based on the Citizens' Assembly report on the loss of biodiversity, the Joint Committee on the Environment and Climate Protection has recommended that the government hold a referendum to amend the Irish Constitution to acknowledge the rights of nature. This step would formally recognize nature with rights similar to those of humans in order to improve the protection of biodiversity (Cullen, 2023; Killean et al., 2024).

Killean et al. (2024) conducted a study using interviews in Ireland, in which a diverse group of people such as activists, scientists and local politicians were asked to reflect on the Rights of Nature concept. The central motivation for the involvement of civil society is, on the one hand, the support of large organizations such as *The Community Environmental Legal Defense Fund*, which have shown citizens that they too can change environmental policy as a grassroots movement from the bottom. On the other hand - as in the case of Mar Menor - the emotional attachment to the home place, own cultural (mythology, language, customs) and natural heritage drives the volunteers. People described being frustrated by the failure of environmental laws, political mismanagement, and that some had lost trust in politics due to environmental scandals.

It can often be observed that local environmental initiatives interested in the Right of Nature and promoting that concept has developed from existing environmental campaigns. Although the local initiatives are inspired by international examples, it can be seen worldwide that the respective initiatives adapt the abstract concept to their specific (legal, political and social) context, culture, traditions, goals and motivations in order to create a higher level of acceptance. Despite the fact that people in Ireland are frustrated, they do not stop advocating for effective environmental protection, Rights of Nature is seen as a hopeful opportunity to really change something deep in the system (Killean et al., 2024).

3.2 Environmental Causes Inspiring Democratic Mobilization

This collective approach aligns well with the desirable approach of the republican democracy. Republican democracy, with its focus on the common good, civic engagement, and collective decision-making. It emphasizes civic duty and prioritizing the common good, including future generations (Valeva, 2024). Democracy and civil society influence and reinforce each other. An active civil society monitors and develops democracy, initiates new political decision-making processes, public debates and if necessary, forms resistance against the state. A strong civil society strengthens the legitimacy of the state and fosters respect among citizens by improving accountability, inclusiveness and efficiency. In turn, democracy creates a structure in which civil society has freedom of action, such as the right to assemble, to contribute effectively to political development. This interaction optimizes the democratic process (Jama, 2021).

A direct legal instrument such as the rights of nature, which demands the participation of civil society, has several positive effects on a democracy. Public access to environmental information enables civil society and individuals to monitor environmental policies and increases the accountability of both government and private companies. Furthermore, involving citizens in monitoring environmental conditions can help identify violations and vulnerabilities. Finally, the active involvement of civil society raises awareness of environmental risks (United Nations Environment Programme, 2023). Collective action by the population can create ecological and social added value.

4 Conclusion

To conclude, there is no doubt that humanity is currently facing a (man-made) climate crisis. Ecosystems are under increasing pressure and are changing rapidly (IPCC, 2023). Europe has a very extensive network of environmental laws and regulations that attempt to counteract climate change. However, it can be observed that these are not sufficient to solve today's environmental problems. Europeans show a high level of environmental awareness and dissatisfaction with current environmental policy. The insufficiency of environmental policies coupled with high environmental awareness in Europe is calling for a new approach to environmental protection.

The answer may lie in civic society: This article has demonstrated that Europe has a stable culture of committed citizens who fulfil their democratic responsibilities. Citizen movements have started to take inspiration from the Latin American examples and mobilize around granting rights to nature. The Rights of Nature initiatives that have emerged in Europe and the case of Mar Menor show that the concept of the rights of nature also fits into our European context and receives support. These actors already have influence as norm entrepreneurs: The study from Ireland shows that transnational networks such as The Community Environmental Legal Defense Fund are important norm champions for greater diffusion and effectiveness. The overarching goal is effective environmental protection, and from the above arguments it can be concluded that European civil society is dynamic, flexible and motivated to take the next step with more room for action to achieve direct environmental justice.

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Anthropocentrism – an Obstacle to the Protection of Nature

Author: Jesus Bernal

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1 Introduction

During the last decades, several actions have been carried out to try to reduce and even stop the repercussions of climate change, such as the creation of politics, laws, treaties and diverse mechanisms of action to ensure the care and protection of nature, however, such measures have not been enough to reduce the diverse types of impacts that the planetary ecosystem suffers.

Such is the case of the increase in the temperature of planet Earth due to the colossal emissions of greenhouse gases, which have already reached a worrying state. The critical limit of 1.5 degrees Celsius, established by the Paris Agreement in Article 2, paragraph b, has never been so close to being exceeded, just the decade from 2014 to 2024 has been the warmest period on record (World Meteorological Organization, 2024), in addition, waste pollution continues to put thousands of biological species at risk, to the point of approaching extinction (United Nations Environment Programme , 2021). This occurs despite the wide variety of regulations on environmental protection and the multiple international commitments adopted.

Such as the Stockholm Declaration, the Rio Declaration or the Paris Agreement, to mention a few, which even though they are important events of political-environmental impact, they have not reached the paradigm change that is so necessary, the excessive industrial activity, the exploitation of resources and the generation of waste continues to increase.

This is due to the fact that what has been done is based on a model that understands the human being as the center of everything, that the virtues that come from nature are for its use and exploitation, for the generation of goods and wealth. It does not understand the capitalizing human as part of a system, but as an external, an entity that can supervise, manage and use.

This is subtracted in how the Stockholm Declaration and Rio Declaration address the role of "man" or "human beings" as the center of concerns to protect the environment. By stating respectively that:

*"[...]aspects of **man's environment** [...] **are essential to human well-being** and to the enjoyment of basic human rights [...]. **The protection and improvement of the human environment** is a major issue which affects the well-being of peoples **and the economic development** throughout the world" (The United Nations, 1972, Proclaims 1 and 2).*

Or, on the other part, where it is mentioned that:

*"Human beings are **at the center of concerns** for sustainable development (The United Nations , 1992, Principle 1)."*

In this understanding, it is evident that these international agreements, emanating from an anthropocentric conceptualization, predispose the existence of humans as well as the concepts and constructs that they have forged as what must be protected and ensure its conservation, leaving nature as a secondary issue, i.e. as a means and not an end in itself.

However, such interpretation is erroneous, it is disconnected from reality, whoever makes use of nature is part of it, of a complex ecosystem, which to this day the human being has not been able to understand, nor measure the limits to which it interacts.

Through the anthropocentric vision, the law is limited to attend the inherent needs of nature, its biological processes, its life cycles and hypercomplex systems, which escape from the traditional legal exegesis. Therefore, a significant change is required in the predominant worldview, in the understanding of the application of law.

It is there where ecocentrism demonstrates and represents the substantial alternative of the understanding of the sphere of legal protection towards nature and those species that inhabit the planet together with us, which are not considered more than goods or resources from the perspective of anthropocentric law. Understanding nature, its ecosystems and the organic beings that inhabit it as subjects of law would represent a very important advance that would give solidity to the protection of the environment, in this particular case, in Europe.

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Throughout this section, the integration of the ecocentric vision in the Law will be developed, with the main objective of recognizing the inherent rights of nature in Europe. This will be achieved through the use of existing legal and juridical figures, with special emphasis on Latin American latitudes, with the purpose of incorporating this modern advance of law in the European normative framework.

2 Ecocentrism and Rights of Nature

The protection of nature, today, represents one of the great challenges of law and juridical philosophy. The introduction of the non-human subject in the reflection of justice has become a recurrent debate that has come to resonate in courts and legislative congresses (Montalván Zambrano, 2020, p. 180). Given that the current need of society is the protection of nature, either as an act of conscience and understanding that other spectrums of planetary existence deserve legal protection, or as a mere act of symbiotic subsistence, that is, to protect nature in order to guarantee the survival of the human species - the latter being the vision that has predominated in the last decades of progress in environmental protection -, various efforts have been made to create instruments or figures for the protection of nature and the biological beings that inhabit it.

However this is understood, it is evident that the evolution of law results in the protection of nature, which could be considered as the next step in the understanding of the generacional aspect of human rights, for example, that law no longer only comprises the notion of civil rights, political rights and social, economic and cultural rights, but that the sphere of legal protection even encompasses what humans live with and need at intrinsic levels. It is the ecological imperative, as pointed out by the German-Chilean jurist Godofredo Stutzin Lipinski in 2010, when he stated that:

"The full incorporation of nature into the law as a subject **will undoubtedly be achieved gradually***; [...] meanwhile, it is sufficient to establish it as a goal that must point out the course we must follow (Stutzin, 2010, p. 97)."*

In this sense, within the natural evolution of law, nature and what it encompasses will be considered as a subject of law. Migrating from the vision that instrumentalizes what it represents and can generate, since, by recognizing the rights of nature, legal and jurisdictional entities will be forced to consider the environment independently of human interests (Tănăsescu, 2022, p. 16).

A great example that this evolution of law taking place is the Latin American ecocentric turn, where multiple countries in this region have taken the step of incorporating innovative notions for the protection, conservation and even regeneration of nature. This has been the result of cultural traditions and histories, activism on the part of organized civil society, as well as indigenous peoples and judicial activism (Tănăsescu, 2022, p. 20).

It will be of vital importance to review the most relevant events in the American subcontinent, in order to understand this juridical transition, which can undoubtedly represent a great inspiration for the European continent.

3 Latin American Ecocentric Turn

Following on from the above, Ecuador became the first nation to precisely adopt the existence of the rights of nature by recognizing them in its 2008 constitution. This was due to the imperative of the Quechua cosmovision, the *"Sumak Kawsay"* or in Spanish *"Buen Vivir" (Good Living)*, an Andean cosmovision closely linked to biocentrism and ecocentrism, which implies breaking with the eurocentric and anthropocentric model, an ideology that has been deeply accepted and practiced by the Ecuadorian people for generations (Jiménez Torres, 2024, p. 3), and as a current need, it was translated as positive law in its highest normative body.

The recognition of the rights of nature (Pacha Mama) within the Ecuadorian constitution defined in a wise manner what is understood by nature and at the same time clarified the ownership of this right. By indicating in Article 71 of the Constitution that:

"Nature or Pacha Mama, *where life is reproduced and realized, has* ***the right to have its existence*** *and the maintenance and regeneration of its vital cycles, structure, functions and evolutionary processes fully respected (Constitution of Ecuador, 2011)."*

In this article we find the recognition of nature as a subject of rights, which encompasses three dimensions: formal recognition, protection and reparation (Jiménez Torres, 2024, p. 16). This constitutional progressiveness constrains the State to guarantee the inherent rights of nature, through "guardianship" ("tutela" in Spanish), other public policies and laws. We must mention that the protection guardianship is not only in the hands of the State, but also in the hands of individuals, communities, peoples and even other nations. As indicated in the second paragraph of article 71.

"Any person, community, people or nationality ***may demand*** *from the public authority* ***the fulfillment of the rights of nature".***

This fragment resolves the problem of who can file the protection action or the action for non-compliance ("*acción por incumplimiento*" in Spanish), which the Ecuadorian constitution itself recognizes (Constitution of the Republic of Ecuador, 2011, Art. 93 and Art. 94), in favor of nature, given a logical and simple question, nature being an entity without "conscience" cannot initiate legal proceedings of its own free will, which falls under the responsibility of others and as the above paragraph facilitates, it is the same people or social or indigenous organizations who can initiate such constitutional actions of claim. It should be noted that the instrument of *tutela* (guardianship) is observed within the Bolivian and Colombian systems, which we will see below.

Within this Andean neo-constitutionalism are the efforts consummated by Bolivia, which, motivated by the strong social mobilizations, gave way to a new constitution that incorporated ancestral principles such as the *Suma Qamaña* (Villavicencio-Calzadilla, 2022, p. 10), a concept of life that is rescued from the indigenous Aymara language, native to the Bolivian territory, which could be understood in Spanish as *"Buen Vivir"* (Good Living) (Caudillo Félix, 2012, p. 187). This moral principle is enshrined in the Bolivian constitution in its

eighth article along with others such as *Ñandereko* (harmonious life) and *Teko Kavi* (good life) (Constitution of Bolivia, 2009, Art. 8), notions that, from the national perspective, oppose the neoliberal economic paradigm and capitalism, proposing a new relationship in harmony and reciprocity between human beings and nature (Ministerio de Medioambiente y Agua [MMAyA], 2014, p. 21).

In addition, the preamble of the constitution contains the sentiments of the nation to give rise to the neoconstituent process, naming Mother Earth as sacred, the plurality of its nation, as well as its anticolonial independence, which evidently points to a vision that opposes the anthropocene and symbolizes the resistance to those postcolonial remnant notions. Under this constitutional premise and after the Ecuadorian experience shared at the World People's Conference on Climate Change and the Rights of Mother Earth, the legislation enshrined two national laws, the Law on the Rights of Mother Earth (Law No. 71, 2010) and the Framework Law on Mother Earth and Integral Development for Living Well (Law No. 300, 2012) (Villavicencio-Calzadilla, 2022). We will focus on the first one due to its level of importance and the legal contribution it makes to this matter. According to its first article, the objective of this law is:

"The ***recognition of the rights of Mother Earth****, as well as the obligations and duties of the Plurinational State and society to ensure respect for those rights (Law of Mother Earth Rights, 2010, Art. 1)."*

In this sense, we must turn to the provisions of article three of this same law, to rescue the definition of "Mother Earth", which is understood as:

"The dynamic living system formed ***by the indivisible community of all life systems and living beings,*** *interrelated, interdependent and complementary [...]"*

This configures a superior understanding of what nature encompasses and understands in traditional legal systems, since within it, plants, animals, microorganisms, other beings and their environment are considered as a complex community, interacting with each other at intrinsic and extrinsic levels, as a single functional unit (Law of Mother Earth Rights, 2010, Art. 4).

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Having said this, we have that the rights of nature recognized in the first article of this legislation guarantee the right to the integrity of the systems, the right to the preservation of the species that compose Mother Earth, as well as the preservation of its elements and cycles, the right to be restored in its affected systems and the right to be free from any type of contamination generated by human activities (Law of Mother Earth Rights, 2010, Art. 7).

Another virtue that this regulatory body gives us is the principle of respect and defense of the rights of Mother Earth (Law of Mother Earth Rights, 2010, Art. 2, Number 2), which covers the guarantee that the State and any individual or collective person will enforce the rights of nature, this integrated with the fifth and sixth article of this same law configures a margin of collective action, specifically a character of collective subject of public interest (Law of Mother Earth Rights, 2010, Art. 5), so that the protection of the nature and its rights will be claimed by all Bolivians, as part of the community of beings that make up Mother Earth (Law of Mother Earth Rights, 2010, Art. 6).

In definitive terms, the normativity born of the indigenous movements, which seek to deconstruct the anthropocentric posture in Bolivia, has provided a broad perspective of what can be understood by the rights of nature and how to establish a dynamic so that these rights are not merely symbolic, but operative and justiciable. Within this

normative operativity, the jurisprudential advances in the Latin American region for the protection of rivers stand out.

In Colombia to date there is no constitution or national law that recognizes the rights of nature or that openly observes from an ecocentric prism, however, this was not an obstacle to generate jurisprudential progress. This is how the Constitutional Court interpreted in a novel way its current and positive law, in the sentence T-622/16, recognizing the rights of the Atrato River, as well as the conceptualization and guideline of use of biocultural rights.

Biocultural rights expose that ecocentric perspective that allows the jurisdictional organ to formulate the iusphilosophical argumentation in favor of recognizing the rights of nature in the Colombian context, as established by the Court when it states that these rights result from the deep and intrinsic connection that exists between nature and the culture of the ethnic and indigenous communities that inhabit them, assuring that these are interdependent among themselves and cannot be understood in isolation (Republican Constitutional Court of Colombia [Sentence T-622/16] , 2016, p. 47 and 48). Similarly, in this jurisprudential conceptualization, the rights of ethnic communities to administer and exercise *tutela* (guardianship) in an autonomous manner are pointed out.

In this incorporation of the cultural ideals of the indigenous communities, under the perspective of biocultural rights, in dynamics with the rights recognized by the Colombian constitution, such as environmental law, indigenous peoples and cultural diversity (Valeria Berros, 2024, p. 191), and in favor of the principle of environmental precaution as ratio *decidendi* (Amaya Arias, 2020, p. 26), it is how for the first time in the history of the country an entity of nature was recognized as a subject of law.

The rights that are recognized to the river per se, as well as to its watershed and tributaries, are the right to protection, conservation, maintenance and restoration, which will be the responsibility of the State and the ethnic communities (Republican Constitutional Court of Colombia [Sentence T-622/16], 2016, p. 5). This judicial decision had positive consequences since it allowed other courts in Colombia to decide in a similar manner. Thus recognizing that the Otún, Coello and Cauca (Ramírez-Sierra, 2017) rivers are subjects of law.

To close this section, it should be noted that the rights of nature have made significant progress in recent years in Latin America, since the ecocentric turn has been presented in other countries such as Mexico, Chile, Argentina, Peru and Costa Rica. They all began with the act of renouncing the anthropocentric prism to superimpose an ecocentric perspective, readapting the viewpoint of legislators, judges and society itself, thanks to which the recognition of the rights of nature has been sown in constitutions, national laws and jurisprudence.

Undoubtedly, this imperative progressiveness is applicable to the European continent, which has a strong legal structure for environmental protection, with solid and reliable institutions, and especially, has the will of society to protect and safeguard the rights of nature itself. That is why it is of the utmost importance to know about the advances in the rights of nature that are carried out in other latitudes, since it allows to formulate solutions thanks to the comparison and inspiration.

> Biocultural rights expose that ecocentric perspective that allows the jurisdictional organ to formulate the iusphilosophical argumentation in favor of recognizing the rights of nature in the Colombian context.

4 Use of the Juridical Hermeneutics to promote the re-establishing of foundational ideologies

This section will focus on capturing concepts and thoughts that can be incorporated into the juridical-legal cosmovision of Europe, presenting the hidden vices of the European system as well as in the logic of the generators of law, to subsequently exhort the use of legal hermeneutics in the processes of creation of legality and justice so that the progressiveness of the recognition of the rights of nature, enshrined in the diversity of the sources of law at the international level is formally adopted.

Historically, the relationship between European countries and nature has been far from harmonious. The European conquest of America and Africa resulted in the near extermination of cultures and habitats (Borràs Pentinat, 2020, p. 82). Similarly, within the same continent, the excessive industrial activity and warlike conflicts during the XIX and XX centuries left behind a great deterioration of ecosystems and biological species (BBC News, 2012). This is mainly due to the fact that the anthropocentric Eurocentric cosmovision considers nature as a legal good, which conditions it to the economic and political interests of the region (Jiménez Torres, 2024, p. 9). This position is recurrent, since we must emphasize that this cosmovision was gestated in this continent and consequently motivated colonization and rationalized atrocious acts, when other human beings were reduced to savage roles, understanding them as animals and thus allowing their enslavement.

This illustrates how the mercantilization and utilitarianism of nature, as an instrument for "superior ends", allows and justifies European developmental interests to undermine the stability of the environment and other societies, even to inhumane levels. It is, therefore, of the utmost importance that European society rethinks its belief system and the ideological pillars on which it prostrates itself, in order to abandon purely selfish intentions that recapitulate systematic abuses.

Given that, without the real intention of understanding and recognition of international positions that have accepted the rights of nature, the European Union, despite having forged a large number of instruments for the protection of the environment, will never be able to realize its intentions to protect nature. That can be seen in how, despite this normative framework of protection, an estimated 42% of European mammals, 15% of birds and 45% of butterflies and reptiles are at risk of extinction (European Environment Agency, 2019).

Instruments such as the Habitats Directive, the Natura 2000, the European Climate Legislation, the Green Deal and the recent Nature Restoration Law, in addition to the legal foundation of the Treaty on the Functioning of the European Union in Art. 11, 191 and 193, could be strengthened if the rights of nature were introduced, given to allow the reconstitution of the socioeconomic systems that today legalize and institutionalize the destruction of nature (Bagni, Ito, & Montini, 2022), in turn would allow the elimination of obstacles that, for jurisdictional questions of competence or legal technicalities, limit that these instruments or norms of environmental protection are applied to the sites where the political and economic intentions realize their greatest social detriment and ecological damage.

It is in this sense that the Commission of the European Union is urged to reconsider the introduction of an ecocentric prism in the context of the geopolitical entity, since, by rooting this through a legal hermeneutic work of the international trend, rescuing legal concepts of the Latin American countries mentioned above, the existing regulations can be strengthened, allowing it to reach a degree of greater hierarchical importance, above corrosive economic interests and effectively seek to comply with the objectives of sustainable development indicated by the UN as well as those embodied in the Green Deal - in terms of environmental care -, avoiding its abandonment due to changing circumstances, as usually happens in the political aspect (Bagni, Ito, & Montini, 2022).

In view of this, the use of juridical hermeneutics plays an important role, since, when resorted to by legislative and judicial operators in the legal design of the European continent, it formalizes and materializes the dogmatic influence of other international latitudes, especially focused on the recognition of this new type of right, since "the Western-European vision and its theories will not be sufficient to understand that Nature is a subject of rights" (Ramírez Vélez, 2012, p. 34), as was evidenced in the latest study that addressed the subject "Can Nature Get Right?".

Furthermore, since the EU and its Member States have a unique and particular integration system, hardly comparable with the legal systems of other nations or regional blocs (Borràs Pentinat, 2020), the legal hermeneutics allows bridging this gap by focusing on the understanding of the underlying principles in foreign regulations and thus translating to the local or regional context its own progressiveness of the rights of nature, enshrining itself in the current needs of EU society, which is strongly inclined to recognize the rights of nature, as seen in the Mar Menor case (Jefatura Estado, 2022).

By incorporating the commitment to the use of hermeneutics in those processes of law generation and at the same time basing the existence of the rights of nature with the existing regulations, sustaining ourselves from the articles in favor of the environment that are embodied in the Treaty on the Functioning of the EU (2012), we can give rise to the creation of a progressive framework that allows the imperative of law. This would make it possible to achieve vital reforms by modifying Article 3, paragraph 3 of the Treaty on European Union, in order to abandon a sustainable development that prioritizes "economic growth" while leaving nature as a subsequent objective:

"The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, ***and a high level of protection and improvement of the quality of the environment".***

The aim is to prioritize the rights of nature as the basis for development, since all other systems depend on it and its deterioration means the extinction of all others. In turn, a significant change in the constituent interpretation of the European Union, where the feelings of the nations to protect nature itself are captured, will allow the emergence of a new directive that recognizes the rights of nature, and thus, ensure its operative application.

5 Conclusion

To conclude, the proposal of an ecocentric turn in Europe, documented by the examples in Latin America, offers a paradigm shift. Recognizing nature as a subject of rights not only redefines its protection from a philosophical position, but also enables the creation of more robust legal tools to safeguard ecosystems. Countries such as Ecuador and Bolivia have shown that through citizen participation, judicial activism and political intention, it is possible to integrate ancestral principles into modern legislation, such as the principles of respect and defense of the rights of Mother Earth. Similarly, in Colombia it was shown that through the correct progressive interpretation of the norm, it is possible that, in systems that do not yet have a normative framework that recognizes the rights of nature, revolutionary jurisprudences can be configured that give way to a paradigm shift, which can be driven from the judicial sphere.

In addition, the existence of customary figures of Latin American law, such as the Guardianship, when considered for imitation in the systems of norm generation as well as by the EU justice systems, it is possible that the various countries that make up the continent, its governmental or non-governmental organizations, or any citizen can initiate actions for environmental or ecological damage.

Europe, with its solid legal structure and its social commitment to the environment, has a unique opportunity to adopt these experiences and move towards an ecocentric paradigm. For as has happened in other nations, recognizing the rights of nature reconfigures the relationships between institutions, people and the environment.

Ultimately, the evolution of law towards an ecocentric approach is not only an imperative, but also a practical necessity to ensure the survival of future generations and the continuity of life on the planet. This paradigm shift must be promoted through a global dialogue that fosters legal hermeneutics and thus allows the integration of learning from different regions and consolidates a universal framework that places nature at the center of legal protection.

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Economic Advantages of Granting the Rights of Nature

Author: Malika Arstan

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1 Introduction

As global environmental challenges intensify, the concept of granting rights to nature has gained attention not only as an ethical imperative, but as an economically viable solution. In economic terms, the ecosystem services provided by protected areas are worth several hundred billion dollars a year (McNeely, 2020). Recognizing nature's rights – particularly for critical natural resources such as rivers and other water ecosystems – may create the foundation for sustainable economic growth, resilience, and long-term prosperity. In Europe, the argument for legal rights for nature could find support in factors such as improved resource management, reduction of environmental degradation costs (Darpö, 2021), stimulation of green industries (European Economic and Social Committee et al., 2020), and alignment with the European Union's commitment to environmental sustainability (European Economic and Social Committee et al., 2020), which will be elaborated in this paper.

> In cases like the Eastern Nile River Basin, cooperative management frameworks have demonstrated that resource allocation improves significantly when rivers are granted specific protection.

2 Enhanced Resource Management and Cross-Border Collaboration

Granting legal rights to rivers offers a structured and balanced approach to managing resources effectively, particularly when these rivers serve multiple countries. In cases like the Eastern Nile River Basin, cooperative management frameworks have demonstrated that resource allocation improves significantly when rivers are granted specific protection. This approach reduces conflicts among riparian states and leads to more predictable and fair water distribution, allowing countries and businesses to plan effectively for water needs (Nigatu & Dinar, 2016).

Moreover, granting rivers legal personhood helps avoid the "tragedy of the commons" scenario, where shared resources are overused and degraded due to lack of ownership and accountability (Hardin, 1968). Legal recognition ensures that ecosystems are protected as shared resources, fostering cooperative management and reducing resource depletion.

Other cases like the Whanganui River in New Zealand, the Victorian rivers in Australia, and the Marañón River in Peru also show the value of legal rights in managing water resources. This is done by making nature a legal entity, which ensures the best decision-making and resource allocation. Moreover, the legal recognition of another river in India, the Ganges, although facing challenges, has encouraged dialogue among states and regions sharing water resources, fostering cooperation to address ecological and resource management issues (O'Donnell & Talbot-Jones, 2018).

Europe, home to rivers that cross numerous borders (European Commission, 2023), could see substantial economic and resource management benefits by recognizing these rivers' legal rights. A study across Norway, Sweden, Germany, and France revealed strong public support for ecological river management, with a high willingness to pay for improvements like enhanced riverbank accessibility, better water quality, and restored native fish species. These findings highlight the nonmarket economic benefits of ecological river management and its societal value. Introducing a rights-based approach in European transboundary river basin management could address systemic challenges, support legal water quality standards, and promote integrated management (Riepe et al., 2019). Success, however, hinges on member states prioritizing ecological needs over individual socio-economic interests and empowering a supranational authority with a clear mandate and shared responsibilities (Hanley et al., 2006).

One of the existing legal instruments, the EU Water Framework Directive (WFD), exemplifies how a structured legal framework can drive progress, protecting and restoring clean water resources through integrated river basin management. By fostering cross-border cooperation and aligning ecological priorities with socio-economic needs, the WFD might provide a blueprint for balancing long-term water security with sustainable economic growth (Kurrer & Petit, 2024). A rights-based approach, complementing the WFD, could strengthen this alignment, promoting sustainable water infrastructure investments that benefit industries like agriculture. Thus, the economic stability and food security across Europe could be safeguarded against disruptions that can lead to price volatility and reduced output (Falkenmark, 2013). Furthermore, recognizing rivers as legal personalities can enhance environmental protection, potentially leading to sustainable development, improved ecosystem services, and long-term economic benefits for communities dependent on these water bodies (Jolly & Naik, 2022).

3 Ecosystem Services as Economic Pillars

The protected areas provide many critical ecosystem services, such as supporting biodiversity and regulating the water cycle, as well as stabilizing climate, which together are worth hundreds of billions of dollars in the global economy. It is by protecting these ecosystem services with a rights framework – that is, making legal recognition of the rights of nature – that we can ensure their sustainable management and productivity while maintaining resilience and economic stability in the long term (McNeely, 2020).

Particularly, rivers provide very high ecosystem services for various sectors, such as agriculture, fisheries, tourism, and manufacturing. By legally protecting rivers, Europe ensures that these industries continue to benefit from resources like clean water, which are fundamental to production processes and community well-being. Ecosystem services are often undervalued until they are degraded, but when rivers are seen as legal entities, their value is formally recognized, and industries reliant on these services are more secure (Vysna et al., 2021).

Such ecosystem services also add to the resilience of the economy by protecting it from different shocks of the environment. For instance, these rivers are known to play an important role in the controlling of floods, thus limiting the extent of economic damage caused on infrastructure, pro-

perty, and agriculture. Legal rights of rivers would ensure their ecological functions, which should thereby reduce the costs caused due to environmental disasters and create a stronger economic foundation for affected communities (Directorate-General for Environment & European Commission, 2023).

4 Reducing Long-Term Environmental Costs and Promoting Stability

One of the biggest reasons for recognizing nature's rights is the reduction of long-term environmental degradation costs. Environmental degradation and resource scarcity result in significant costs that only grow over time. Neglecting river rights and allowing unrestricted exploitation is linked to increased expenses associated with water scarcity, environmental degradation, and agricultural instability (Croitoru & Sarraf, 2024). By granting rights to rivers, businesses can reduce the risks associated with environmental degradation, such as water shortages, flooding, and pollution, which could disrupt supply chains, raise operational costs, and damage critical infrastructure. Protecting rivers' ecosystems would ensure long-term water quality, which is essential for industries such as agriculture, manufacturing, and energy production (Dasgupta, 2021).

Legal recognition of ecosystems also minimizes risks related to climate change. Environmental and biodiversity degradation exacerbates extreme weather events, leading to increased costs for disaster recovery. Protecting rivers as legal entities ensures the preservation of natural flood barriers, which can save billions annually in infrastructure repair and flood damage (Dasgupta, 2021).

When ecosystems, especially rivers, are managed sustainably, the cost of addressing damage, such as cleaning and filtering polluted water sources or rehabilitating degraded lands, decreases. A legal rights framework can help enforce strict protection, leading to reducing pollution and degradation over time. This strategy not only preserves ecosystem services such as clean water, flood control, and biodiversity support, but also ensures that these benefits remain accessible to industries and communities dependent on them. Thus, granting rivers legal rights is not only an environmentally sound choice but an economically wise one, as it minimizes restoration costs that would otherwise be inevitable in a degraded environment (Ceglar et al., 2024). Moreover, in a circular economy model, granting rights to rivers aligns with the philosophy of reducing and reusing resource consumption while preventing overexploitation. By prioritizing ecological balance over unrestrained economic growth, businesses can reduce dependency on finite resources while fostering sustainable development (Ellen MacArthur Foundation, 2019).

5 Stimulating Green Economic Growth and Sustainable Industries

Another compelling economic benefit of granting legal rights to nature is the stimulation of green industries, which are becoming more crucial to the modern economy. Recognizing rivers as entities within their own right also fulfills European commitments under the European Green Deal. The relevant industries include renewable energy, eco-tourism, sustainable fisheries, and agriculture. There are jobs to be created by all but damaging activities that make depleted and renewable resources available for economic activity. For example, renewable energy, especially hydropower, could thrive under such regulations, which are considerate of the rights of rivers and would allow end users to generate power sustainably while preserving the ecosystems (Schäfer, 2021).

For example, a report by the International Renewable Energy Agency highlights how renewable energy transition projects can generate significant economic returns while creating employment opportunities. These projects have not only created jobs for 12.7 million people globally in 2022, compared to 7.3 million in 2012, but also are striving to provide long-term energy security and reduce dependence on fossil fuels (International Renewable Energy Agency, 2023).

Granting legal rights to rivers also aligns with the Sustainable Development Goals (SDG 8: Decent work and economic growth, SDG 13: Climate action, and SDG 14: Life below water), creating new economic opportunities for businesses that prioritize environmental sustainability. Moreover, such practices might further open the door to sustainable finance. Europe has seen a substantial increase in green bonds and other financial instruments

An economic benefit of granting legal rights to nature is the stimulation of green industries, which are becoming more crucial to the modern economy. Recognizing rivers as entities within their own right also fulfills European commitments under the European Green Deal. The relevant industries include renewable energy, eco-tourism, sustainable fisheries, and agriculture.

aimed at supporting environmental projects, and the protection of nature as a rights-bearing entity can align well with investors' criteria for these funds. By establishing rivers and ecosystems as legal entities, Europe signals a strong commitment to sustainability, attracting green investments and enabling projects prioritizing environmental integrity. In the long run, this could foster economic resilience and keep Europe competitive in a global economy that increasingly values sustainability (European Commission, 2021).

6 Alignment with Public Sentiment and Consumer Demand

According to the Euromonitor, consumer demand for sustainable products and practices in Europe is evolving. It can give businesses a competitive edge if they advocate environmental rights, as consumer preference has been moving towards this direction (Euromonitor, 2023). Once rivers and other ecosystems gain legal rights, companies that operate sustainably and respect these rights can present a strong case to the public in a differentiated or even preferential way. Such an environment can increase economic resilience by ensuring that sustainability becomes, in part, an economic asset rather than just an ethical choice in the business environment. Recognizing river rights can drive corporate social responsibility (CSR) initiatives. Thus, businesses committed to sustainable practices would be more likely to attract investment, talent, and consumer loyalty, creating a virtuous cycle where environmental responsibility could enhance brand value and profitability (European Parliament & Directorate General for Internal Policies of the Union, 2024).

7 Conclusion

Granting legal rights to rivers is a long-term approach that bridges environmental conservation and economic sustainability (Dasgupta, 2021; McNeely, 2020). This strategy enables the efficient management of shared resources, reduces long-term costs associated with environmental degradation, and fosters green economic growth (Ceglar et al., 2024; Darpö, 2021). Granting legal personhood to rivers, such as New Zealand's Whanganui River, has demonstrated improved stewardship and sustainable water resource management (Ruru, 2018). Similarly, legal frameworks for nature in Europe have shown potential to reduce the costs of environmental degradation, strengthening the case for protecting natural ecosystems (Darpö, 2021).

By protecting rivers as legal entities, businesses and governments can mitigate risks tied to water scarcity, infrastructure damage, and supply chain disruptions, while unlocking opportunities in eco-tourism, sustainable energy, and circular economies (International Renewable Energy Agency, 2023; Schäfer, 2021). It also fosters innovation in sustainable practices, which stimulates the growth of green industries and contributes to economic resilience (Kauffman, 2023). Furthermore, aligning corporate practices with environmental ethics strengthens brand reputation and meets evolving consumer expectations for sustainability (Euromonitor, 2023). Legal rights for nature resonate with public values, enhancing community engagement and support for environmental stewardship (O'Donnell & Talbot-Jones, 2018).

The economic and social benefits of recognizing nature's rights far outweigh potential short-term challenges, such as regulatory compliance (Riepe et al., 2019). This approach lays the foundation for a resilient, sustainable economy

that harmonizes environmental stewardship with long-term prosperity. As rivers sustain industries, ecosystems, and communities, granting them legal rights ensures their protection for future generations and enhances the overall well-being of society (European Commission, 2023; European Economic and Social Committee et al., 2020). Thus, Europe can lead the way in creating a model where environmental health and economic growth go hand in hand.

Putting long-term stability and sustainable growth before short-term gains, the economic reasons for granting legal rights to nature entities like rivers are compelling.. In an era where environmental and economic challenges are deeply interconnected, recognizing such rights enables to adopt a holistic approach to prosperity, ensuring ecosystems and the industries dependent on them thrive sustainably for future generations.

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Is Europe Ready to Embrace the Recognition of Nature's Rights?

Author: Claudia Rocio Crespo Chavez

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1 Introduction

The task assigned in this dynamic consisted of developing arguments in favor of the recognition of the rights of nature. Given the recent social demonstrations throughout the world in favor of this paradigm shift, at first glance, it seemed an advantage to adopt this position. However, as progress was made in compiling and elaborating the arguments, various obstacles were encountered both at the theoretical and practical level. Thus, in order to present an orderly, coherent and convincing development, the position was divided into 4 key points.

At the beginning, there was a forceful introduction based on the legal possibility of this recognition from various philosophical theories. Then, from a social perspective, the central role that NGOs and other groups that support environmental protection have been playing was highlighted. The third argument was also legal, but, unlike the first, it started from the practical perspective of judicial representation and the use of general principles of law. Finally, as a closing argument, an economic argument was proposed that brings together the main objective concerns of many States to adopt this paradigm shift.

In this short text, a summary of these 4 arguments will be presented. It should be noted that each one was developed taking into account the main criticisms formulated by the opposition, not only with the aim of countering these questions, but mainly to strengthen the position.

2 Is nature capable of acquiring legal subjectivity?

It was decided to start with the discussion about the philosophical-legal possibility of this recognition, because, fundamentally, this is a discussion that arose at a theoretical level from Christopher Stone's text "Should trees have standing?", which, in turn, commented on the Sierra Club vs Morton case in 1972 (Jan Darpo, 2021). It was therefore consistent to highlight the importance of the theoretical approach of ecocentrism, in order to understand how and with what objective it arose. The main conclusion from the analysis of this particular article and, specifically, from the dissenting position of Judge William O. Douglas in the cited

case is that, among the concerns of the opposition, the impossibility of nature to acquire subjectivity by not having a conscience or affordable forms of representation was raised.

This critique is based primarily, but not exclusively, on the theory of legal subjectivity, which proposes that only humanity or, failing that, human organizations (companies, corporations, and other types of legal persons) can be subjects of law (Escobar 1998 and Kersten 2017). However, according to Gwendolyn Gordon, "legal personality is not binary; it is not a yes or no proposition. The differentiation of legal rights and responsibilities begins, not ends, with the question of whether or not something can be considered a person by a law" (2018:50).

In this sense, it is not enough to argue the mere absence of conscience, understood in anthropocentric terms, to flatly reject this recognition of subjectivity, especially when, as contrasted with reality, the law provides protection to various figures that do not exist materially, it is enough to observe trusts, company shares, loans, among others. Thus, conscience is rejected as a requirement for judicial protection which, as is also observed in reality, can take various forms, among which is the recognition of subjectivity.

It is necessary to clarify that this new paradigm, by implying an adaptation of current legal figures, means renouncing the concept of liability understood as the product of pre-existing or acquired obligations. As will be seen in the third argument, while nature can resort to jurisdictional forums in search of protection through figures such as representation, on the other hand, it is evident that it will not be able to assume the costs of any eventual liability. Thus answering the usual question of the opposition: If a tree falls and destroys my property, can I sue nature? The simple answer is no.

At this point, one could delve into the theories of responsibility and obligations, but that would be pointless, since the central axis of this questioning is to discredit the subjectivity of nature based on its inability to take responsibility and, to do so, it takes up again as a basis the lack of conscience. In the meantime, as part of any theory of obligations, the person who can be attributed (both objectively and subjectively) the production of the damages and/or losses caused as a result of his action (in some cases even inaction) is responsible. From the law, this is understood in the classic description of the person as the entity that has both rights and obligations. Both are components or sides of the same coin (Trevino 2002).

If we start from the above, giving subjective recognition to nature, that is, seeing it as a subject of rights, has as a consequence allowing its recognition as an active subject through rights and as a passive subject through obligations. However, in an effort that borders on redundancy, what is proposed from ecocentrism is to leave aside this traditional description of a person and think of nature as a different entity that, for that reason, will play by different rules than those established for humans, without thereby losing its legal personality. Let us think for a moment about other subjects of law, such as States, international organizations and legal persons. Do they all have rights and obligations in the same way?

If there is any persistent quality in law, regardless of its legal family (common law or civil law) and the legal system or State in which it is formulated, it is that it can always be adapted to the needs of the society in which it is applied. The central proposal of ecocentrism proposes precisely this change, especially when considering the current situation of nature.

As indicated in the 2023 Global Risks Report, Europe has a risk index of 2.4, which is conside-

If there is any persistent quality in law, regardless of its legal family (common law or civil law) and the legal system or State in which it is formulated, it is that it can always be adapted to the needs of the society in which it is applied.

rably low compared to other continents (Bündnis Entwicklung Hilft / IFHV 2023). As Sergio Parra (2024) later points out, these figures only indicate an existing risk margin that can be determined by other factors such as the quality of infrastructure and social cohesion. The advantage in Europe is that, unlike other States, protection and prevention policies have been improved, a clear example of this being the creation of the SEAR (Solidarity and Emergency Aid Reserve). Despite its relief work since 2021, the capacity of this EU body has been overwhelmed by the number and magnitude of recent catastrophes, which reaffirms the urgency of strengthening the protection currently provided to nature.

Even from an anthropocentric perspective, studies such as that of Jacques-Yves Cousteau place the protection of nature as an inherent part of the preservation of humanity, understood not only from the present needs, but also future ones, thus affirming the path of the "rights of future generations" (Kenneth, 1997). A central part of this first argument lies precisely in rethinking previous constructions and adapting them to current needs. In this sense, considering that there is no compelling philosophical impediment to limit this recognition and that, in reality, the current state of societies requires greater protection; it is coherent to admit, at least, the possibility of giving rights to nature.

3 Society is ready for this change

Based on the case of the Marañón River in Peru, there is a growing trend of social mobilizations that fight to strengthen the mechanisms for the protection of nature, one of which is to recognize its rights as a subject. Although the aforementioned case is generated in a legal, political and social context different from that of Europe, it is no less significant, especially when one observes that, throughout Latin America, there are manifestations along the same lines, the most notable case being that of the Constitution of Ecuador, which, since 2009, recognizes nature as a subject of rights.

The opposition frequently criticises the application of an approach that has not emerged in Europe, which in the long term may affect the international cooperation of States on the continent. In this regard, on the one hand, it must be recognised that this criticism reinforces stereotypes of superiority of certain countries over others, ignoring the contribution that other regions of the world can provide to our increasingly globalised reality. This is precisely the notion that the movement called TWAIL (Third World Approaches to International Law) (Mejia, 2020) seeks to combat. If this questioning is accepted as true, there is a risk of rejecting any advance or idea of progress that does not come from the so-called "developed countries", which is counterproductive when what is sought is to develop sustainable solutions to problems that affect us as humanity.

On the other hand, it is recognized that Latin America is the continent with the greatest mobilizations in favor of policies based on ecocentrism, perhaps due to the high presence of indigenous peoples and native communities that consider, among their principles and philosophy of life, a closer relationship with nature. However, this does not lead to the necessary conclusion of restricting this type of relationship to these social groups, since nature is not found in a specific country or continent, so Europeans can also have this type of link.

Observable evidence of this shift can be found in recent European social movements in favour of environmental protection, which have in fact led to court cases that have ended up recognising rights to rivers, take the Mar Menor in Spain as an example. Such is the importance that has arisen on the subject that the EU, in 2020, through the European Economic and Social Committee, commissioned a group of researchers to carry out the study entitled "Towards an EU Charter of the Fundamental Rights of Nature" which later concluded in the report "Can Nature Get It Rights? A Study on Rights of Nature in the European Context". The authors of these reports end by concluding that "we need the rights of nature as a new conceptualisation of the legal paradigm within 'Earth Jurisprudence' (Fernandez Dos Santos, 2024, environmental law blog).

Thus, to argue against the external emergence of ecocentrism is nothing more than proof that the question of who or what we recognize as a legal entity with specific rights is, to a large extent, a question of traditions and, of course, of social and economic interests (Kersten, 2017:10). Because it focuses only on the origin of the approach and not on its benefits in a context that, in fact, has better conditions to face this change, because unlike most Latin American countries, Europe has a more eco-friendly infrastructure and great investment potential in renewable energy.

As an example of this growing social concern, it is enough to mention some of the most active non-governmental organisations in Europe. Firstly, the World Wildlife Fund (WWF), based in Switzerland and working in collaboration with the United Nations, the World Bank and the European Association. Secondly, SEO Birdlife, an ornithological society founded in Spain. Thirdly, Oceana, which, although founded in the USA, is also active in Europe and is the main global NGO involved in the care and preservation of the marine environment. Fourthly, Friends of the Earth, also a Spanish NGO. Finally, Greenpeace, which is based in Amsterdam and, despite certain incidents, continues to emerge as one of the environmental NGOs with the greatest international presence and activity. These organisations are just a small example of how that position initially formulated in a theoretical way is now a demanded reality that has a basis in representation in these groups, which show not only concern for the environment, but also pave the way for greater social empowerment and reflect that, indeed, society is ready to face this change.

4 It is not necessary to discard everything that has been built, the key is in adaptation

One of the key positions of the opposition was to point out the limited contribution of ecocentrism, since there are already environmental protection regulations, many of them in reform precisely because of their low effectiveness, so adding a new commitment implies increasing the burden of the already overloaded current system. On the surface, this is a valid criticism, given the reality of many countries, however, it means starting only from the problems and not from the potential of the solutions, which has the effect of ignoring that, in reality, it is not necessary to change or tear down the entire current system, but to adapt it using current tools.

As was stated in the first argument, there are solid legal bases for this transition. Obviously, it will be necessary to redesign or even leave out certain institutions such as those of responsibility and obligations because they are not coherent with the environmental protection system. However, this is an exception that will also have to be defined. The focus must then be on the protection potential that the new egocentric paradigm implies.

From the perspective of representation, part of the opposition's criticism also appears in Stone's text, as a solution to the problem of implementing the figure of the guardian, which is directly related to the judicial representation currently available in various legal systems and which allows, precisely, that when a person (such as nature) cannot appear in a process, they are allowed to be represented by a third party who will be present, but will not be a direct beneficiary of the issued sentence. This is the figure implemented in the Peruvian case of the Marañón River, since the claim is initially filed by an indigenous people and then in the decision the same group is designated, in collaboration with public entities, to exercise the role of guardians of the aforementioned body of water.

In this sense, it is shown that this is only an apparent problem that is easily solved if the legal instruments available are used correctly. This logic, in fact, is derived from the so-called progressive interpretation method, frequently used in matters of human rights, which, as indicated by the IACHR (Inter-American Court of Human Rights) in the Cantoral Benavides case of 2000, assumes that human rights must always advance, thus preferring interpretations that favor this development (Galdamez 2008). Under this order of ideas, it is perfectly possible to propose the readjustment and even direct application of figures such as judicial representation, especially when, as has been repeated, the central objective of this reform lies in strengthening the mechanisms for the protection of nature.

In addition to the progressive interpretation, it is equally relevant to highlight the importance of the general principles of law, especially those of prevention and precaution. The first has been widely developed in principle 17 of the Rio Declaration and is developed as the configuration of methods, for example, environmental impact studies; to identify the degree of impact of certain human activities on the environment with the aim of neutralizing them or reducing their negative consequences. As for precaution, it proposes cauti-

It has been demonstrated that there are currently legal tools that can be adapted to make this paradigm shift possible. This does not leave out the future of humanity, because something that seems to be misinterpreted in this position is that it appeals to the supremacy of nature and this is not true.

ous or measured action in case of ignorance of the potential damage due to technological innovation (Silva 2019). Both have an approach integrally directed to the protection of the environment, however, they do not leave aside human needs and, in fact, appeal to a harmonious coexistence between what humans require from nature without this posing a danger to the latter.

Thus, it has been demonstrated that there are currently legal tools that can be adapted to make this paradigm shift possible. This does not leave out the future of humanity, because something that seems to be misinterpreted in this position is that it appeals to the supremacy of nature and this is not true. What is sought, on the contrary, is to achieve balance and, looking at the current panorama, it is clear that it is humanity that has the greatest advantage without nature having greater protection than the minimum. This is what we want to change.

5 Can we pay for it and not die trying?

One of the most reasonable concerns from the opposition was to question the real capacity of the States to assume this paradigm shift. Although the proposal raises more than anything a change in social thinking and the relationship of people with nature, it is evident that in the middle there are various economic activities of great impact, such as mining, energy generation and storage, animal consumption, among others. Activities that, objectively, cannot be paused or even completely paralyzed given their importance for human subsistence.

As stated in the previous section, the response of ecocentrism does not call for a halt to these activities. To accept this logic would be to accept the decline in technological progress, which is genuinely what has allowed humans to position themselves at the top of the natural food chain. In this sense, the central idea is once again to adapt current processes to make them more sustainable, while promoting research and implementation of eco-friendly technology that, instead of using natural resources as a mere object of exploitation, observes in nature a being of coexistence and mutual sustainability.

This is precisely the logic of two current economic phenomena: the circular economy and corporate environmental responsibility. The basic idea of the first component proposes the reuse of resources to avoid unusable and unsustainable mass production (Jones, N; Nikolaou, I, & Stefanakis, A., 2021) . A policy that many companies currently implement, not only because of the environmental commitment it entails, but above all because of the savings it can generate (this is not a general conclusion). The second concept, more closely tied to state commitments, comes from the concern of States for environmental degradation, which is why it implements a system that can vary by either granting benefits to companies that demonstrate this responsibility or, on the contrary, sanctioning those that do not reflect this commitment. In some cases, both methods can be combined.

In addition to demonstrating that, once again, there are tools available to make this change possible, this argument seeks to demonstrate that companies are really capable of adapting and not thereby generating large economic losses, especially for the European continent which, as indicated above, unlike other States and even continents, has an advance in technology and infrastructure that allows for better, faster and more effective adaptation.

6 Conclusion

In conclusion, it has shown that the idea of nature as a mere object for humans is unsustainable. Just look at where it has led us: natural disasters that are increasingly frequent and destructive in the world. Therefore, it is time to act, because not only are we at risk, there is also a real impact on future generations.

The proposal does not seek to ignore human needs, in fact, it proposes to recognize humanity's dependence on existence with nature, which is why the way it is viewed must change and, in this way, achieve harmonious coexistence.

The apparent legal problem related to the judicial representation of nature and its lack of subjectivity can be overcome. It would not be the first time that law is used to translate what happens in reality. The idea is to focus more on solutions than on problems.

As proof that society is ready for this change, various cases have been mentioned outside and within the continent with this trend, the most recent being the case of the Marañón River in Peru, which, although it comes from a different legal and social culture, is no less important. The world is highly globalized, so it is possible to take solutions from different countries, especially when the problem to be solved affects humanity as a whole, beyond nationalities. The idea of giving rights to nature may have been born in Latin America, but in Europe one can also have a connection with nature.

From a purely legal perspective, as mentioned, law and reality have always had a connected development. Although there is currently no specific rule or cases in Europe with this particular trend, there are many general principles of law that can be used. Therefore, a specific rule is not necessary to achieve this paradigm shift, especially when talking about a change in the protection of rights. It is pertinent to remind the reader that, in fact, historically every struggle for the recognition of human rights was commonly born in the courts using the progressive interpretation of the general principles of law that later generated specific rules and even treaties. The only difference with this proposal is that it does not refer to humans but to nature and that is why it is important to reconsider the objectives of these principles that are general, that is, for everyone, not just for humans. As regards environmental aspects, there are the principles of precaution and prevention that focus precisely on human rights, but from nature. Thus, by applying a progressive and systematic interpretation of these principles, it is no longer necessary to change the entire current legal system.

Finally, it is important to mention that this is not just an ideological scenario in a theoretical debate. On the contrary, we have concrete and observable objectives that materialize in the economic aspect, since we are aware of the impact on costs that this change implies. Fortunately, the continent has an advantage in development and innovation in technology that will allow it to face this change and that can even serve to encourage good business behavior through circular economy policies and corporate social responsibility. Subsequent international cooperation will only be possible if at least one State takes the necessary step of adaptation.

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Case Study – Part II
Maranon River
Arguments challenging the proclaimed position

Going to the Court doesn't ensure that the environment will be protected

Author: Ana Murhiel Diaz Aguilar

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1 Introduction

A clear example of the delay that judicial processes for the protection of nature can have is the case of the Atrato River in Colombia. In this regard, although the Sixth Review Chamber of the Constitutional Court of Colombia declared that the Atrato River and its tributaries possess rights of protection, conservation, maintenance and restoration, this decision took about two years to be obtained and can be seen critical.

> Although the judicial process is a legitimate mechanism for the resolution of controversies, it is applicable only when there is a conflict, i.e., it is resorted to when the problem and/or damage to what is sought to be protected has already arisen, so that, through a firm decision, the respective responsibility is attributed to whoever caused it.

2 Analysing the Judicial processes

According to Borrás, the recognition and juridification of RoN will guarantee that human beings can live in a healthy and clean environment and have the right to the enjoyment of life (Borrás, 2016, pp. 113-143 cited in Borrás, 2020, p. 86). As can be seen, the recognition of RoN proposes to grant nature the status of a legal person, in order to be able to judicialize the protection of its rights, i.e., to be able to go to court (Bachmann & Navarro, 2022). However, this measure does not effectively solve the problems faced by the protection of nature in reality. There are two fundamental reasons for this.

On the one hand, although the judicial process is a legitimate mechanism for the resolution of controversies, it is applicable only when there is a conflict, i.e., it is resorted to when the problem and/or damage to what is sought to be protected has already arisen, so that, through a firm decision, the respective responsibility is attributed to whoever caused it.

This dynamic, although, in theory, it may allow access to a solution to a violation against nature and its different ecosystems, is not ideal to protect it in a preventive and rapid manner. Indeed, it must be taken into consideration that nature requires quick and immediate solutions, given its direct connection with the life cycle of different species and habitats; on the contrary, judicial processes are characterized by taking a considerable time (months or years) to reach a sentence, which can even be appealed later.

A clear example of the delay that judicial processes for the protection of nature can have is the case of the Atrato River in Colombia. In this regard, although the Sixth Review Chamber of the Constitutional Court of Colombia declared that the Atrato River and its tributaries possess rights of protection, conservation, maintenance and restoration, this decision took about two years to be obtained. Indeed, the tutela action in this case was filed on January 27, 2015 and the final firm decision of the Constitutional Court was obtained only on November 10, 2016, through Ruling T-622 of 2016 (Borrás, 2020, p. 89; Guzmán, 2022, p. 217).

Additionally, it is relevant to take into account Guzmán (2022), who argues that, although the aforementioned ruling brought greater visibility to the problem that the Atrato River was going through in relation to the effects of mining activities, in material terms, the declaration of the river as a subject of rights did not generate any change in its subsequent situation. This is because the ruling was faced in practice with a "harsh reality", which was that a large part of the river was already under concession to gold mining, its main source of contamination. In this regard, the aforementioned author adds that the Court did not prohibit mining activities around the river, but only established that they should be regulated and carried out with social and environmental responsibility (Guzmán, 2022, p. 222).

Now, in relation to the delays in judicial proceedings due to subsequent appeals, it is illustrative to mention the case of the Ganges River in India. In this regard, this case was filed in 2014 due to illegal constructions and encroachments that had been taking place along the Ganges River. In March 2017, i.e. 3 years later, the High Court of the state of Uttarakhand ruled that the Ganges and Yamuna rivers (its main tributary), were in danger of losing their existence, therefore, they were declared legal entities with rights. However, subsequently, in July 2017, the Supreme Court overturned this decision as unworkable (Eco Jurisprudence Monitor, n.d.).

This case clearly demonstrates that, in addition to the problems of delays that judicial processes can have and the subsequent problems regarding the effectiveness of the sentences, relying solely on this mechanism to protect the rights of nature also generates the risk that, with a subsequent decision of a higher jurisdictional body, all the time and effort invested to protect nature will be in vain.

In this sense, although judicial processes may allow access to a type of *ex post solution,* this mechanism is not sufficient to provide effective and complete protection for nature. Instead, what is required is both *ex ante* and *ex* post protection, which is possible by virtue of the sovereignty and public function of States.

In this regard, it is important to mention that environmental protection is part of the public function of the States, which is the objective of different public policies in line with the principle of environmental integration established in Article 11 of the Treaty on the Functioning of the EU (hereinafter, TFEU), in order to promote environmental protection in all sectors and lines of public action (López, 2023, p. 25 - 26).

In other words, States have the obligation to protect and conserve nature and its vital cycles. This can be done through the functions of the Public Administration, specifically, through Directives, Technical Standards and administrative procedures focused on evaluating human activities (productive, industrial, among others) that potentially generate an impact on nature.

Thus, *ex ante* protection would be carried out through the establishment of prohibitions, limitations, obligation to carry out prior consultations, among others, that must be complied with by those interested in carrying out any of the aforementioned activities; and *ex post* protection would take the form of subsequent controls, administrative sanctioning procedures, the establishment of corrective measures and administrative sanctions.

However, according to Borrás (2020), Articles 11 and 191 to 193 of the TFEU regulate environmental protection in the European Union, which is competent to act in all areas of environmental policy, such as air and water pollution, waste management and climate change. However, it is specified that:

Its [the European Union's] scope of action is limited by the principle of subsidiarity and the requirement of unanimity in the Council in the areas of fiscal matters, land use planning, land use, quantitative management of water resources, choice of energy sources and the structure of energy supply. (Borras, 2020, p. 96)

Along these lines, although the European Union has regulations governing environmental protection, in practice, there has been a degree of non-compliance on the part of the Member States (Borrás, 2020, p.96), which has contributed to the strengthening of positions that consider that RoN should be recognized and that nature should be granted the status of a subject of law.

However, even if this new trend were chosen, the real change would still be in the hands of the political and legal commitment of the States, together with the concrete actions deployed in the use of the public budget and the tools of Administrative Law. This is evidenced in the case of Ecuador, the first country that decided to recognize the RoN in its Political Constitution, which was approved by referendum on September 28, 2008 (Macías Gómez, 2010, p. 151; Martínez & Acosta, 2014, p. 120 cited in Borrás, 2020, p. 87).

In this regard, in 2021, the Constitutional Court of Ecuador recognized that the Aquepi River was a subject and holder of the RoN that had the right to respect its structure and functioning of its flow, in accordance with the provisions of Article 436 paragraph 6 of the Constitution and Article 25 of the Organic Law of Jurisdictional Guarantees and Constitutional Control. In this line, it was declared that the Water Secretariat (now the Ministry of Environment, Water and Ecological Transition) violated the rights of the Aquepi River to the preservation of its ecological flow; and that the Autonomous Decentralized Provincial Government of Santo Domingo de los Tsáchilas violated the rights of the inhabitants of Julio Moreno Espinosa and Aquepi, by not carrying out the environmental consultation on the design, implementation and execution of the "Unión Carchense Irrigation Project" and the "MULTIPROPÓSITO AQUEPÍ alternative project". Consequently, the Court obliged the mentioned entities to implement reparation measures, active participation of the inhabitants and the execution of previous studies for the implementation of water protection in the river (Martínez, Alarcón & Sánchez, 2023).

As can be seen, the measures ordered by the jurisdictional body are aimed at the State entities themselves carrying out functions to which they were already initially obliged. In fact, prior consultation is a right recognized in the Constitution of Ecuador since 1998, the exercise of which is mandatory for Ecuador. Likewise, the execution of prior studies is also part of the State's requirements in the case of requests for the execution of projects that may impact nature. Finally, in order to comply with the ordered reparation, the State must make use of the public budget, which is intended to ensure the common good in the light of Administrative Law.

Thus, it is evident that the same consequences that are sought to be obtained with the judicial processes under the RoN can be achieved in a more efficient and effective way through a correct application of the obligations of the States by means of the development of Administrative Law. Even more so, taking into account that the States have per se the obligation to protect nature due to its ultimate purpose: the common good.

On the other hand, the second fundamental reason why the recognition of the RoN does not constitute a suitable means to achieve the protection and conservation of nature is due to the fact that, at present, there is already an equally effective mechanism with a greater doctrinal and legal development that allows to resort to the jurisdictional bodies in representation of a matter of public interest, such as the protection of nature. This is the jurisdictional protection of diffuse rights.

In this regard, according to Priori:
Diffuse interests are those interests belonging to a group of absolutely indeterminate people, among whom there is no legal bond, but rather they are linked by generic, contingent and mutable factual circumstances, such as living in the same region, being consumers of the same product, etc. (Priori, 1997, p. 100).

Thus, in a case of pollution by a legal or natural person, which clearly causes damage to the environment, thus affecting an undetermined group of people, for example, the inhabitants living on the banks of a river or its tributaries, a claim may be filed for damage to an indivisible good: the environment, which more than one subject enjoys and, therefore, damage to it may also affect a group of people that cannot be determined individually (Priori, 1997).

It should be noted that the development of diffuse interests has been carried out since the last stage of the development of fundamental rights, embodied in the constitutions of the second post-war period. In particular, in view of the recognition of the rights of all people to the protection of their health and to a healthy environment (Priori, 1997, p. 101).

However, the protection of diffuse rights has faced different challenges since its emergence, such as the determination of the ideal instruments of protection for the effective solution of conflicts of these interests and doubts of a procedural nature, such as the legitimacy to act actively, that is, who is legitimized to initiate the processes tending to their protection; the legitimacy of associations, private or public institutions so that they can initiate these processes; and issues related to the scope of res judicata in the processes on diffuse rights.

As is evident, establishing the possibility of going to court to defend the interests of a subject of law generates challenges of a procedural nature that must be overcome beforehand in order to be used in practice. In this sense, considering nature as a new subject of law would involve having to first resolve issues such as the determination of the legitimate representative to go to the Court on behalf of nature, the person responsible for its custody, the establishment of specialized environmental courts to deal with cases related to the rights of nature, among others (Darpö, 2021). Added to this are the economic challenges, since it would also be necessary to establish who should be responsible for covering the procedural costs generated by such cases.

This is especially relevant if we take into account that, as mentioned above, it is the States that originally have the obligation to protect nature. However, given their ineffectiveness and failure to fulfill their functions, civil society seeks to make cases of transgressions against nature visible through this type of mechanism.

Considering nature as a new subject of law would involve having to first resolve issues such as the determination of the legitimate representative to go to the Court on behalf of nature, the person responsible for its custody, the establishment of specialized environmental courts to deal with cases related to the rights of nature, among others.

Along these lines, if the representation of nature is left solely in the hands of citizens or NGOs, it would reduce the original responsibilities of the State to comply with the guarantee of the rights it recognizes, as well as burden civil society with the high costs of judicial processes and the problems of subsequent enforcement of judgments.

Therefore, instead of creating a new legal figure recognizing nature as a subject of law capable of going to court, it would be more effective to use the figure of the protection of diffuse interests, which is more developed and allows the protection and conservation of nature to be defended through the courts by the initiative of civil society.

3 Conclusion

In short, individuals play an essential role in monitoring the way in which State regulations are put into practice in relation to the protection of nature and, although civil society has proposed the recognition of RoNs, it cannot lose sight of the fact that the ideal and most effective mechanism to achieve this is through ex ante and ex post protection by the States and their respective Public Administration, it cannot be lost sight of the fact that the ideal and most effective mechanism to achieve this is through ex ante and ex post protection by the States and their respective Public Administration, for which a greater development of

Administrative Law and the rate of compliance of its entities is required, which is directly related to the political will of the authorities, against which action can be taken. Finally, opting for the judicial route as the only mechanism for the protection of nature is insufficient; however, if this is used in conjunction with the demand to the Public Administration indicated in the previous point, better results can be obtained. For this, instead of creating new judicial processes or subjects of rights, it is recommended to use legal figures that already have a doctrinal and legal development that allow achieving the same objectives as quickly as possible in time, such as the jurisdictional protection of diffuse interests.

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Legal Instruments to Protect the Environment outside of Rights of Nature

Author: Lilly Roth

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1 Introduction

The debate on whether nature should have its own rights has been carried out for decades, ever since the concept was introduced by Stone (1972). The intention has remained the same: protect natural entities within our anthropocentric world by using our own weapons. Although preserving the environment has become an even more urgent matter with the progressing loss in biodiversity, at the same time, legal instruments for its protection have evolved as well. This raises the question of the necessity of Rights of Nature. Were all those legal tools enforced in an effective and timely manner, would our environment be sufficiently protected from human interferences?

The current legal system, especially in European countries, is based on an anthropocentric view of the world. This grants natural entities protection only in their relation and worth to humans. Acknowledging nature's inherent value might be a new innovative idea within western societies. However, it is a concept that has been practiced by indigenous peoples for a long time. Their ecocentric worldview has been eradicated from international and national law by colonialists (Guzmán, 2019). By introducing Rights of Nature in Europe, this ecocentric approach would be included in a legal system that is still based in a society in which anthropocentric views are deeply rooted. Despite the growing awareness of human effects on nature and the necessity to protect the planet as well as prevent further climate change, granting natural entities intrinsic rights would require a paradigm shift not only in European law systems but also in western societies (Peppoloni, 2024).

Since rapid action is vital for preserving our environment, it is questionable whether enough time remains for such a fundamental transition. Using and enhancing existing tools within the current system might be more effective. Therefore, the following article will show legal instruments already in place. As they are partly still lacking in their execution, room for improvement will be demonstrated, which would finally enable them to together provide sufficient protection for European nature. Namely, these tools include the Precautionary Principle, Human Rights, Nature Conservation laws and the possibility of litigation on behalf of the environment. These assessments will be made from a European point of view. It should be noted that analysing legal tools within other parts of the world rooted in different cultures might lead to divergent results.

2 Existing Legal Tools to Protect Nature

2.1 Precautionary Principle

The Precautionary Principle is one of the underlying concepts of the European Environmental Law, stated in Art. 191 TFEU. It can be found in numerous parts of German and European legislation and should be regarded within administrative actions well. Where the risk of environmental harm cannot be ruled out, possibly due to scientific uncertainties, this principle engages legislators to choose the most cautious option. It also opens the possibility to delegate such decisions to the administrative level where current scientific findings can be included in respective individual cases (Calliess, 2022). Therefore, the principle demands to make the most sustainable choice considering possible long-term effects on nature and at the same time allows adaptation to new developments.

Advocates of Rights of Nature claim that these would lead to an inversion of the burden of proof in environmental cases. However, where the Precautionary Principle is applied, the burden of proof is already reversed, and actors have to show that their intended operation does not cause excessive environmental harm. On the contrary, the principle obliges them to stop degrading nature and makes those liable that omit preventing interference with natural entities. Even if scientific evidence is not available, the Precautionary Principle is the foundation for considerate policies and corporate activities (Cameron & Abouchar, 1991).

International and national evidence of the Precautionary Principle can be found in Article 3.3 of the United Nations Framework Convention on Climate Change and Principle 15 of the Rio Declaration, both from 1992, as well as for example in Article 20a of the German Basic Law (Nitschmann, 2024) or Chapter 2, Section 3 of the Swedish Environmental Code. Evidently, it is not the legal foundation for environmentally cautious action that is lacking. Instead, there seems to be a deficiency in its implementation and effectiveness. This problem should not be disregarded by simply establishing a new legal concept such as Rights of Natur – where ultimately the same issues would arise. Rather, the existing tools need to be given more weight, especially against economic and property interests in administrative decisions. However, this is not only a legal matter. The authorities merely execute the valuation system as it is based in their society (Pettersson & Goytia, 2016). Attributing nature a bigger worth in relation to other interests is necessary to ensure the preservation of the environment. This shift would be also crucial to use the full potential of Rights of Nature. Their establishment would therefore not solve existing problems. Instead, on top of still having to resolve these it would be necessary to implement a new approach to our legal system that is unknown and untested within European societies. Consequently, considering the urgency to change nature-related policies, it is more efficient to focus on existing problems rather than adding more.

2.2 Human Rights

One of the goods that is valued most highly within our anthropocentric system is the Right to Property which is one of the Human Rights. As much as this often interferes with public protection of the environment, it also is a means to ensure nature's integrity. The right to own property also contains the duty to protect privately owned land from external hazardous influences (Adler, 2009). On the other hand, property rights can be limited where their execution might induce harm on natural goods (Bétaille, 2019).

Those shields from environmental harm, however, only apply to private property. Public goods are not directly protected by the Right to Property

Evidently, it is not the legal foundation for environmentally cautious action that is lacking. Instead, there seems to be a deficiency in its implementation and effectiveness. This problem should not be disregarded by simply establishing a new legal concept such as Rights of Natur.

(Cole, 1999). Nevertheless, where natural entities are damaged, other Human Rights might be immediately affected. Such rights depend on the specific composition of national and international legislation. Within European countries this typically includes the European Convention on Human Rights in addition to country-specific constitutions. An explicit Right to a Healthy Environment is recognized in most Eastern as well as some Western European Countries (Human Rights Council, 2019) and in the UN Charter of Fundamental Rights. But even where there is no specific environmental human right, others, such as the Right to Life, to Health or to Water, enable people to make their claim for the protection of nature based on the right to their own well-being (Cima, 2022).

Evidence shows that the Right to a Healthy Environment leads to more success within climate litigation (De Vilchez & Savaresi, 2023) and therefore to a more effective protection of nature. Again, instead of propagating a fundamental shift in established Human Rights systems by introducing the concept of Rights of Nature, it might be more expedient to include the Right to a Healthy Environment in those legislations that do not already grant such a right. If it is feared that even this would not be widely accepted in Western societies, existing Human Rights to Life and Health already give some grounds for the protection of the environment for the sake of human's benefit. However, technical difficulties with their execution might arise because the impairment to such rights often occur with a time delay to the action causing it. This causality between present behaviour and possible harm in the future is sometimes hard to establish for courts (Cima, 2022). Therefore, the first step to a more ecocentric and therefore non-Western, indigenous approach to Human Rights should be the inclusion of the Right to a Healthy Environment (Guzmán, 2019). The more sensible strategy is to improve an existing system where that is necessary than to establish a second system of Rights to Nature next to the familiar system of Human Rights.

2.3 Nature Conservation Laws

Major parts of nature conservations efforts in Europe are harmonised by the European Union. Based on the Directive on the Conservation of Wild Birds together with the Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora, an ecological network called Natura 2000 has been established. This network is supposed to protect important and endangered species and environment and spans approximately 18% of the EU's area. As a continental network it is a unique and also the largest system of connected ecologically protected zones worldwide (Boćkowski et al., 2022).

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On top of these European initiatives, member states may establish further conservation acts, e.g. by designating protection areas. In Germany, for example, there are eight types of conservation zones, including nature reserves, national parks, nature parks and biosphere reserves. These areas differ in their protective purposes as well as the level of human intervention that is allowed or necessary. Different authorities are responsible for the administration of these zones, each specific to the protection needs of the type of conservation area (Kenzler, 2018). Apart from regulating actions of individuals within the protected zones, these areas also play an important role in national planning laws. Depending on the level of protection, construction in general or specific buildings are restricted in such areas (Bétaille, 2019).

Studies show that these legislations do have positive impacts on the biodiversity in European countries and that they encourage the implementation of nature conservation projects in member states. However, there is still room for improvement within the European natural protection system (Ellmauer et al., 2017). One reason for that is, again, a lack in efficient execution of conservation laws, for example due to slow or overloaded court systems, issuing rulings coherent with the protection scheme after it has already been breached (Goyes, 2024). Furthermore, there is a variety of protected areas with different objectives within European countries. Especially where cross-national protection of natural goods such as rivers is necessary, this un-coordinated approach might lead to a lack in safeguarding such goods (Konatowska et al., 2024). Another issue is the acceptance by local inhabitants and opposing interests especially within land planning. Some studies even show that there have been negative social effects resulting from the establishment of Natura 2000 areas (Boćkowski et al., 2022).

All of these issues, however, will not be solved by establishing Rights of Nature. On the contrary, trials concerning this––at least in Europe––unprecedented concept would foreseeably be lengthened even more, as processes need to be newly established, and judges have to familiarise themselves with an innovative approach to litigation. The same applies for society acceptance. An introduction in just one European country would lead to just another incoherent approach at protection of nature where instead a coordinated effort is necessary––protection of a river such as the Rhine needs to be addressed in all countries it passes, not just in one of them.

Instead, existing problems should and must be addressed. In order to increase public acceptance of protection areas, participatory processes need to be introduced, especially locally in the affected regions. Existing knowledge in the surrounding areas should be included in decision making processes together with the use of ecological data. Constant evaluation and observation of the effectiveness of one area's protection would allow for quick adaption where necessary. Not only would these participation opportunities contribute to local acceptance, it would also raise awareness to the necessity and urgency of the protection of the environment (Boćkowski et al., 2022; Trochet & Schmeller, 2013). Enhanced knowledge sharing between European countries regarding their individual struggles with the establishments of protection zones could lead to a more effective implementation of EU directives (Ellmauer et al., 2017) and hinder single member states from not fulfilling their natural protection duties. Coordinated action within all European countries might also enhance public understanding, especially where citizens use their freedom of movement between member states. Moreover, approaches protecting entire ecosystems might be preferable to the conservation of singular entities–or rights for those singular entities (Konatowska et al., 2024).

2.4 Litigation on behalf of Nature

Legal protection for nature as it has been outlined above can only be effective if there are ways for it to be claimed in courts. The same would, however, apply to Rights of Nature. The question on who should take on the role of the so-called guardians in a Rights of Nature system remains largely unanswered (Johns, 2023). On the other hand, for existing protection of the environment deriving from Human Rights and Nature Conservation Laws, possibilities already consist for a standing in court on behalf of nature. Different approaches include the *actio popularis* which allows humans to sue even without a direct and personal concernment (Aragão & Carvalho, 2017) as well as the option for environmental NGOs to litigate against harmful interference. Where nature is protected indirectly through Human Rights, the way to the courts is also open for the affected person to defend their own rights to environmental property or a healthy environment and life.

The *actio popularis* is a legal concept that exists only in a limited number of countries within the EU. These include Portugal, Spain, Slovenia, Romania and Latvia (Darpö, 2021). In the majority of legal systems, the admissibility of a lawsuit necessitates that the plaintiff be directly and specifically affected by the alleged breach of the law. This presents a significant obstacle to legal action against environmental harm, as such harm often affects local societies as a whole. Moreover, humans are frequently implicated only indirectly, whereas nature itself experiences the direct effect. The resulting gap can be addressed through the concept of *actio popularis* as it acknowledges that for diffuse, especially natural damages, this

traditional principle falls short. Therefore, in a limited number of constellations, any person is allowed to claim these diffuse damages. Although it is often feared that such a possibility would lead to a flooding of the courts, evidence from Portugal over the last 40 years shows that this is not the case (Aragão & Carvalho, 2017).

Nevertheless, there is another tool well established throughout Europe which can be used when Nature Conservation Laws are breached. Based on Article 9 paragraph 3 of the so-called Aarhus Convention as well as various EU directives there needs to be access to courts when private or public action does not comply with national environmental law. Where this is not (sufficiently) implemented in national legislation, access to the EU Court of Justice has been granted as well (Darpö, 2021). In most member states the Aarhus Convention is implemented through the opportunity for registered environmental NGOs to claim environmental breaches. The scope of this altruistic lawsuit differs between countries, some allow legal action for any environmental harm, others limit the possibility to certain administrative decisions (Epiney, 2014). Allowing such litigation for a wide range of nature protection might render a general actio popularis obsolete (Steinberg, 2023). As the cost of an environmental lawsuit is too big for one person alone to bear, this is the preferable option in practice anyway (Aragão & Carvalho, 2017).

This same argument would apply to the guardianship for natural entities within the Rights of Nature system. With the resources necessary for litigation on behalf of nature, mostly NGOs would take on the task as guardians. Therefore, even without a paradigm shift in the European legal system, nature can have standing in courts (Bétaille, 2019). Again, it would be preferable to extend and improve the existing system of altruistic group action or even the possibility of *actio popularis* than to establish Rights of Nature. One way to improve environmental litigation which already exists in some countries like the Netherlands might consist in the establishment of special environmental courts or tribunals where legal experts work together with nature-science experts. This would ensure the proper inclusion of environmental perspectives and needs in the current system (Epiney, 2014).

3 Conclusion

It has been shown that the insufficient protection of nature is not due to a lack of legal provisions for it. Rather, there are problems with their efficiency, execution and acceptance in society. These issues will not be solved by changing the underlying system of law and establishing Rights of Nature. Instead, together with addressing these enforcement issues, people in Europe would be confronted with an ecocentric approach after having lived in an anthropocentric legal system for centuries. This paradigm shift– –as desirable as it might be– –will take time in European society. Environmental issues, however, need to be solved as soon as possible. Therefore, using and improving the current system is the more realistic approach to deal with these issues.

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Public Support and Challenges in Recognizing the Rights of Nature: A European Perspective

Author: Tobias Becker

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1 Introduction

The debate surrounding the recognition of the Rights of Nature has gained global prominence, providing a legal and ethical approach that fundamentally reshapes societal perspectives on their connection with the natural world.

This paper explores the challenges of aligning the Rights of Nature with European societal values, highlighting how conventional Western legal systems and cultural attitudes have limited public support for Rights of Nature initiatives. The Rights of Nature (RoN) grants natural entities—such as rivers, forests, and ecosystems—inherent rights, akin to human rights, to exist and thrive independently of human use or exploitation. This perspective, deeply rooted in ecocentric values and often influenced by Indigenous worldviews, diverges sharply from the anthropocentric frameworks that have historically shaped European legal and environmental policies (Kauffman & Martin, 2017). Influential milestones, such as Ecuador's 2008 Constitution and New Zealand's 2017 Te Awa Tupua Act, have set significant precedents for RoN by recognizing ecosystems and natural entities as legal persons, affirming their intrinsic right to exist and regenerate without serving solely human interests (New Zealand Parliament, 2017; Constitution of Ecuador, 2008). However, these advances stand in contrast to Europe's generally anthropocentric legal and cultural perspectives, which frame environmental protection as a means to safeguard human interests.

The following section provides an overview of the global RoN movement, underscoring its ecocentric and animistic roots, which emphasize nature's intrinsic value and agency beyond human utility.

A closer look at Europe in section three reveals specific cultural, legal, and political barriers that hinder public support for RoN, including societal unfamiliarity with ecocentric ideals and an ongoing resistance to legal frameworks that prioritize nature's rights. This foundation helps illustrate why Rights of Nature remains an unfamiliar and often controversial concept in Europe, where environmental legislation predominantly supports human welfare and economic growth rather than advocating for nature's independent rights (de Lucia, 2015).

The challenges faced by public advocacy for Rights of Nature in Europe are examined in section four through the case of the Mar Menor Lagoon in southeastern Spain. This coastal lagoon, severely impacted by agricultural runoff and nutrient pollution, sparked public campaigns and regional support for its protection. Yet, despite these efforts, proposals to establish the lagoon's legal personhood encountered substantial resistance. Opposition stemmed from concerns over economic interests, political inertia, and a general lack of societal awareness regarding RoN concepts (García Ruales, Hovden, Kopnina, Robertson & Schoukens, 2023; Guaita-García, Martínez-Fernández, Barrera-Causil, & Fitz, 2022).

In the fifth section, this paper advocates for a bottom-up, community-led approach to RoN in Europe, emphasizing the importance of decentralized solutions and public engagement as pathways to overcoming resistance. By fostering local awareness and encouraging grassroots movements, Europe may be better positioned to adopt Rights of Nature frameworks that reflect both ecological needs and societal values.

Through this analysis, the paper seeks to provide insights into the interplay between cultural ideologies, legal frameworks, and public perceptions that influence RoN's potential to reshape Europe's approach to environmental protection.

2 The Rights of Nature Movement

The Rights of Nature movement is a legal and philosophical framework that grants legal rights to ecosystems, natural communities, and species, similar to the rights held by humans and corporations. Rooted in Indigenous worldviews, animism, and eco-philosophy, RoN asserts that nature has intrinsic value beyond human utility and, as such, deserves legal protections for its right to exist and regenerate (Kauffman & Martin, 2018). Successful implementations of RoN laws around the world demonstrate the potential for ecosystems to be granted legal personhood.

Ecuador's 2008 constitution marked the first constitutional recognition of RoN, granting nature the right to "exist, persist, maintain, and regenerate its vital cycles" (Constitution of Ecuador, 2008, Art. 71). This groundbreaking precedent inspired similar legislation worldwide, including Bolivia's 2010 "Law of the Rights of Mother Earth" and New Zealand's recognition of the Whanganui River as a legal person in 2017. These cases, especially the Whanganui River, integrate Indigenous perspectives, providing configurations for ecosystem protection that regard nature as a living entity with rights (New Zealand Parliament, 2017; O'Donnell & Talbot-Jones, 2018). This frame challenges conventional human-centered legal systems by advocating an ecocentric approach where nature holds inherent rights, allowing ecosystems to be represented in court to prevent environmental harm and support ecological restoration. Treating nature as a legal entity represents a paradigm shift aiming to foster a balance between human activities and ecological integrity (Cullinan, 2011). In Europe, however, the Rights of Nature faces significant legal and cultural barriers.

3 Challenges of Public Support in Europe

Efforts to recognize Rights of Nature face significant cultural and legal barriers compared to regions like Ecuador, Bolivia and New Zealand. Anthropocentric values, prioritizing human welfare and property rights over ecocentric principles, are deeply embedded in European legal traditions (Stone, 2010). This contrasts sharply with Indigenous worldviews, where nature is seen as an entity with intrinsic rights.

Public resistance in Europe is rooted in historical ideologies, such as Enlightenment-era views of nature as a resource for human progress (Descola, 2013; White, 1967). The dominance of property rights and economic priorities reinforces this perspective, making the ecocentric RoN framework less palatable (Westra, 2012). Societal attitudes also play a crucial role. In cultures where nature is perceived as interconnected with humanity, as in many Indigenous traditions, Rights of Nature finds stronger support. Conversely, European societies often view nature as a resource, making the Rights of Nature seem incompatible with established norms (Descola, 2013). Economic concerns add to the resistance. Stakeholders worry that RoN laws could disrupt industries reliant on resource extraction by imposing regulatory barriers or enabling litigation to prevent environmental harm (Tanasescu, 2013).

Shifting from an anthropocentric model to an ecocentric structure positions ecosystems as stakeholders, challenging traditional power dynamics

and potentially increasing project costs or slowing economic development (O'Donnell & Talbot-Jones, 2018; Borràs, 2016).

These fears highlight the practical challenges of integrating the Rights of Nature into Europe's legal and cultural landscape.

4 Case Study: The Mar Menor Lagoon in Spain

The Mar Menor, Europe's largest saltwater lagoon, has suffered severe ecological degradation due to agricultural runoff, urbanization, and tourism pressures. Fertilizer and pesticide runoff from intensified farming in the surrounding Campo de Cartagena region caused nutrient pollution, leading to eutrophication, algal blooms, oxygen depletion, and marine life loss, including "green soup" phenomena and massive fish die-offs (García-Ayllón, 2017; García-Pintado, Martínez-Mena, Barberá, Albaladejo, & Castillo, 2007). Rising temperatures and increased rainfall from climate change worsen these impacts, further degrading habitats (García-Ayllón, 2018).

In 2022, the Mar Menor became Europe's first ecosystem granted legal personhood, marking a milestone in environmental protection. This recognition establishes its rights to regenerate and be safeguarded from pollution, empowering residents and environmental groups to legally represent the lagoon. Stricter regulations on nutrient inputs and restoration projects target key pollution sources, such as agricultural runoff and illegal irrigation, emphasizing ecosystem health over traditional human-centered approaches. However, balancing environmental protection with agricultural interests remains challenging, requiring collaboration among stakeholders to achieve sustainable outcomes (García Ruales et al., 2023; Guaita-García et al., 2022).

Enforcing the Rights of Nature protections faces significant challenges, including political resistance, bureaucratic inefficiencies and economic opposition. Economic interests in agriculture and tourism lead to inconsistent political support. Industry stakeholders often oppose restrictions on land and water use, pressuring policymakers to prioritize economic over ecological sustainability. Overlapping responsibilities among local, regional, and national authorities create confusion and slow the implementation of cohesive policies. Limited resources further hinder effective monitoring and enforcement. Agriculture's reliance on water and fertilizers drives resistance to environmental measures. Farmers fear increased costs and reduced resources, complicating efforts to align preservation with economic stability (Borràs, 2016, Guaita-García et al., 2022).

Adaptive strategies integrating environmental law, climate resilience, and community participation are critical for balancing ecological and economic priorities.

5 Toward a Bottom-Up Approach

Establishing Rights of Nature effectively requires integrating the values, perspectives, and interests of local communities. Imposing Rights of Nature without their involvement risks misunderstandings, resistance, and reduced effectiveness. Including local stakeholders in decision-making fosters policies that respect environmental goals while addressing socio-economic realities (Kauffman & Martin, 2017). Integrating local values into RoN laws fosters mutual respect and shared responsibility, strengthening both environmental stewardship and regional identity. Community-centered approaches align Rights of Nature with cultural values, addressing concerns about economic impacts or shifts in natural resource

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governance. Stakeholder engagement enhances accountability and legitimacy, as communities involved in environmental protection are more likely to support and uphold these rights (Tanasescu, 2013). Tailoring environmental solutions to specific bioregions ensures that laws and policies address the unique ecological, social, and economic characteristics of each area. Considering local ecosystems' needs—such as biodiversity, climate, and natural resources—leads to more effective conservation strategies (Gray, 2007). Bioregional policies encourage community engagement and ownership, drawing on residents' knowledge of local challenges and resources (Sale, 1985). This approach enhances economic resilience by aligning environmental goals with local economies, promoting sustainable practices that benefit both nature and society (Thayer, 2003). Recognizing each region's unique context, bioregional policies support sustainable development while respecting cultural identities and promoting environmental stewardship.

Building public support for RoN initiatives requires relatable, localized examples, such as Mar Menor, to demonstrate the direct benefits of ecosystem rights. Campaigns can include educational programs, such as community forums and workshops, to explain how the Rights of Nature protect resources like water, air, and soil. Hands-on experiences, such as guided ecological tours, can showcase protected areas and highlight the benefits of healthy ecosystems. Media campaigns featuring testimonials from local citizens, scientists, and environmentalists can foster personal connections to Rights of Nature efforts (O'Donnell & Talbot-Jones, 2018). Educational initiatives could integrate Rights of Nature into school curriculums through environmental science programs or partnerships with environmental organizations (Sterling, 2001). Highlighting tangible benefits, such as improved water quality or economic resilience, reinforces RoN as a policy that protects community well-being and vital resources.

6 Conclusion

The increasing recognition of the Rights of Nature in Europe marks a pivotal moment, signaling a potential shift from anthropocentric legal traditions toward more inclusive and sustainable approaches. Historically, European legal systems have treated nature as property, but this perspective is evolving. The case of Spain's Mar Menor lagoon exemplifies RoN's potential to redefine ecological protection, despite facing challenges like skepticism and local opposition. Such resistance, however, opens avenues to align conservation goals with community needs, fostering a collective understanding of the importance of natural systems. This transition highlights the need to move from top-down strategies to community-centered approaches. By considering the unique ecological and social contexts of each region, policies can be more effectively designed. Empowering local communities and encouraging active participation nurtures a sense of ownership and responsibility for environmental protections, increasing the likelihood of sustained, long-term efforts.

Key drivers of this shift include education, collaboration, and public engagement, demonstrating that solutions based on shared values and collective action can achieve meaningful results. To advance the Rights of Nature, educational programs, bioregional strategies, and cultural shifts toward environmental stewardship are critical. Education can connect and inspire people by presenting RoN through relatable examples, such as the Mar Menor, and by framing ecosystems as vital to human life. Highlighting the benefits of the Rights of Nature, like ecological stability and socio-economic resilience, can motivate communities to support these initiatives. Bioregional strategies further enhance this effort by tailoring policies to the specific needs of ecosystems and communities, balancing sustainable resource use with ecological preservation, and proving that environmental and economic interests can coexist.

Finally, fostering a cultural shift toward stewardship creates lasting change. Community-driven initiatives and participatory policymaking empower local stakeholders and emphasize that ecosystem protection is a shared responsibility. These approaches align with global sustainability efforts, including the United Nations Sustainable Development Goals (SDGs) (United Nations, 2015). By recognizing nature as a collaborative partner in sustaining life, communities can build a future that is resilient, equitable, and environmentally conscious. This paradigm shift deepens respect

for the interconnectedness of humanity and the natural world, inspiring collective action. When ecosystems are valued for their intrinsic worth, both nature and society thrive, paving the way for a sustainable and harmonious coexistence for future generations.

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Legal Fetishism in Times of Polycrisis

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1 The stakes: socioecological disruption and the role of Law

The year 2024 was the hottest year on record. It also became the first year with an average temperature clearly exceeding 1.5°C above the pre-industrial level, therefore surpassing the target set by the Paris Agreement with the aim of preventing seriously dangerous climate change (Copernicus, 2025). As the UN Secretary-General affirmed in his New Year message: «[…] we have just endured a decade of deadly heat. The top ten hottest years on record have happened in the last ten years, including 2024 […].».

As for biodiversity, 'The Living Planet' report, annually produced by the World Wide Fund for Nature (WWF) in collaboration with the Zoological Society of London (ZSL), estimates that we have lost, in average, 73% of all vertebrate wildlife populations since 1970 (WWF, 2024). The main drivers of biodiversity loss are habitat loss, overexploitation, climate change, pollution, invasive species and disease.

Tipping points loom on us, as we continue to deplete the capacity of the terrestrial systems. In 2023, a team of researchers updated the Planetary Boundaries framework, concluding that six out of the nine boundaries have been transgressed (Richardson et al., 2023). These boundaries mark a critical threshold for mounting risks to people and ecosystems; their transgression increases the risk of generating large-scale abrupt or irreversible changes in the Earth system.

Bearing all this in mind, there can be no doubt about the seriousness of the multiple ecological crises we are facing. The climate breakdown and the onsetting sixth mass extinction (Cowie & Bouchet & Fontaine, 2022) threaten to put an end to civilization as we know it. We are about to enter "HotHouse Earth" (McGuire, 2022), in which many regions will become inhabitable.

We are now living in the Anthropocene Era (Crutzen, 2022). Humans have become the main geological force, disrupting the terrestrial equilibrium and the smooth functioning of the planetary systems that allowed us to thrive. We have become Prometheus ourselves, ever in quest for more power, permanently dissatisfied. We are just now starting to acknowledge all the destruction we have been leaving behind. With great power, as the one we have granted ourselves, should come great responsibility. Our recent history is not, unfortunately, one of taking responsibility.

Since we have put ourselves behind the wheel, we have a duty to take it and collectively drive ourselves towards safety. Humanity must now stand for all life, recognizing its privileged place in the *web of life* (Moore, 2013).

This assumption of responsibility demands from our institutions and from our socioeconomic and legal systems quick and precise action that cuts through mysticism. The legal field should be re-grounded in an integral conception of justice, rooted in values of respect for all beings and collective accountability.

2 High stakes, high flights?

The Dantesque dimension of the problem we face demands a bold and disruptive approach. Nevertheless, it is crucial not to fall into the vices of the past and surrender to the next "shiny thing". Now more than ever, authentic and effective legal innovation must be distinguished from symbolism and performance.

The concept of 'Rights of Nature' (RoN) has been capturing the imagination of those in the legal field that acknowledge the severity of the polycrisis unravelling. Those who are brave enough to thoroughly inquire into the causes of the ecological breakdown will certainly arrive at the conclusion that the inability of our legal systems to tackle the climate and biodiversity crisis stems from its fundamental commitment to a certain view of the world; one which separates Humanity from Nature. This Cartesian dualism, which we inherited from Legal Modernity, which absorbed certain Enlightenment values, permeates all the legal order, stalling any legal development that could actually begin to resolve the ecological-climate crisis (Capra & Mattei, 2015). It is only natural, therefore, that those who are detecting these underlying connections should be encouraged by seemingly counter-current proposals, especially ones that hold a promise to subvert the mentioned dualism. The RoN are a prime example of such proposals. But it is precisely because we recognise the depth and intricacy of the problem that we need to scrutinise the real potential of figures like this.

Law in general, and environmental law in particular, have a predisposition for *performativity*. In addition to the constitutive performativity of the Law (Peters, 2022), which is inseparable from the procedural nature of the modern rule of law, we can speak of performativity when legal action is merely symbolic and does not translate into effective action (Ding, 2022). According to Ding, when States are unable to fulfill their functions (for political or economic reasons) and are subject to a high level of public scrutiny, performativity is more likely to emerge (Ding, 2022, 17). This kind of "law for show" is not intrinsically malicious or intentional. On the contrary, there can be performativity in the legal field produced by good faith actors. The point is not its bad nature, but its unsatisfactory results. Legal concepts that cannot be substantiated in praxis do not serve a legal doctrine that aims to effectively change the real conditions on which it operates. Symbolism has its place and importance, but falls short of enacting a really transformative legal practice.

The RoN, without prejudice to their intellectually meritorious substrate, can have a congenital tendency towards performativity. By downplaying the difficult issues of representation and justiciability, it becomes a concept that, even if it is uphold by the courts, is unlikely to have the desired practical effects. This is, in fact, the conclusion that can be drawn from various court cases in which RoN have been applied (Guim & Livermore, 2021).

Besides the problem of performativity, which can be categorised as a practical one, there are multiple unresolved theoretical and practical problems with the concept.

First, an ontological problem: the concrete subject of these rights remains undeterminable. The ascription of rights depends on the determination of the ontological outlines of the corresponding subject, on which depends their content (Donoso, 2021). Without that determination, it is not possible to discern the duties emerging from the right. According to the empirical eviden-

In addition to the constitutive performativity of the Law, which is inseparable from the procedural nature of the modern rule of law, we can speak of performativity when legal action is merely symbolic and does not translate into effective action.

ce offered by the natural sciences, it is not commendable to advance a discrete delimitation of any ecological unit. The natural systems are more like a patchwork in permanent dynamics. Because it needs operational boundaries, the Law, at least through the concept of rights, cannot make sense of this interconnectedness (Sachs, 2023).

A second, connected, problem is the justification problem. The attribution of rights in a system of law must have some ethical and procedural underpinnings, otherwise the concept would be emptied of substance. The two main theories in this regard are the theory of will, which anchor rights in the ideas of autonomy and agency, and the interest theory, which attributes to them the function of interests' protection. None of these theories can be applied to the RoN. On the one hand, nature obviously has no agency or autonomy of the will. On the other hand, the application of the category of interest to nature produces some intricate problems. If we recognize the legal value of nature's interests without any further densification, the same logic must be applied to other non-human entities, such as geological formations (Baard, 2021). This would be an over-expansive concept of interest that abandons the association with the idea of conative life. Furthermore, recognizing legal value to the interests of nature implies that it is possible to objectively discern those interests. However, it is highly questionable that such discernment is viable, since it will always require a human intermediary. How can we – humans – determine, in a non-anthropocentric way, what is the interest of nature?

This point leads us to a third set of difficulties associated with the recognition of the RoN: the problem of representation. The institute of representation is intrinsically connected to the interests of the represented entity, what leads us back to the problem just presented. Instituting a system of guardianship to protect the rights of nature would require (1) the selection of the legitimate representatives and (2) the establishment of mechanisms to avoid anthropocentrism in the representation (Baard, 2021). The need for representatives restricts the RoN to ecological units that have willing guardians. Instead of being comprehensively protective, the RoN can create a discrepancy between those ecological elements to which some groups of people are strongly attached and those that do not gather such attachment. For the latter, alternative representatives would have to be selected – probably public entities. But, in that case, it is not clear why RoN should the preferred instrument to grant protection. Furthermore, in both cases, a quintessential question about the content of the representation is raised: how do we guarantee that the guardians are acting in the interest of the ecological element, instead of orienting their action by their human interpretation of what that interest is? This is not to deny nature's force of life, but to stress that our comprehension of other forms of life will always be subjective (Guim &Livermore, 2021).

The attribution of rights in a system of law must have some ethical and procedural underpinnings, otherwise the concept would be emptied of substance. The two main theories in this regard are the theory of will, which anchor rights in the ideas of autonomy and agency, and the interest theory, which attributes to them the function of interests' protection.

Finally, a fourth set of difficulties emerges if we consider that the RoN would not be implemented in a vacuum. They would be inserted into a system of human rights, with which they can – and would – be in conflict occasionally. Since an absolute articulation of RoN could not be upheld in a legal system grounded in human dignity, the RoN would be subject, like all other rights, to a process of harmonization and compatibilization with conflicting rights. Since there is no way of establishing an a priori hierarchy of rights, and considering the hegemonic values in modern-day societies, the prevalence of other rights over RoN in the balancing process is not improbable (Donoso, 2021). The point here is not that the integrity of the ecological systems should not be a priority, but simply that the RoN might not be the instrument to make that happen. Even if a system of inversed burdens of proof and legal presumptions is established to counter the difficulties of the balancing of RoN against other rights, the lack of specificity of these rights still leaves them vulnerable to erosion (Garver, 2021).

The problematization of the RoN framework is not a refusal of the importance of protecting ecological elements, neither is it a negation of the severity of the ecological emergency we are experiencing. Instead, it is precisely the recognition of the seriousness of the present predicament that urges us not to fall into fetishism and idealistic ventures. Taking the ecological emergency seriously entails avoiding performativity and honoring a true commitment to transformative change.

If it was anthropogenic activity that led us to these times of ecological collapse, then the focus of our legal instruments should be human *responsibility*, more than the *rights of nature*. The passivity of the later contrasts with the proactivity of the former. The various problems mentioned can be remedied if, instead of giving nature legal personhood, we give "naturehood" to people (Garver, 2021). This means (re)constructing a legal system that:

«[...] gives primacy to ecological limits, treats humans as a part of nature, orients society toward satisfying true needs rather than unlimited desires, ensures fairness across species and generations and is adaptative so as to keep humans and nonhuman nature resilient in the face of ecological change [...].» (Garver, 2021, 97)

The shift we need is not the creation of another set of rights that reinforces the fundamentally individualistic structure preexisting, but the recognition of strong obligations that recognise the human responsibility towards other humans and nonhuman nature as the axis of a healthy society.

3 The conclusion: Flying too close to the sun?

Law is, and will ever be, a human (a societal) construct. As such, its instruments will always, inevitably, require human mediation. Given the seemly unstoppable acceleration of the ecological crisis, it is plausible that innovative proposals start to challenge the human-nature dualism enshrined in Law. Nevertheless, in doing so, some proposals risk fetishizing concepts, being merely performative without demonstrating real capacity to challenge the dualistic structure of the legal order. In fact, rights are a markedly humanistic juridical figure; therefore, transplanting them to non-human subjects generates a series of dogmatic problems, while reproducing the same individualistic worldview. The RoN are congenitally divisive and reductionist, forcing an unnatural enclosure of ecological systems in contained units and putting them in competition with other (human) rights. This is precisely what should be avoided if we take the present predicament seriously.

The focus of an authentically transformative legal theory should not be to extend the legal realm to colonize nature. On the contrary, the focus should be on integrating ecological dynamics into the legal order. Instead of giving rights to nature, we should be attributing humans stringent obligations towards nature. If the goal is to affect human behavior, which is the source of the immense devastation unraveling, then the reasonable way forward is to act on human behavior. It is the Law that must "ecologize", not the other way around.

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3

Case Study
Granting a Status of a Subject of Rights to the Peruvian Little Fox “Run Run”

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Trier University of Applied Sciences
HOCHSCHULE TRIER

3

Case Study – Part I
Run Run
Arguments in favor of confirming the proclaimed position

The Case of Run Run and the Emergence of a Nature-Centered Legal Framework

Author: Jamie Moser

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1 Introduction

Increasingly frequent and severe extreme weather events are already affecting the European continent, posing serious threats to both the well-being of its citizens and its economies. Droughts are becoming more common and more intense, leading to reduced agricultural yields and higher rates of tree mortality (Buras et al., 2020). Coupled with rising temperatures, these conditions have resulted in an increase in wildfires, particularly in countries such as Greece and Portugal (European Forest Fire Information System, 2024). These fires not only devastate forests and biodiversity, but they also endanger public health and safety (European Climate and Health Observatory, 2024). Wildfires generally also release vast amounts of carbon into the atmosphere, which exacerbates climate change and creates a dangerous feedback loop (US Environmental Protection Agency, 2016). While droughts and heatwaves are pressing issues, the opposite problem – excessive water – has become a significant challenge as well, as flooding is the most frequent type of extreme weather event in Europe (CRED, 2021), with events like the 2021 floods in Germany and Belgium causing approximately 43 billion USD in damages. (Yale Climate Connections, 2022).

The impact of these events could increasingly threaten Europe's economic interests by destabilizing key industries, such as agriculture, tourism or health care, and damaging billions worth of properties and infrastructure as climate change progresses. (Ciscar et al., 2011) A study indicated that Germany alone might face economic costs of up to 920 billion Euros by 2050 because of climate change. (GWS et al., 2022). But more importantly, these events endanger basic survival, as they can undermine food and water security and create public health crises. As Europe struggles to adapt, the increasing costs and risks highlight the urgent need for more comprehensive and innovative legal protection for the environment.

An innovative legal approach to better protect nature could be the concept of Rights of Nature (RoN). By granting natural entities "legal personhood" and therefore enabling them to have standing in court, it may become easier and more effective to protect the environment and climate from competing – often economic – interests. The following chapters will delve into the idea of awarding legal rights to natural entities within the European context, drawing inspiration from the story of "Run Run," a fox in Peru that was granted subjective rights.

2 The Little Fox "Run Run"

2.1 Run Run's Background Story

In February 2021, Ronald Llata, a boy from Lima, Peru, went to the market looking for sneakers. There, he encountered a man with a small puppy in a box. Concerned about the puppy's visible injuries, Ronald asked the man what had happened. The man claimed the dog had been attacked, but Ronald doubted this explanation. Feeling compelled to rescue the animal, he decided to take the puppy home. As he was worried about his parents' reaction to his new pet, he hid the dog in his room, hoping they wouldn't notice. However, this plan did not last long, as the puppy was soon discovered by the boy's mother, Maribel Sotelo. Instead of reprimanding her son, though, she felt a deep sense of compassion for the injured animal. She built a small shelter for him on the terrace and took turns with her son to feed him. Inspired by the purring-like noises he made, she decided to name him *"Run Run"*. (Trujillo & León, 2023)

As the weeks went by, Run Run's wounds healed, and his appearance began to change significantly. Rather than resembling a dog, he started to look more like a fox. Along with his unusual behavior – being a wild animal, he did not like to interact with people very much –, his distinctive appearance led Mrs. Sotelo and her husband to conclude that Run Run was no breed of dog. Instead, he was an Andean fox that had been illegally captured by wildlife traffickers (Trujillo & León, 2023). The Andean fox, also known as the Culpeo or *Lycalopex culpaeus*, is a canid species with several subspecies widely distributed across diverse habitats along the Andean range in Latin America. While some subspecies are classified as "Endangered," the International Union for Conservation of Nature (IUCN) lists the Culpeo as a species of "Least Concern." However, there remains a significant lack of knowledge about its population status and biology, which slows down efforts to fully understand and advance their conservation (Guntiñas et al., 2021).

The family who kept Run Run stated that they attempted to contact Peru's National Forest and Wildlife Service (SERFOR) after realizing he was a wild animal. However, they reported receiving no response or assistance. Taking matters into their own hands, they decided to release Run Run in the mountains, placing him in a box for transport. However, Run Run managed to escape from the box and ran away. Despite their efforts to recapture him, the family was unsuccessful (Trujillo & León, 2023).

After his escape, Run Run remained in the area and adapted to his urban surroundings. People often saw him climbing rooftops and playing with stray dogs. While some neighbors gave him food, he also hunted small animals belonging to residents. This led to Mrs. Sotelo being asked to compensate for damages which she could hardly afford. With no assistance from government agencies, the family and neighbors decided to attract media attention in hopes of receiving help. This

The Andean fox, also known as the Culpeo or Lycalopex culpaeus, is a canid species with several subspecies widely distributed across diverse habitats along the Andean range in Latin America. While some subspecies are classified as "Endangered," the International Union for Conservation of Nature lists the Culpeo as a species of "Least Concern."

strategy worked well, but it also had drawbacks: reporters began persistently chasing Run Run and hounding Maribel and her family. She reported that this was a difficult period for them, also because she received hateful comments on social media. Apart from this negativity, though, Run Run became a beloved celebrity in Peru, with people deeply invested in his story. Ultimately, the widespread media coverage pressured SERFOR into taking action. After confirming that Run Run was indeed an Andean fox, they allocated resources to capture him – a process which took several weeks and various strategies (Trujillo & León, 2023).

Finally, when Run Run was around eight months old, he was tranquilized with a dart. He was promptly taken to the *Parque de las Leyendas* Zoo in Lima, where he was examined for health issues and provided medical treatment while in quarantine. Photos and videos of the rescue are available alongside SERFOR's press release on the official Peruvian government website (SERFOR, 2021). Alexis Romero, a journalist who had been following Run Run's story for some time, noted that the fox had begun to appear unhealthy before his capture. He observed that Run Run seemed sluggish and lacked energy. Medical examinations at the zoo confirmed that the fox was indeed in poor health. Likely due to him spending a prolonged period of time with stray dogs, he had fleas and ticks and an infection caused by a haemoparasite. Additionally, he suffered from severe anemia and had survived distemper, a disease commonly seen in unvaccinated dogs. With professional care Run Run eventually recovered, but he remained at the zoo. (Trujillo & León, 2023)

2.2 Legal Case IPALEMA vs SERVOR

2.2.1 The Lawsuit

On 17th November 2021, the Peruvian Institute for Legal Advice on Environmental and Biodiversity Matters (IPALEMA) filed a lawsuit against the National Forestry and Wildlife Service (SERFOR) and the Metropolitan Municipality of Lima (MML). The case centered on the captivity of the fox *Run Run* at the *Parque de las Leyendas* in Lima, which IPALEMA argued was a harmful act. *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2021)*

IPALEMA's president, Mrs. Sonia Córdova Araujo, criticized SERFOR's decision to keep Run Run in a zoo rather than placing him in a wildlife conservation or rescue center, where the focus would be on rehabilitating and eventually releasing him back into his natural habitat. She argued that zoos primarily serve to satisfy human curiosity and provide entertainment, and predicted that Run Run would suffer pain and anxiety if he stayed confined to a zoo, which she claimed would violate the constitutional duty of the Peruvian state (Paz Campuzano, 2021). IPALEMA further argued that SERFOR's decision to place the fox in the Parque de las Leyendas failed to adhere to proper protocols and disregarded the possibility of reintegrating the fox into the wild. They stated that keeping the fox in captivity violated its welfare. According to IPALEMA, zoos like the Parque de las Leyendas often do not meet the necessary standards for animal welfare, in turn causing stress, behavioral issues and shortened lifespans for animals kept in confined spaces. They emphasized that Peruvian law prioritizes releasing wildlife back into their natural habitats unless such release is deemed impossible *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*.

In their defense, SERFOR and MML stated that transferring the fox to the Parque de las Leyendas was an essential step to safeguard his health and

Beyond protecting individual animals, the ruling advocated for a shift from an anthropocentric to a nature-centered legal framework, treating nature as a rights-bearing entity and emphasizing the interconnectedness of human and non-human life within ecosystems. This so-called ecocentric approach to law views nature as the foundation upon which all other elements develop.

mitigate risks to the public as well as the wild Culpeo population. They explained that the fox had been diagnosed with ehrlichiosis, distemper, anemia, and other health complications, which made an immediate release impossible. SERFOR also noted that no wildlife rescue center in Peru had a management plan for the Andean fox species, and that the Parque de las Leyendas was the only available facility capable of providing quarantine and medical care at that moment. *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*

2.3.2 An Ecocentric Approach

The court grounded its following decision on constitutional principles of animal welfare and the rights of nature outlined in the "Ecological Constitution," which recognizes animals as sentient beings with intrinsic value independent of their utility to humans. The court explicitly highlighted the broader legal and ethical dimensions of this case. Beyond protecting individual animals, the ruling advocated for a shift from an anthropocentric to a nature-centered legal framework, treating nature as a rights-bearing entity and emphasizing the interconnectedness of human and non-human life within ecosystems. This so-called *ecocentric* approach to law views nature as the foundation upon which all other elements – including humans, animals and forests – develop. In the case of Run Run, the Peruvian court applied these principles, affirming that wildlife, as part of nature, possesses rights that must be respected. Consequently, the fox was acknowledged to have inherent value, therefore he was to be protected from being treated as a resource for human purposes. *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*

In summary, the Court argued that animals should not be protected solely from the perspective of human needs, as has been previously outlined by the Constitutional Court. Instead, their protection should focus on the intrinsic value of each individual as part of a harmonious whole. Accordingly, the law safeguards both nature as a rights-holder and its constituent organisms or members, including wild animals like *Run Run the Fox*.

2.3.3 Ruling of the Case

On Friday, 28th June 2024, the Third Constitutional Court of the Lima Court of Justice delivered a landmark ruling in this case. While the court acknowledged the timely actions of the public authorities in ensuring the fox's health and welfare following its rescue, it criticized the flaws in the protocols and procedures that resulted in the fox's extended captivity, ultimately compromising his welfare. SERFOR was reprimanded for the absence of specific guidelines for handling rescued Andean foxes, which contributed to Run Run's prolonged captivity. Although medical care and quarantine were deemed necessary, the lack of a clear plan for reintegrating the fox into its natural habitat was regarded as a failure to protect his rights as part of nature. *(EXPEDIENTE:04921-2021-0-1801-JR-DC-03, 2024)*

The court noted that Run Run had been taken from his natural environment and raised by humans for two years, resulting in severe health issues, which demonstrated insufficient oversight by public authorities. The court emphasized that the responsibility for protecting wild animals like Run Run is shared among individuals, society, and the State. It highlighted that practices like domesticating and humanizing wild animals, as well as any actions that disrupt their natural behaviors or impair the functioning of their organs violate their right to physical integrity and can even endanger their right to life. *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*

The court recognized that transferring Run Run to the Parque de las Leyendas was necessary for medical care and quarantine under the Animal Protection and Welfare Law. Reports showed the fox had critical health issues that required treatment. However, the court stated that such interventions must include clear timelines and protocols to prepare the animal for reintegration into their natural habitat. The absence of these measures was deemed a failure of the State's duty to uphold the principles of animal protection and welfare, as the court found that public authorities lacked clear guidelines for handling wild animals like the Andean fox. This led to extended captivity with no clear plan for reintegration, violating constitutional mandates to prioritize the return of wild animals to their natural environments. *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*

In response, the court partially upheld the constitutional complaint filed by IPALEMA, ruling

that SERFOR had violated the fox's rights under the Rights of Nature principles in Peru's Ecological Constitution. SERFOR was instructed to:

- develop specific protocols within 30 business days to ensure proper care and reintegration of Andean foxes,
- reassess the feasibility of reintegrating Run Run into his natural habitat or a similar environment,
- improve oversight and enforcement mechanisms to prevent similar cases in the future,
- and launch public awareness campaigns to discourage the domestication of wild animals.

Meanwhile, the court dismissed claims against the Metropolitan Municipality of Lima, concluding that the quarantine period was necessary for medical evaluation and treatment, with no evidence of unnecessary suffering during that time. *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*

2.3.4 SERFOR's Response

On 30th March 2022, two years before the ruling of the case, SERFOR issued a press release stating that as Run Run had finally recovered, he was transferred to the *Granja Porcón,* an authorized captive breeding center able to provide him with suitable living conditions. They reported that his new enclosure was in an area with a climate typical of his natural habitat and that he would have the opportunity to meet a female Andean fox who had also been rescued from the illegal wildlife trade. SERFOR emphasized that Run Run was not fit for release into the wild, as he had been removed from his natural environment at a young age and lacked the hunting and survival skills necessary for an independent life. (SERFOR, 2022)

On 17th July 2024, following the court ruling, SERFOR published an official press release on the Peruvian government's website. They confirmed that Run Run was doing well at the Granja Porcón. They reiterated that his release into the wild was unfeasible due to his humanization and lack of survival skills. The press release also mentioned an official response from the Ministry of Agrarian Development and Irrigation (MIDAGRI) regarding the lawsuit's outcome. However, no such official press release from SERFOR or MIDAGRI is currently available on the website. (SERFOR, 2024)

While this court ruling might not significantly impact Run Run's fate, as his release remains impractical, it was nevertheless a historic decision. While this was the second time in Peruvian law history that a non-human entity received rights as a legal subject, with the first being the Marañón river in March 2024, it was the first time that a non-human animal's rights were explicitly acknowledged (latinapress, 2024). The ruling emphasized the intrinsic value of animals and the importance of addressing their needs. With this kind of ruling, sufficient attention can be brought to the issues, so that changes can be implemented more easily. The court-mandated improvements to protocols and the educational initiatives that SERFOR must implement offer hope that other animals may avoid suffering similar to Run Run's experience in the future.

After all, Peru faces a significant challenge with illegal wildlife trafficking, which should be explicitly recognized as the true culprit in this case – who has not been held accountable. As home to substantial portions of the Amazon rainforest, Peru is one of the most biodiverse countries on the planet, making it an attractive target for illegal wildlife traffickers. According to SERFOR, authorities seized over 20,000 live animals destined for trafficking between 2015 and 2020 alone. Most of these animals remain within the national market, with only about 20% trafficked internationally, highlighting the critical need for preventative measures such as education (Ramírez et al., 2022). However, these figures only account for intercepted cases, leaving a vast number of trafficked animals unrecorded. Tragically, many of these animals do not even survive long enough to be rescued by authorities (Trujillo & León, 2023).

3 Rights of Nature

3.1 The Concept of RoN

The concept of "Rights of Nature" represents a legal and ethical framework that recognizes ecosystems and natural entities as holders of rights – rather than limiting rights to humans and human-led organizations. This framework challenges the anthropocentric worldview by attributing intrinsic value to nature, emphasizing its preservation and protection not solely for human benefit but for its own sake (Gilbert et al., 2023). The distinction between environmental law and RoN lies in their objectives. Environmental law traditionally focuses on serving human interests, aiming to mitigate environmental harm primarily to protect human health and well-being. In contrast, the RoN framework acknowledges ecosystems and their components as entities deserving protection for their intrinsic value, independent of human utility. This paradigm shift is reflected in rulings that highlight nature's inherent worth and the responsibility of states to act as its guardians *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*.

The origins of this idea can be traced to Christopher Stone's seminal 1972 article *"Should Trees Have Standing?"* published in the *Southern California Law Review*. In this article, Stone argued that nature lacks legal standing, meaning it cannot seek justice or compensation for harm and has historically been treated purely as a resource for human use. He drew parallels to the development of rights for abstract entities like corporations, noting how even such extensions of rights were once considered unthinkable, and also highlighted the gradual recognition of rights for marginalized social groups, such as enslaved people. As he poignantly observed:

"Throughout legal history, each successive extension of rights to some new entity has been [...] a bit unthinkable", adding that "this is partly because until the rightless thing receives its rights, we cannot see it as anything but a thing for the use of 'us' – those who are holding rights at the time." (Stone, 1972)

3.2 Rights of Nature in Peru

As demonstrated in the ruling discussed above, the Rights of Nature already hold a significant place within the Peruvian legal system. In Peru, these rights are enshrined in the broader framework of the "Ecological Constitution." Article 68 of the Peruvian Constitution mandates the State to conserve biological diversity and protect natural areas, forming the legal foundation for recognizing nature as a rights-holder. This approach is rooted in the philosophy of ecocentrism, which contrasts with anthropocentrism by viewing humans as integral components of a larger, interconnected system. As the Colombian Constitutional Court noted, *"the earth does not belong to man, but man belongs to the earth, like any other species."*

The court's decision regarding Run Run reflected a shift toward ecocentric legal and ethical perspectives, emphasizing that animals possess intrinsic value and play essential roles within ecosystems.

Ecocentrism thus advocates for valuing nature for its own sake, independent of human utility. Additionally, the Peruvian Constitutional Court has acknowledged that nature's rights are intertwined with the rights of Indigenous peoples, whose cultural and spiritual practices often align with the preservation of ecosystems. By recognizing nature as a rights-holder, courts affirm its role as a harmonious whole, essential for the well-being of all living beings and future generations. *(EXPEDIENTE: 04921-2021-0-1801-JR-DC-03, 2024)*

The court's decision regarding Run Run reflected a shift toward ecocentric legal and ethical perspectives, emphasizing that animals possess intrinsic value and play essential roles within ecosystems. By requiring enhanced oversight, public education, and systemic reform, the ruling reinforced the necessity of ethically and responsibly treating and conserving all living beings.

3.3 Rights of Nature in Europe

In the European context, natural entities such as trees, rivers, and wildlife are predominantly regarded as objects, lacking legal rights or representation. The RoN movement proposes that natural entities – be they animals like Run Run, trees, or whole ecosystems – be granted legal personhood. In doing so, their rights would be formally recognized and considered in legal decisions, giving them a voice in matters that directly impact their survival and well-being.

In the following chapters, we will advocate for the implementation of Rights of Nature in Europe based on this premise. We stress the importance of granting natural entities like Run Run "legal per-

sonhood" to ensure they have standing in court. First, we will argue that effective legal frameworks are essential for genuinely protecting the environment, demonstrating that current lsegislation is insufficient. Next, we will explore how *Rights of Nature* can reshape economic systems by promoting sustainability and innovation while reducing dependence on destructive industries. Following this, we will discuss how these rights can empower citizens to take legal action, thereby strengthening democratic processes. Finally, taking these ideas into consideration, we will demonstrate that recognizing nature's rights is not just an environmental issue, but a critical step toward ensuring the long-term survival and well-being of human societies.

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Ecological Awareness and the Power of Law in Realizing the Rights of Nature

Author: José Heleno P. Vanzeler

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1 Introduction

The current global scenario is marked by conflicts, inequalities, and geopolitical tensions, which have created a growing sense of global insecurity, combined with the stagnation of progress towards the Sustainable Development Goals (SDGs) and the worsening of the climate emergency. This situation presents outcomes completely opposed to the promise of a better future, with greater prosperity and peace, which technological and scientific advances were supposed to bring to both people and the planet. These outcomes also demonstrate that we are wasting the opportunity to use technology, science, and global interconnectedness to achieve the aforementioned improvements (United Nations, 2024, Dec 22nd).

The global community needs to find real solutions capable of changing the course we are setting for the future of the planet and humanity. In this regard, during the Summit of the Future, held in September 2024, world leaders made a series of commitments to sustainable development, financing for development, peace, international security, science, technology, innovation and digital cooperation, youth, future generations, and the transformation of global governance, establishing the "Pact for the Future" and its annexes: the "Global Digital Compact" and the "Declaration on Future Generations", which aim to create international mechanisms to respond to current and future challenges and opportunities, striving for more security, justice, sustainability, and prosperity (United Nations, 2024, Sep).

In face to this scenario, environmental protection has become one of the greatest challenges for the global community. To address this, we need to mobilize all the means and resources available across various fields of knowledge. Among the tools available for environmental protection, ecological awareness and the transformative power of legal systems stand out, as well as the influences these instruments can have on each other in a mutual and continuous manner.

2 Ecological Awareness

Most people around the world agree that environmental protection is crucial. Significant research conducted by global and regional entities demonstrates a notable global concern for the environment. For instance, the public opinion survey

"UNDP Peoples' Climate Vote", conducted by the United Nations Development Programme (UNDP) in 2021, with the participation of over 1.2 million people from 50 countries (both developed and developing), focused on climate change. The survey revealed a deep, shared concern about climate change and the global consensus for adopting effective measures to deal with its effects (Aragão, 2024).[1]

At the regional level, the 2020 Eurobarometer survey showed that most European citizens view the environment as something serious or very important, and they support actions by the European Union to protect it, such as transitioning to renewable energy and changes in production, commercialization, and consumption patterns. The survey also revealed Europeans' willingness to change their behaviors in ways that make them feel more environmentally responsible (European Union, 2020).[2] Thus, the concern for the environment is also evident at the national and local levels.

Despite the undeniable importance of global concern for the environment, it has not been sufficient to halt the negative environmental impacts resulting from human activity. The reality shows that these impacts are only increasing, rather than decreasing to the point of avoiding severe consequences of extreme events related to climate change that we have witnessed with increasing frequency. Environmental problems have even affected people's mental health (Clayton et al., 2014), particularly young people (Clayton et al., 2021).

This is not without reason, as we think about the catastrophic effects of extreme climate events, which frequently dominate the news, such as the recent floods in southern Brazil, causing significant damage and deaths, separating children and teenagers from their families (UNO, 2024, May 10th)[3], or in Spain, where Valencia was transformed into a war-like setting due to the destruction and loss of life caused by the floods (ESA, 2024, Nov 5th).

By analogy, ecological awareness can be compared to the global desire for peace, suggesting that while fraternal consciousness is as important as ecological awareness, it is not enough by itself to end wars or mitigate the rise of violence. Therefore, it is essential to recognize the power of laws and legal systems to influence human behavior based on values that are deemed desired by lawmakers, demanded by parties and their representatives, and enforced by judges and courts in various judicial instances. Among these values, geoethical values are particularly important in guiding laws towards fraternity and sustainability.

[1] For further information about the UNDP survey, you can consult this page: www.undp.org/press-releases/worlds-largest-survey-public-opinion-climate-change-majority-people-call-wide-rangingaction.

[2] Additionallly, search for more in: www. europa.eu/eurobarometer/surveys/detail/2257.

[3] The UN leader referred to the catastrophe that occurred in southern Brazil as a warning sign of the devastating effects that the climate crisis can cause to people's lives and livelihoods (www.news.un.org/pt/story/2024/05/1831466).

3 The Transformative Power of the Confluence of Law and Awareness

Many historical events demonstrate the power of laws to change certain human attitudes and, consequently, transform the social, economic, political, or cultural realities derived from them. For instance, we can mention laws that abolished slavery, the death penalty, apartheid, or those that combat various forms of discrimination, as well as those that established important rights, such as women's right to vote (Aragão, 2024).

Law, therefore, is an important tool capable of driving social progress by changing the paradigms that govern human behaviors in various areas. However, it is crucial to keep in mind that laws, when enacted, do not always achieve the desired success. Many laws become mere words on paper, while others come to life and bear fruit. This largely depends on the level of awareness society has developed regarding the subject of a particular law, in order to accept or reject its provisions.

In this regard, a study on behavioral change concerning nature, conducted by the Behavioural Insights Team in partnership with Rare, showed that regulation is a powerful tool for protecting the environment. However, its application is often difficult or ineffective. The study concluded that the implementation of incentives and regulations

[4] Consult the full report at: www.bi.team/wp-content/uploads/2019/04/2019-BIT-Rare-Behavior-Change-for-Nature-digital.pdf.

[5] "Rights of Nature (RoN) is a legal instrument that enables nature, wholly or partly, i.e. ecosystems or species, to have inherent rights and legally should have the same protection as people and corporations; that ecosystems and species have legal rights to exist, thrive and regenerate. It enables the defense of the environment in court – not only for the benefit of people, but for the sake of nature itself" (IPBES, 2024 Dec 19th) (www.ipbes.net/policy-support/tools-instruments/rights-nature-ron).

[6] Constitution of the Republic of Ecuador: "Article 71.- Nature or Pacha Mama, where life reproduces and takes place, has the right to have its existence and the maintenance and regeneration of its vital cycles, structure, functions, and evolutionary processes fully respected. Any person, community, people, or nationality may demand that public authorities enforce the rights of nature. To apply and interpret these rights, the principles established in the Constitution, where applicable, shall be observed. The State shall encourage natural and legal persons, as well as collectives, to protect nature, and shall promote respect for all elements that form an ecosystem. Article 72.- Nature has the right to restoration. This restoration shall be independent of the obligation of the State and natural or legal persons to compensate individuals and collectives dependent on the affected natural systems. In cases of severe or permanent environmental impact, including those caused by the exploitation of non-renewable natural resources, the State shall establish the most effective mechanisms to achieve restoration and shall adopt appropriate measures to eliminate or mitigate harmful environmental consequences." (www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf).

[7] Law No. 071 of December 21, 2010 "Article 5. (Legal Status of Mother Earth). For the purposes of protecting and safeguarding its rights, Mother Earth adopts the status of a collective subject of public interest. Mother Earth and all its components, including human communities, hold all the inherent rights recognized in this law. The application of Mother Earth's rights will take into account the specificities and particularities of its various components. The rights established in this law do not limit the existence of other rights of Mother Earth.". Avaiable at www.planificacion.gob.bo/uploads/marco-legal/Ley%20N%C2%B0%20071%20DERECHOS%20DE%20LA%20MADRE%20TIERRA.pdf.

[8] Te Urewera Act: "11 Te Urewera declared to be a legal entity (1) Te Urewera is a legal entity and has all the rights, powers, duties, and liabilities of a legal person." (www.legislation.govt.nz/act/public/2014/0051/latest/DLM6183705.html).

[9] Article 1: "The legal personality of the Mar Menor Lagoon and its basin is declared, recognizing it as a subject of rights." (www.boe.es/boe/dias/2022/10/03/pdfs/BOE-A-2022-16019.pdf.).

[10] The case was resolved with a judicial decision detached from an anthropocentric approach, emphasizing the protection of nature's rights by granting the fox "Run Run" the status of a rights-bearing subject. More information about the story of "Run Run" can be found at: www.elcomercio.pe/lima/zorrito-run-run-presentan-accion-legal-para-sacarlo-del-parque-de-las-leyendas-noticia/.

for environmental conservation does not always work as expected, proposing 15 tools[4] based on behavioral insights to improve the understanding of the environmental challenges we face and help protect an ecologically balanced environment (Behavioural Insights Team, Rare, 2019).

This reinforces the importance of ecological awareness as a fundamental tool for environmental protection, which is enhanced when combined with the transformative power of the law. Thus, a cycle is established between ecological awareness and the legal system, where these two components continuously influence each other, enabling significant progress towards the rights of nature, with geoethical values serving as the foundation.

4 Rights of Nature: A Manifestation of the Evolution of Law Towards Geoethics

Recognizing rights for non-human beings or entities is a controversial subject, but it is a debate we cannot avoid. This progress in legal thought has already been realized, albeit in small steps, through several legal instruments in different countries. It represents an evolution in legal and judicial systems that has become possible due to the undeniable influence of geoethical values, which inspire new laws, new foundations, and new approaches to crucial issues like environmental protection. As a result, some old paradigms are broken, and space opens for new paradigms or the expansion of existing ones.

With geoethics, a range of values emerges to support a paradigm shift capable of putting real changes in laws and policies at the forefront, as well as in legal thinking (Kotzé et al., 2022). In the field of geoethics, we find values that provide the necessary support to ensure that human activities involving interactions with the Earth system are as responsible as possible (Peppoloni and Di Capua, 2017). From this disruptive worldview, we begin to recognize rights for non-human entities such as animals, forests, rivers, and mountains, which, although they cannot be held accountable in the same way as humans, are endowed with intrinsic values that must be respected.

Thus, what is now known as "rights of nature"[5] is already becoming a reality in the legal systems of various countries. For example, the rights of nature (Pacha Mama) were recognized in the Constitution of Ecuador in 2008[6]; the Mother Earth Law, Law No. 071, passed in Bolivia in 2010[7]; the Te Uerewera Law in 2014 in New Zealand[8]; Law No. 19/2022 in Spain[9]; and the recognition of rights of nature through municipal law reforms in several municipalities in Brazil (Dalla Riva, 2023). These are some examples of the legal recognition of the rights of nature, which is also being implemented through the judicial system, as demonstrated in the case discussed next.

5 Illustration with the Case of the Fox "Run Run"

The case of the fox "Run Run", which occurred in Lima, Peru[10], demonstrates the importance of animal rights to combat the utilitarian mindset that characterizes the Anthropocene. It represents another significant step towards the evolution of human thought and behavior to reject inappropriate treatments of nature. Such actions also help to deconstruct the idea of discarding that which does not suit human interests, including animals that are removed from their natural habitats to serve as pets.

As previously mentioned, most people worldwide agree that protecting the environment is important. However, reality shows that ecological awareness is not enough to ensure environmental protection it must be combined with the law, because history has shown us that the law is an instrument that has the power to change human behavior, and it can also change those that harm the environment and cause serious environmental problems. For this reason, the rights of nature need and should be guaranteed within legal systems across Europe and through broader international treaties, because certain issues, such as the case of the fox "Run Run", would never be resolved without the force of legal enforcement.

Thus, one could argue that modern environmental law in Europe has not made a significant difference in preventing the planet's destruction. It could even be contended that modern environmental law is part of the problem, as it is embedded in a legal framework that – instead of focusing on protecting people and the environment – tends to prioritize endless growth, extraction, and development. On the other hand, some advocate for the creation of a European Charter of the Rights of Nature (Carducci et al., 2020), which finds strong support in the

essential conciliation between the needs of today and the rights of tomorrow, for both humans and nature.

5 Conclusion

As long as we maintain a strictly anthropocentric view of nature and natural resources, considering them as mere "property" or "objects," we will fail to deal with the most challenging environmental issues of our time.

Instead of a worldview exclusively centered on humans, we must also conceive nature as a whole and its elements as subjects endowed with intrinsic values, independent of human interests.

This way, the confluence of ecological awareness with the legal system and juridical institutions, based on geoethical values, points to an important path for more effectively struggle in tackling these challenges.

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From the Rights of Man to the Social Contract for Geoethics toward the Rights of Nature

Author: Roya Qazen

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1 Introduction

Some of the first people to coin the term "The Rights Of Man," were The Marquis de Lafayette and Thomas Jefferson. Their Declaration of the Rights of Man and of the Citizen remains to be one of the basic charters of human liberties and a body that helped inspire the French Revolution. Its articles were adopted by France's National Assembly throughout 1789 and later served as the preamble to their Constitution of 1791.

The very first article and most basic principle of the Declaration states; *"men are born and remain free and equal in rights,"* anymore, the use of "men," in the modern context, is in reference to mankind as a whole, as opposed to just males. This concept, although revolutionary at the time – literally – is now a widely accepted fact in the twenty-first century. Children today, for the most part, are encouraged to treat everyone with kindness, regardless of creed, class, color, attraction, or gender. So why, then, is it that discussions on what the Rights of Nature could mean, be so controversial?

All great manifestos on the rights of mankind are always quick to be provocative in defining what it means to be a member of society, but none are quick to come to nature's defense. It is common to see stories of nature's liberty taken advantage of, especially in today's Anthropocene. A case that was studied quite closely by members of this Giving Nature Its Own Rights project, was that of the little Peruvian fox, Run Run.

Peru has three distinct geographic regions, the Selva, or, rainforest, the Sierra, or, highlands, and the Costa, or, coast. A majority of Peru's population lives in the Costa region, meaning that interactions with wildlife outside of those who might live in the Costa – here meaning undomesticated life – is uncommon, if not outright rare.

A fox, whose homeland was in the Sierra, was abducted and sold to be a family dog. When the fox, Run Run, started to act like what it was—a wild animal—the community that Run Run was brought into, was in uproar, as, at this point, Run Run escaped and was wreaking havoc on neighboring communities. A nationwide hunt was conducted to track Run Run down. As of December 2024, Run Run is in a sort of zoo/ nature preserve hybrid, a far cry from the Sierra that the fox is native to. The best ways to combat these sorts of events from happening again would be to directly combat policy that places humanity over ecology, awarding legal personhood to natural entities, and restructuring chief memorandums that make up the basis for many egalitarian societies to better fit the interests of modern society, in this case, making amendments for the Rights of Nature.

2 Pluralistic Approach

The increased call for Rights of Nature is not something that can happen overnight. Like all great movements, this one will have to come from the people and their desire to see a change and make it happen. Grassroots movements have proven successful in the attainment of Civil Rights in the United States. It is one of the most triumphant cases, as the organizers were ordinary African Americans working in a local capacity in their communities to protest against racial discrimination and segregation. Such grassroots movements exist for the Rights of Nature, as well. One of the more popular organizations is the Sierra Club, whose mission statement is; *"To explore, enjoy, and protect the wild places of the earth; To practice and promote the responsible use of the earth's ecosystems and resources; To educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives."* Through participation in such organizations, citizens would have more space to speak on behalf of nature and defend its rights. And perhaps, through the familiarity of this activism with local laws and procedures, even more civilians would become empowered to bring their own cases to light, on behalf of nature to the courts. Overall, this would help civil society to become more familiar with the democratic process and context.

Such a bottom-up approach is precisely how to make the interests of the people known. These approaches often go hand-in-hand with the pluralistic worldview. It describes a decentralized system of spotlighting the fallibility and incompleteness of any decision or policy through which we may interpersonally, or intra-nationality decide what to do. Plularism is the genius behind such feats as the Paris Agreement. It is, perhaps, no secret at this point, that the Paris Agreement was built on the ancient principle of peer pressure. There is a lot of emphasis placed on one nation to "get the ball rolling," so to speak, in order for something of a domino effect to take control. A bit of friendly competition for the betterment of the Earth. As one country meets its quotas, other states will try and one-up them to meet their quotas even faster, or, ideally, go beyond what their quota was expecting. Looking to the common good is the core of pluralism thought, it has worked time and time again and applying it to the Rights of Nature would only be a good thing.

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3 Pragmatic Approach

Policy making from this pragmatic lens is exactly what politicians will listen to. The emphasis on adaptive action could aid European nations to more easily pursue mistake correction and amendment. The sign of a truly great body of law is that body's ability to adapt to change as a progressive piece of literature by which people can live for generations. In Europe, his would work the best, specifically within the European Union at first, where a common body of law already exists. In nations with high biodiversity, the creation of a national park system became popular.

One of the most famous cases of this is in the United States, where the concept of a national park was first established with the founding of Yellowstone National Park in 1972 with the aim

to preserve the American wilderness and wildlife. Today, it is understood that nothing may come in the way of the autonomy of a national park. Private industry, residence, and commerce are all illegal to conduct within the borders of a national park. The only activity relating to the three aforementioned is conducted by the National Parks Service and mostly pertains to activity within the park, such as tourism. So the industry is tourism, the residence is, at most, a cabin someone can rent, and the commerce is selling merchandise about the parks, courses on wilderness survival, and any research that may take place on park grounds. The rules for keeping a national park natural are extremely stringent as these areas are understood to be set aside for public enjoyment; it is seen as a right of the people to have access to such a space, fulfilling a great chunk of what makes up the cultural ecosystem service. But even this great feat in protecting nature was and is still done with the interests of humans first, and the sanctity of nature second. It is framed as nature being important because humans can enjoy it, not nature being important just for the sake of nature. However nice the ongoing national parks projects in the States are, the Rights of Nature are still not fully realized.

4 Social Contract for Geoethics

Although, does it really matter? Do the ends justify the means in this case? How important is it that a nature reserve is set up with the sole intention of keeping nature protected, can there not be multiple correct answers? A space set up for nature by humans to then just be left alone will do nothing but foster resentment among the locals of the reserve. Would it not be a good idea to continue to uphold the cultural ecosystem service? In terms of promoting ethical values that come with interacting with nature. School groups that come in to boost tourism, foreigners that come to the nature reserve with the interest of seeing an ecosystem they do not have in their own countries, and people who live in built-up, urban areas, taking the weekend to reconnect with something that is bigger than themselves. Shutting off an area purely for the interest of said area will be negative for it in the long run as the people who were shut out in the first place will take vengeance in one way or another. When a natural entity/ nature in general is given legal personhood, what goes on in that land can be regulated. Fishing licenses can be administered and monitored to control wildlife populations, and in some circumstances, hunting licenses. This would not be able to be surveilled if a nature reserve was just left to be preserved with no human activity allowed to interact. Getting people to understand how crucial a relationship between humans and the areas we protect will promote a greater understanding for how essential protected areas like national parks are. Recognizing Earth and its ecosystems and our common home by granting it a legal status gives it the necessary importance considering the vital role it plays in humanity's survival.

Perhaps the most commonly referenced manifesto is Jean-Jacques Rousseau's 1762 Social Contract, or, Du Contrat Social. Any high school graduate will be able to tell you the gist of what Rousseau was trying to get out; that to maintain a society is to accept a central authority in order to protect other rights, at the expense of individual rights. Luckily, this is all that is needed as an understanding when applying the Rights of Nature, as it fits so seamlessly into upholding his Social Contract. Fostering a higher level of respect for the sanctity of nature, at a societal level, will deepen the relationship between humanity and nature and its ecosystem services. Emphasizing and maintaining the Rights of Nature is to uphold Rousseau's Social Contract. This would also fall in line with a strong understanding of sustainability according to the Sustainable Development Goals wedding cake model.

5 UN Sustainable Development Goals (SDGs)

The Sustainable Development Goals (SDGs,) were adopted by all United Nations Member States in 2015 with The 2030 Agenda for Sustainable Development and are made up of seventeen goals that work as a call to action to end poverty, improve health and education, encourage economic growth, while combatting climate change in the meantime. All seventeen of these goals are arranged in a tier-like structure with the biosphere at the bottom with the sixth, thirteenth, fourteenth, and fifteenth SDGs representing clean water and sanitation, climate action, life below water, and life on land, respectively. It is at the bottom because, without these pillars, none of the other SDGs could exist. There is an understanding that, without the basis of these four goals in the biosphere, one cannot continue to the following tiers, which focus on society and economy. A comparison can be made between the wedding cake and Maslow's Hierarchy of Needs, where the biosphere encompasses the physiological needs, and, perhaps some of the safety needs, where then the societal needs encompass the rest of the safety needs, and love and belonging. Finally, the economic tier would then be represented by the remainder of love and belonging and then esteem needs. In theory, self-actualization at the top of the hierarchy of needs does not translate perfectly into the wedding cake model as easily. In any case, the wedding cake shows the biosphere as the foundation of economies and societies, as well as the basis of all SDGs, thus stressing nature as an entity powerful enough to be deserving of rights.

6 Conclusion

Perhaps a new Social Contract needs to be understood so that humans can operate more harmoniously with nature as well as with mankind. As long as the lens of life is only viewed through the interests that humans hold, the Rights of Nature cannot be actualized. This would cause chaos as climate change worsens, as less regard will be taken when more liberties are taken by harvesting the depleting resources. By taking action now, and giving nature personhood, humanity can have an intervention with itself and realize that taking advantage of entities that cannot speak for themselves, especially when it is extended to nature, is fundamentally wrong. As disputes over land and resources lessen as the lines of the Rights of Nature are followed, it will make the observance of the Social Contract easier to follow, therefore leading to a more pluralistic, peaceful society where the SDGs are closely adhered to, because nature will be granted rights at last.

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Foundations for the recognition of the Rights of Nature in the European Union

Author: Amanda Erin Regalado Romero

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1 Introduction

It's necessary to recognize nature rights in the European Union in order to guarantee an effective protection of natural entities and the common good. According to the International Union for Conservation of Nature (IUCN), at least 1,677 species out of 15,060 European species assessed are threatened with extinction (European Parliament, 2020). Currently, there are many dangers to ecosystems and biodiversity in Europe, such as climate change, urbanization and leisure activities, the pollution of air, water and soil as a consequence from agriculture, illegal killing and hunting, invasive species, and forestry activities (European Environment Agency, 2020).

In attention to these issues, we – as a society – need to find an effective way to protect nature. This essay will demonstrate how the recognition of the rights of nature is a valuable tool for achieving effective protection of ecosystems in European countries.

2 The recognition of the rights of nature: Law as an instrument of social change and the recognition of the intrinsic value of nature

There are multiple reasons to recognize rights for nature in Europe. Ecosystemic services are essential to guarantee the welfare of communities. However, it's necessary to adopt stronger legal protection to prevent the degradation of ecosystems and the loss of biodiversity. Since the current anthropocentric perspective of nature has failed to curb the growing environmental impact produced by man, we need to adopt a new perspective. We need to view nature as having intrinsic value, not just as property or objects. In that context, *"granting legal rights of nature is a legal trend in the Anthropocene which corresponds to the emergence of new values with legal relevance as a response to the insufficiency of business-asusual laws to adequately protect the Earth system"* (Aragão, 2024, p.121).

The recognition of the rights of nature would encourage EU countries to act based on the idea of recognizing the value of nature not only in terms of its usefulness for human beings, but also in terms of valuing nature for its intrinsic importance as an environment that is home to diverse forms of life. In this way, the incorporation of the rights of nature into European legal systems has a broad transformative power as it can change the course of action of a country's public administration in favor of the adoption of measures with a greater degree of sustainability and a focus on the prevention of damage to nature and the environment. The rights of nature can ensure that the protection of nature is carried out under a less utilitarian approach by the entities that create and apply the law in the legislative, executive and judicial spheres.

One of the most common criticisms made of the idea of recognizing rights to nature is that it would face the same implementation difficulties that current EU environmental laws already face, in addition to stating that they do not in themselves provide an innovative component that ensures their effectiveness (European Parliament, 2021, p. 8). In this regard, it is worth remembering the power of law as an instrument of social transformation by modifying people's behavior, directing it towards the adoption of sustainable systems and reconfiguring the relationship – often predatory – between human beings and nature. In this way, the recognition of the rights of nature opens the door to the establishment of stronger standards for the protection of natural resources that reflect a sustainable relationship with nature, where an intergenerational commitment is assumed in the future.

2.1. Nature rights and the balancing of rights

Law reflects the value that a community attaches to certain goods or values. The recognition of rights to nature can be accepted more easily in cultures where historically an intrinsic value is attributed to entities of the earth such as Ecuador, Bolivia, Peru or Colombia, where rights have been attributed to natural entities through jurisprudence or legislation. However, the adoption of the rights of nature in the EU is not entirely new. On December 26, 2024, through judgment 142/2024, the Constitutional Court of Spain ratified the constitutionality of the legislative initiative by which the recognition of the legal personality of the Mar Menor lagoon and its basin was proposed. Likewise, *"the European Union Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora [...] as well as the Directive on the conservation of wild birds, are the most significant examples of a legal regulation, which follows this biocentric philosophy of nature protection"* (Borràs, 2020, p.84).

The Run Run fox case provides evidence that nature entities should not be protected solely from the perspective of human needs, but their protection should focus on the intrinsic individual value of the specimen as part of a harmonious whole. Therefore, the Law should protect both nature and the organisms or members that make it up (for example, a wild animal such as the Run Run Fox). Currently, the law faces greater challenges as human activities cause greater damage to nature in different ways. To find solutions, the law usually weighs rights or principles. In this context, granting rights to nature is a necessary measure to reflect in the law a palpable reality: the critical state of ecosystems damaged as a result of human activity and the need to take stricter legal measures. In this way, when it is necessary to weigh rights or principles against real situations, nature will have real opportunities to be protected in the courts and scenarios of legislative creation.

The Run Run fox case provides evidence that nature entities should not be protected solely from the perspective of human needs, but their protection should focus on the intrinsic individual value of the specimen as part of a harmonious whole. Therefore, the Law should protect both nature and the organisms or members that make it up.

The recognition of the intrinsic value of nature and its components does not imply placing them above human needs or interests, but rather means guaranteeing equitable conditions in scenarios where environmental and economic interests need to be weighed. In this way, decision-making adopts a long-term sustainability approach, which implies the protection of natural resources not only for the present but also guarantees their availability in the future.

On this premise, the fact that nature acquires rights does not mean that its use will become impossible or extremely restricted, but that a regulation will be adopted that prevents such use from causing damage to ecosystems or their components, so as to guarantee their environmental sustainability.

2.2. Nature rights and human rights

The recognition of rights to nature arises as a measure aimed at achieving common objectives regarding the protection of nature, to guarantee not only nature itself but also the community and future generations. For this reason, it is possible to find a strong link between the recognition of the rights of nature and human rights together with the SDGs. In this sense, *"the Rights of Nature are a cohesive element that acts as a bridge between human rights, in particular the human right to water, indigenous rights, environmental rights (healthy environment) and biocultural rights. By unifying these different paradigms, the Rights of Nature promote a holistic approach to addressing and achieving the SDGs"* (Earth Law Center NGO, 2023).

The importance of nature for human subsistence is a reality that cannot be denied. However, this does not mean that nature's only value lies in being a means to human ends. The recognition of the rights of nature does not pose a risk to human rights but, on the contrary, it means protecting in an egalitarian and parallel way both the human being and the environment in which he develops and on which he depends for subsistence: nature. In this way, the recognition of the intrinsic value of nature does not imply the demerit of human needs. On the contrary, it implies the revaluation of nature and the reconfiguration of the relationship between nature and human beings to make it more sustainable in order to ensure the well-being of our community in the long term.

In short, the recognition of rights to nature will strengthen the protection of nature not only in the courts, but also in the legislative and executive activity of public policies. In this sense, the rights of nature are not erected above human rights, but are protected in parallel to them.

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3 Nature rights as a catalyst for sustainable economies in the European Union

Recognizing rights to nature can be an essential means of transitioning to more sustainable economies in the European Union by encouraging the adoption of environmentally friendly economic actions by private and public actors. On the one hand, the rights of nature would promote the adoption of sustainable and innovative practices by companies. On the other hand, they would encourage the effective application of "polluter pays" principles to repair the environmental impacts caused by economic activity.

3.1 Nature rights and corporate environmental sustainability

Incorporating the Rights of Nature into European countries law can lead to the development of *sustainable production models*. By granting legal status to ecosystems, we incentivize businesses to adopt sustainable practices and innovate in the use of environmentally friendly technologies. This approach supports long-term economic benefits and the growth of sustainable industries such as ecotourism, renewable energy, organic agriculture and extensive livestock farming.

The recognition of rights to nature also incentivizes companies to make *sustainable use of natural resources*, because these are no longer considered an instrument destined for profit and begin to be seen as a valuable asset that must be used responsibly in order to guarantee the economic development of society in the long term. In this way, it is possible to transition from an economic scheme of unlimited exploitation to a model of rational use based on the prevention and reduction of environmental damage, in addition to the regeneration of degraded ecosystems.

Sustainable development is a priority objective of the EU's internal and external policies and has been established as a fundamental principle of the Treaty on European Union. *Article 3 of this treaty* states that the Union shall strive for the sustainable development of Europe based on balanced economic growth, aiming at full employment and social progress, and on a high level of protection and improvement of the quality of the environment (Official Journal of the European Union, 2012, p. 17).

In order to use resources more sustainably, many companies would improve their processes to use resources more efficiently. In this way, the rights of nature encourage the implementation of more sustainable economic models such as the circular economy, which reduces the environmental impact generated by industries such as mining, food, textiles and electronics. A *circular economy* is *"an economic system that is based on business models which replace the 'end-of-life' concept with reducing, alternatively reusing, recycling and recovering materials in production/distribution and consumption processes, [...] with the aim to accomplish sustainable development"* (Kirchherr et al. 2017, p. 224-225). This economic model is in line with the EU's 2050 climate neutrality target under the European Green Deal (European Parliament, 2024) and the Circular Economy Action Plan. Currently, *"the European Commission's action plan sets out seven key areas essential to achieving a circular economy: plastics, textiles, e-waste, food; water and nutrients, packaging, batteries and vehicles; buildings and construction"* (European Parliament, 2024).

In summary, the recognition of the rights of nature can contribute to the adoption of sustainable practices and technologies by companies, in addition to promoting the implementation of economic models such as the circular economy that reduce the environmental impact of industrial activities. With the promotion of corporate environmental responsibility, they will become key allies for the fulfillment of the 2030 Agenda, with emphasis on SDGs No. 11 (Sustainable cities and communities) and 12 (Responsible production and consumption).

3.2 Nature rights to improve the application of "The Polluter Pays" principle

"The polluter pays" principle is one of the central axes in the environmental regulations and policy of the European Union. Article 191 of the Treaty on the Functioning of the European Union (TFEU) of 2007 establishes that the Union's policy in the field of the environment shall be based on a series of environmental principles, among which is the polluter pays principle (Official Journal of the European Union, 2012, p. 132). This principle has been adopted in national legislation such as the French Green Charter, as well as in legislation applicable to the entire EU, such as Directive 2010/75/EU on industrial emissions, the Water Framework Directive 2000/60/EC, the Environmental Liability Directive 2004/35/EC (DRM) and Directive 2009/147/EC on the conservation of wild birds (European Court of Auditors, 2021, p. 10-11). Some practical applications of "The Polluter Pays" principle implemented in the EU are environmental taxes that are intended to serve as a kind of payment for the pollution generated and the European Union's Emissions Trading System (ETS).

Another economic mechanism used in practice reflects "The Polluter Pays" principle, which are the agreements between a polluting economic actor (e.g. a group of farmers) and the actors who consume the polluted resource (e.g. a group of citizens), so that the polluter pays the costs generated by contamination to the user of the affected resource. Recently, *"contracts between water users and farmers have gained increasing popularity as a tool for regulating the potential externalities of agricultural land use on water quality"* (Abildtrup J. et al., 2011). The application of this strategy has been

studied on the basis of its application in European countries in the light of Coase's theorem. The authors examined in detail a specific case in Denmark and concluded that *"negotiations between Danish waterworks and farmers may not be a suitable mechanism to achieve efficiency in the protection of groundwater"* (Abildtrup J. et al., 2011). On the other hand, Professor Renaud Bourget, professor at the Côte D'Azur University in France, explains Coase's theoretical approach in the following terms: *"If the company pays to compensate the inhabitants, it is a way of buying a right to pollute, the company will pay so that the right of the inhabitants to breathe pure air is transformed into a right to pollute for the company"* (Bourget, 2024). At this point, we can evidence the economically transformative potential of the rights of nature. In the scenario described, replicated in numerous industries such as agriculture, the community negotiates and agrees on compensation with the polluting economic agent; however, nature has no voice. Coase's approach involves a mutual transfer of claims to reconcile the right to a balanced environment and the freedom to conduct a business. In these cases, the community decides on the use that a third party will give to the natural resources. A rights-of-nature approach, by recognizing not only the social value of nature but also its intrinsic value, would ensure that agreements and negotiations take into account not only human interests but also the protection of the balance of ecosystems. This is not intended to give decision-making power to natural entities, but rather to ensure that human decisions take into account not only the short-term economic benefit but also the long-term protection of nature.

In short, the rights of nature allow the incorporation of the ecocentric perspective in complement to the search for the economic progress of the communities on which anthropocentrism is built, so that the application of "The Polluter Pays" principle achieves greater effectiveness in practice and reduces the environmental impact on natural resources.

4 Nature Rights as a driver for active engagement of civil society in environmental protection

Granting legal rights to nature empowers grassroots movements and enhances democratic participation. By giving rights to nature entities such as the Run Run fox, we recognize Earth and its ecosystems as our common home and give it the necessary importance permitting the civil society to demand nature protection when the use of it stops being sustainable. The possibility of demanding the States for actions in favor of nature is a necessary characteristic of any democracy. Otherwise, we would have countries without an essential mechanism to protect nature from the irresponsible use that private actors commit.

The recognition of rights to nature transforms the role of civil society in the face of environmental degradation and pollution. By recognizing rights to natural entities, duties of protection and remediation are imposed on private actors whose activities have a significant impact on the environment. Professor Milena Valeva points out that *"for sustainability transformation to occur, the concept of human dignity must evolve to include human agency."* (Valeva M. and Nitschmann K., 2024, p. 16). Indeed, nature rights would allow the imposition of legal duties that transform the community from a passive agent in the face of the environmental effects of its actions to an active agent in the care of the environment. Certainly, *"the recognition of the rights of nature, as demonstrated by legal advancements in countries like Ecuador and Bolivia, where constitutions acknowledge nature's rights, prompts a reconsideration of the exclusivity of human rights"* (Valeva M. and Nitschmann K., 2024, p. 16).

The doctrine has explored various ways in which the recognition of the rights of nature could contribute to the protection of nature. Professor Susana Borrás observed that *"in addition to the recognition of Nature, as a legal person, and the procedural defense of its rights, a third option can be considered, that of establishing a custody regime. That is, [...] to establish human obligations—not human rights—of protection."* (Borrás, 2020, p. 105). We show that the rights of nature find a correlation in the obligations they entail for people and, as a consequence, allow the reinforcement of the legal protection of nature as the door is opened to demand for the fulfillment of these obligations. This does not pose a danger to legal certainty, as European legislation currently clearly enshrines the environmental obligations of economic actors with respect to crucial resources such as water and soil.

In addition to the above, the recognition of rights to nature implies the imposition of obligations on the part of the public administration bodies with competences with respect to environmental protection and enforcement. In the context of the European Union, the implementation of these obligations has ample possibilities of success because the member countries are characterized by a high degree of institutionality, while governmental competencies are clearly defined. Likewise, European states have the technical and financial capacities necessary for the deployment of state actions in favor of the protection of nature.

In conclusion, the recognition of the rights of nature in the EU means a crucial step towards a legal and social system where the environment is placed at the center of political, economic and social decisions. This approach allows civil society to take a more active role in the defense of the environment and, in addition, promotes the imposition of obligations on public and private actors.

5 Conclusion

The recognition of the rights of nature represents a valuable tool for transformation that can raise the level of environmental protection in the European Union. In effect, this vision involves transcending anthropocentrism, giving way to an approach that advocates valuing nature in itself and not only for its usefulness in favor of human beings. Including the rights of nature in the European Union means committing to a preventive system, with a view to guaranteeing the well-being of ecosystems and the people who depend on them both today and in the future. Rights of nature also allow for a new approach to the "polluter pays" principle by including care for nature in agreements between polluters and communities.

In addition, the recognition of the rights of nature allows for a new approach to societal participation in protecting the environment. In short, it does not seek to antagonize human rights against the rights of nature, but rather seeks balance to allow the person to continue to develop as a human being while assuming obligations that guarantee a responsible and measured use of natural resources.

In summary, the legal paradigm shift that the rights of nature represent in the European Union would not only strengthen environmental governance, but would also generate a positive impact on public policies, business practices and citizen participation, consolidating a shared commitment towards a more sustainable and equitable future.

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3

Case Study – Part II
Run Run
Arguments challenging the proclaimed position

The Rights of Nature: The Answer to a Poorly Framed Debate

Author: Ronald Sebastián Yaipén Polo

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1 Introduction

The purpose of this work is to critically examine and reflect on the feasibility of granting legal rights to nature within the context of the European social and legal reality. We aim to address the following question: Should we grant legal rights to nature?

This is not merely a legal debate; rather, it extends to our fundamental understanding of the relationship between humanity and the environment. Some argue that we are at a turning point where granting rights to nature is the only way to protect our planet and ensure an environment suitable for future generations. Others, however, warn of the risks of creating a "legal chaos," considering the economic implications that such a radical shift might entail. It is essential to begin by noting that the proposal to grant rights to nature is grounded in the global concern over addressing the critical levels of environmental degradation caused by human activity, which have led to severe harm to nature.

To illustrate, in 2023, the region comprising the European Union member states was identified as the fourth-largest emitter of greenhouse gases worldwide, with the main contributors being Germany, France, Italy, Poland, and Spain. (EU, 2024). In this regard, according to the European Environment Agency (EEA), despite the reduction in atmospheric pollutant emissions in recent years, air pollution levels in Europe still fail to meet the European air quality policies (EEA, 2023). In this context, it is estimated that approximately 300,000 people die prematurely each year due to air pollution (EU, 2024). This aligns with data from the United Nations, which indicates that, although the use of renewable energy increased in 29 countries between 2013 and 2017, the European region remains heavily reliant on fossil fuels, which account for approximately 78% of energy consumption (UN, 2022). Thus, it is evident that an urgent environmental issue demands attention, one that is closely linked to the overexploitation of resources and its consequences for nature. It is essential to understand what recognizing legal rights for nature entails.

Simply put, granting rights to nature means acknowledging that it possesses intrinsic values, independent of the interpretations or attributions humans may assign to it. Consequently, this recognition transforms the environment from being regarded as an object —or a collection of objects— serving human purposes into being conceived as a subject with its own rights. (Gudynas, 2011).

2 Background

While the proposal to grant rights to nature is innovative, the concept it promotes is not entirely new. In fact, it aligns with pre-existing cultural worldviews, such as Sumak Kawsay (that is, "Buen Vivir"). This indigenous conceptualization advocates for moving away from viewing nature as a merely productive factor or valuing it solely for its productive capacity. Instead, it proposes recognizing nature as an inherent part of social being (Lalander, 2015). Furthermore, from a political perspective, this interpretation supports an ecocentric and biocentric approach to the relationship between humans and nature, surpassing the traditional anthropocentric perspective (Bonilla, 2019), which prioritizes human beings in all forms and at all times. Legally speaking, seeking to grant rights to natural resources, ecosystems, animals, or, in general, to all "living" beings that are not human, implies recognizing the existence of each of them as legal entities. That is, for example, recognizing a river's rights to flow freely without contamination, the right to be nourished and to nourish its tributaries, the right to native biodiversity, the right to be restored, among others. In this way, nature would become a sui generis legal person, which, as stated, surpasses the traditional boundaries of the law, marking this recognition as a new stage in the evolution of the legal field (Stutzin, 1984). Proponents of this proposal argue that granting legal personality to nature would revolutionize environmental protection, allowing ecosystems and species to defend themselves. In fact, to date, several countries have adopted this position, in which the legal existence of rights in favor of nature has been established at various legal levels. From judicial rulings to the enactment of new laws, or even through the incorporation of such rights into the supreme legal framework (Constitutions) of certain countries[1], the advocates of this proposal have succeeded in declaring rights in favor of different ecosystems and natural resources through multiple legal channels that constitute sources of law.

For example, consider the case of the recognition of legal personality for the Mar Menor lagoon and its watershed in Spain. Through Law 19/2022[2], published in October 2022, the Mar Menor lagoon and its watershed were recognized as subjects of rights, granting them the ability to enjoy certain rights such as protection, conservation, maintenance, restoration, among others. This recognition stemmed from a popular initiative, which eventually became a legislative proposal in the Spanish Congress (Vicente, 2023). All of this occurred in the context of the alarming ecological situation the Mar Menor was facing. In this regard, over the past three decades, the Mar Menor had experienced critical levels of environmental degradation due to various anthropogenic activities carried out within and around it. For instance, uncontrolled urbanization of the shoreline, inadequate wastewater treatment in certain towns, and soil contamination from nearby mining activities were just some of the causes that led to significant damage to the Mar Menor's habitats. Despite the area having been under ecosystem protection schemes since 1990, environmental destruction continued to worsen, with a "mass death" of its flora and fauna being recorded in 2019 (Vicente & Salazar, 2022). In this way, with the enactment of Law 19/2022, various measures were established to ensure the protection of the Mar Menor lagoon and its watershed. Agents were designated to be responsible for the representation and governance of the natural space, and it was stipulated that any conduct that violated the rights recognized by the law would be pursued and sanctioned in accordance with criminal, civil, environmental, and administrative regulations, as applicable.

Another interesting example can be found in New Zealand's legislative efforts to recognize rights for nature. Since 2014, various legislative initiatives have been promoted in New Zealand aimed at granting legal personality to certain elements and natural ecosystems in the country, in-

[1] For example, see the Ecuadorian Constitution (2008) or the Bolivian Constitution (2009).

[2] Law 19/2022, published on October 3, 2022. See at: www.boe.es/diario_boe/txt.php?id=BOE-A-2022-16019

[3] Te Awa Tupua (Whanganui River Claims Settlement) Act, approved on 20 March 2017. See at: www.legislation.govt.nz/act/public/2017/0007/latest/whole.html

cluding rivers. One such case is the "Te Awa Tupua (Whanganui River Claims Settlement) Act"[3], a law through which, in March 2017, the Whanganui River was recognized as a subject of rights, moving beyond its categorization as an object after being declared a living entity (BBC, 2017). According to this New Zealand law, the Te Awa Tupua is recognized as a "legal person," understood as an entity in itself. That is, it is granted legal personality as an "indivisible and living whole," which includes the Whanganui River from the mountains to the sea, incorporating its tributaries as well as its physical and metaphysical elements[4].

The cases presented above are just a few of the many examples currently identified worldwide regarding the "advances" in recognizing rights in favor of nature. In fact, this debate, far from coming to an end, seems to find new spaces for discussion as more precedents of legal development on the subject are established. In this context, it is necessary to consider what the real effects are that materialize in reality as a result of these new decisions. Could recognizing rights for nature halt deforestation, reduce pollution levels, and curb climate change? Or would it lead to excessive regulatory burden, overwhelming the judicial system with controversies surrounding nature, making it more difficult to defend human interests?

3 Considering Regulation and Human Interests

It is from this second extreme that the reflection on whether or not to grant rights to nature becomes more complex. For critics of this proposal, recognizing rights in favor of non-human beings opens a Pandora's box of legal complications. For example, if nature has rights: who speaks on its behalf? How do we decide which ecosystems or species deserve protection over others? What will happen when human development projects conflict with these newly recognized rights? In a world where economic growth often depends on resource extraction, could this new perspective bring more harm than good by posing risks to human progress? On one hand, the idea that nature possesses rights responds to a deeper moral responsibility we feel towards our planet. On the other hand, the practical aspects of integrating these rights into our current legal frameworks are discouraging. This discussion leads to more questions than answers about whether the recognition of nature's rights would truly lead to greater environmental protection, or whether it would instead create a legal maze that would slow our ability to respond to urgent problems.

In the context of the debate generated as part of this academic project, it is our view that attempting to grant rights to nature misdirects the interest of ensuring the protection of nature and, therefore, is a proposal that should be discarded.

4 Summarising the Arguments against the Proclaimed Position

First, it should be noted that, at the European level, there are already laws and other mandatory provisions aimed at establishing an appropriate legal framework to protect non-human life: animals, plants, ecosystems, and more. For example, Article 13 of the Treaty on the Functioning of the European Union states that *"the Union and the Member States shall pay full regard to the welfare requirements of animals as sentient beings."* Although it subsequently places respect for "the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions, and regional heritage" as a value superior to the welfare of animals, in practice, this provision merely reinforces the internal regulations of Member States, which, to date, have independently enacted local laws to specialize in environmental protection.

In this regard, just as in the aforementioned Spanish case, there is substantial legislation in European countries aimed at safeguarding the welfare of nature, including at the constitutional level. For instance, according to the German Constitution, Article 20a states that *"the State shall protect animals through legislation and the executive and judicial powers in accordance with the law and justice."* Similarly, the Constitution of Luxembourg establishes in Article 11bis that *"the State shall promote the protection and welfare of animals."*

In addition to the aforementioned, there are also various directives at the European level that legally recognize the importance of environmental protection. For example, the Habitats Directive and the Birds Directive form a broad framework for the protection of wild animal species. This is without considering the international agreements that have been promoted and signed worldwide, with the primary aim of safeguarding environmental welfare. Thus, it seems that the problem does not lie in the scarcity of protection mechanisms. On the contrary – and as we argue – the issue lies in the need to effectively enforce the existing measures.

As previously mentioned, the underlying objective of recognizing rights for nature is to strengthen its protection against anthropogenic activities that increasingly contribute to the pollution of habitats, with irreversible effects on flora and fauna. In other words, the goal is to establish the recognition of rights as a new preservation mechanism for nature or, put differently, as a cutting-edge response to the current civilizational crisis (Acosta, 2013). The world is in search of new ways to guarantee the natural life, as it is increasingly concerned that the legal and political instruments currently in place seem to be failing to meet their proposed environmental objectives. As it is argued, we are facing the *"failure of preventive Environmental Law," caused by (i) the inactivity of the administration in establishing environmental protection controls, and (ii) the "uselessness of anthropocentric regulations"* (Vicente & Salazar, 2022).

From this second premise arises the need to rethink the interpretive approach of the legal system and shift to an "ecocentric" one. However, paradoxically, the recent experience derived from the legal recognition of nature's rights shows that one of the main challenges faced by countries that have adopted this approach lies precisely in the difficulty of ensuring the effective implementation and enforcement of these rights. In other words, there is a problem with making the rights granted to nature "effective." For example, the case of the recognition of rights in favor of the Yamunotri and Gangotri glaciers, located in the Indian state of Uttarakhand, is of particular interest. Despite their recognition as subjects of rights in 2017, the government continued with the execution of the "Char Dham" road construction project, which began in late 2016. This project involved human intervention in an environmentally sensitive area of Uttarakhand. The government justified its actions with the public interest in the project, which aimed to connect four Hindu pilgrimage sites, facilitating the movement of pilgrims and military deployment along the border with China (Rodriguez & Morales, 2021).

From the aforementioned example, two important factors emerge. On one hand, it becomes clear that, despite the recognition of rights in favor of nature, if there are no effective mechanisms to enforce them, such recognition is merely declaratory and has no real impact. There must be jurisdictional guarantees that allow for the protection of these rights; otherwise, we would be facing mere statements of good intentions (Valle, 2023). The second important factor is the analysis that must be made regarding how the recognition of these rights affects the public interest in the use of ecosystems and natural resources. In fact, it is essential to analyze the relationship between the intended goal underlying the recognition of rights over nature and (ii) the social and economic reality that depends on it. This is particularly relevant in those territories in Europe where various econo-

Paradoxically, the recent experience derived from the legal recognition of nature's rights shows that one of the main challenges faced by countries that have adopted this approach lies precisely in the difficulty of ensuring the effective implementation and enforcement of these rights.

[4] Originally, according to the Ministry of Maori Development, Te Awa Tupua is "an indivisible and living whole, comprising of the Whanganui River from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements". See at: www.tpk.govt.nz/en/mo-te-puni-kokiri/kokiri-magazine/kokiri-33-2016/te-awa-tupua

mic activities are developed in natural ecosystems that guarantee the subsistence of the population. Specifically, we believe that, beyond any attempt to recognize rights in favor of nature, the utilitarian importance of the resources and ecosystems whose conservation is sought should not be overlooked.

It is crucial to understand that, while seeking the preservation of nature, the intrinsic relationship between nature and the human beings who rely on these resources for their survival must also be safeguarded. It is for this reason that, if the expected goal is to achieve effective environmental protection, we argue that the first step is to reevaluate the existing mechanisms to guarantee the care of nature and work on eliminating the obstacles that prevent their full effectiveness. As has been previously evidenced, neither the existing regulations nor the rights that are recognized in favor of nature (which, it is worth noting, are part of the legal framework) are effective if there are no specific protection mechanisms.

5 Conclusion

In conclusion, we consider that recognizing rights for nature does not solve the problem it seeks to address. On the contrary, it distances us from the main debate and from finding the real solution to the environmental crisis that the world is facing. Instead of promoting the recognition of new rights, which are fundamentally legal in nature, it is necessary to begin proposing remedies or new ways to create mechanisms that allow us to make effective those forms of environmental protection we already have. Otherwise, we would be expecting results from a mechanism that, although teleologically justifies its existence, in reality does little or nothing to address the limitations or deficiencies preventing the safeguarding of nature's well-being.

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Economic Challenges and the Rights of Nature: A Conflict Between Sustainable Growth and Environmental Conservation

Author: Maria Eduarda Terra e Zeitune

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1 Introduction

Following arguments about feasibility of implementing and application of the Rights of Nature, this article is based on the exposition of elements of an economic nature in opposition to the (confirming) proclaimed position, adding a new point of view in relation to the different perspectives.

Therefore, the perspectives proposed here will be divided into three argumentative nuclei: the inability to maintain the actual environmental programs as a competitive economy, custom of all these projects to the members of the European Union and the energy crisis, linked to the failure to agree on new plans for energy supplies across.

> The way the EU is dealing with current sustainable development programs proves to be inadequate, as they are unable to balance environmental restoration in a staggered transition project.

2 Challenge of complying with the assumed parameters of the EU

In this sense, the way the European Union is dealing with current sustainable development programs proves to be inadequate, as they are unable to balance environmental restoration in a staggered transition project. To the point where there are explicit examples of resistance to the measures taken, such as the case of resistance from farmers in the Netherlands, since the State has declared war on nitrogen pollution (Boztas, 2023).

Since an excessive deposit of nitrogen has been found in the region over the years, demonstrating a risk to the health of the population and a harm to the environment, considering that climate change is an imminent problem for the country as a whole, directly influencing the quality of soil and water. Thus, to control and reduce the nitrogen contingent in its territory, restrictive measures were introduced against the industry, agriculture, transport and the construction sector. The new parameters are also added to other measures to comply with the Netherlands' climate obligations, thus establishing a substantial package of new climate rules to be followed (Government.nl, n.d.).

This exponential reduction in emissions is estimated to generate around 11,200 farms closing, while about another 17,600 farmers are expected to significantly reduce their livestock (Holligan, 2022). From the time the government of the Netherlands increased the percentage of nitrogen reduction from about 12% to 70% (Rijksoverheid.nl, n.d.). Thus igniting national protests by farmers across the country, which began in 2022.

More recently, a new wave of protests throughout the European Union has been registered in several members of the Union, focusing on the fierce debates in which France finds itself. By demonstrating their constant concern with the competitiveness of European production in contrast to other sources around the globe, since farms in European territory must follow stricter environmental rules to effectively comply with the parameters imposed by the bloc, which do not apply to other competitors. This reason directly influences the final cost of the products, making them more expensive than those found throughout the market (BBC News, 2024). The possible agreement between Mercosur and the European Union also enhances this criticism, by facilitating the import of food from major commodity exporters, such as Brazil, to the territory of the Union (Geoffroy & Durand, 2024).

Leading to question the policy of the Farm to Fork Strategy (European Commission, n.d.), and to what extent it can meet the constant changes in the global and internal scenario of the European Union, such as the impact of environmental regulations on food safety. As well as other events, such as the war in Ukraine.

Thus demonstrating the difficulty of complying with the assumed parameters and indicators and their impact on the economy still proved to be a point of concern for several leaders.

3 Costs and effectiveness of existing programs

Another point of constant disagreement with the concept of “Rights of Nature” would be the amount necessary for the effectiveness of the existing programs within the bloc, which are constantly excessive, considering the period in which we find ourselves (right after a period of crisis arising from the covid-19 pandemic).

In this sense, the European Green Deal (Consilium, n.d.) proves to be one of the main sources of revenue invested by the European Union, since the growth strategy launched in 2019 aims to carry out the ecological transition based on incentive packages for the fulfillment of bold goals, such as the additional of 3 billion trees to be planted in the EU by 2030, at least 55% less net greenhouse gas emissions by 2030, compared to 1990 levels and climate neutrality by the year 2050 (European Commission, n.d.).

Targets that, according to statistics from the European Environment Agency, should require the implementation of investments of around EUR 520 bn (billion) per year, during the years 2021 to 2030. In addition to supplementary revenues, directed to the manufacture of effectiveness and emission reduction technologies (net-zero), managed in the range of EUR 92 bn (billion) from 2023 until 2030.

Thus, putting unsustainable pressure on the fiscal domain of each member of the Union, limiting the capacity to invest in public policies. Since the governments of the European community still face other elements of resource sharing, such as the digital transition, new social infrastructures and the military expansion necessary to safeguard the national territory, considering the environment of international instability in which the planet finds itself.

Not to mention the maintenance of previous accounts, the expenses created by green investment, such as debt control, social security of the elderly population (thinking about the country's age pyramid), in addition to other elements. such as inflation. These components often need immediate attention from government officials (European Environment Agency, n.d.).

As French President Emmanuel Macron mentions in several speeches, when questioning the imposition of environmental regulations by the European Union, since the measures taken by the bloc are far ahead of other legislations around the world (Le Monde, 2023). Thus asking for "a European regulatory pause", in order to use the amount

earmarked for green development projects for French "reindustrialization" (Le Monde, 2024), including the creation of tax credits, development of European-made batteries and electric vehicles, as well as other components of the green industry.
Just as the German government, in the figure of German Chancellor Olaf Scholz, had to make a cut in green spending to properly approve the budget planned for the year 2024. Since Germany's constitutional court had deemed the document unconstitutional, since it broke the law on taking on new borrowing and recording a deficit of more than 0.35% of GDP.

To overcome the crisis, it was necessary to make cuts in subsidies for the environment, such as solar energy and electric cars, by reducing the period in which the subsidies will be effective. According to the German chancellor, the objectives previously established by the government will be maintained, however it should be done from less investment, such as expenses directed to energy, which will be reduced, that is, the population will have to pay more for the electricity used (Berlin, 2023).

From January 2025, medium or large projects will be canceled if the value of energy falls to a negative value (below zero), according to the budget mentioned above. This happens when total production exceeds observed demand. It can occur in situations that are too favorable to the production of renewable energy, such as abundantly sunny days or too much wind.
Since the German government has established a guaranteed minimum price for the production of renewable energy, thus disbursing the difference between the averages predicted before and during the energy crisis. During the month of October alone, the forecast for spending in the sector doubled, reaching an estimated €20 billion by the end of this year.

Even though renewable energy is one of the focal points of German development planning, the uncertainty surrounding the country's investment in future projects and the proposed cut in subsidies make it difficult to change the German energy matrix, which aims to reach the figure of 80% of electricity production from renewable sources by the end of the decade (currently, around 50%) (Luxembourg Times, 2024).

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4 Energy crisis

One of the elements that brings us to the third point of discussion in this chapter, the energy crisis in which the European continent finds itself. The final price for consumers to pay within the European community is directly associated with the linked taxes, consumption and investment patterns inserted in the area, in addition to the type of energy used.

Each member of the Union has its own specific form of taxation, differentiating industrial use from residential consumption and different types of use, such as lighting or transportation. Thus, the taxation policy proves to be an important instrument for certifying the energy targets of the European Union as a whole, especially regarding the clean energy transition (reduction of pollutant emissions).

To this end, the study on the cost of energy and the impact of these taxes on government investments and interventions exposes the disparate caused between the increase in the cost of energy and the green development that is part of this sector (European Commission, n.d.).

To the extent that there have been no concrete resolutions on discussions, such as the subsidies previously offered to coal plants. The year 2023 was the target of requests for the extension of subsidies, made by Poland (which uses 70% coal as an energy matrix) and the reason for a proposal made by Sweden, as an attempt to avoid the cost records derived from the sale of natural gas to final consumers.

Going totally in disagreement with the objectives linked to the fight for the environment proposed by the European Union, as pointed out by the members: Austria, Belgium, Germany and Luxembourg (O'Carroll, 2023).

3 Conclusion

Therefore, it is inevitable to think that the concept of “Rights of Nature” does not have room to be developed within this economic scenario. Since, the demands effectively observed by the projects and current conjunctions demonstrate the inability to maintain and be effective of the environmental projects already started in the European Union.

Taking into account the budget of the members of the community, the distribution of the investments generated, in addition to the final costs to European citizens, which in turn would be affected by the entry of another change in the environmental sector.

Therefore, the feasibility of implementing and applying the “Rights of Nature” in the midst of the various disharmonies and economic crises that plague the continent, demonstrates the clear ineffectiveness of the project.

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Culture matters - Why the Rights of Nature don't fit the European Union

Author: Yannick Wagner

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1 Why the RoN are dependent on culture - and mostly symbolic

Anyone who draws the conclusion from the examples of RoN implementations in other regions of the world that these should therefore also be feasible within the European Union is neglecting the cultural conditions that have led to the implementation of RoN, for example in New Zealand or South American countries. There, the involvement of the indigenous population plays a decisive role. In contrast to the anthropocentric legislation of Western industrialized nations, the recognition of non-human entities as legal subjects has a long tradition in indigenous cultures (Gilbert et al., 2023) and is an essential expression of an ecocentric perspective of these cultures.

In 2017, the Whanganui River in New Zealand became the first river in the world to be declared a legal person (Kramm, 2020). The basis for this decision was the understanding of the indigenous Whanganui Iwi tribe, according to which they are the descendants of the Whanganui River (ibid.) and thus the special legal protection of this river also represents the protection of their common ancestor.

Ecuador implemented RoN in its constitution back in 2008 (Tănăsescu, 2024). Here too, this is due to the influence of indigenous groups. The constitutional RoN in Ecuador are based on the concept of sumak kawsay, which comes from Quechua and can be translated as "good life" (ibid.).

The presence or absence of RoN can therefore only be used as an indicator of environmentally conscious governmental action to a limited extent, as their implementation does not exclusively pursue ecological goals. The granting of RoN in these countries cannot necessarily be interpreted as a paradigm shift from anthropocentric governance to an ecocentric perspective, but at least partially also as a socio-political strategy for integrating indigenous values into national political action. The recognition of the ecocentric human-nature relationship in national law, which is vital for the survival of these groups, has a highly symbolic character.

The thesis that anthropocentric perspectives continue to dominate beyond this symbolic policy can be substantiated by the example of illegal gold mining in the Amazon region of Ecuador. Gold mining in general, and particularly the illegal part

of these activities, poses a major risk of damage to the affected ecosystems and the health of its residents, including indigenous communities. This share has risen steadily since 2008 and is estimated to have amounted to 77% of Ecuador's total gold production in 2016 (Mestanza-Ramón et al., 2022). Many of the families living there rely on illegal gold mining as their only source of income (ibid.). To additionally encourage foreign investments in gold mining, the Ecuadorian government under President Rafael Correa also introduced numerous deregulatory measures to the mining law passed in 2009, in 2015 and 2016 (ibid.). In addition to tax relief for investors, these were also communicated to guarantee indigenous groups and landowners in the affected areas the constitutional rights to which these interest groups are entitled (ibid.). On closer inspection, however, it becomes clear that these rights only appear to be preserved. Although they are laid down in the Ecuadorian constitution, they are undermined by the new mining laws, according to which those affected are only given a say after the mining licenses have already been granted (ibid.). Similarly, the consent of landowners is not required to continue mining operations (ibid.).

This example shows that even in countries that have implemented RoN, decisions with far-reaching impacts on vulnerable ecosystems continue to be made based on mainly socioeconomic considerations and thus clearly reflect an anthropocentric perspective. It is therefore uncertain whether RoN will really lead to more effective protection of natural entities in Ecuador.

2 The EU's perspective on environmental justice

In contrast to the country examples described above, there are almost no indigenous population groups in the European Union. A few, such as the Sami and Inuit, are concentrated in the Arctic region. In Central Europe, on the other hand, the lives of indigenous people do not play a socially relevant role, which means that the EU's initial social situation differs greatly from that of the countries described above.

Another key difference is the principle of the *acquis communautaire* that applies in the EU. As part of European integration, the member states

As part of European integration, the member states of the EU are obliged to transpose applicable EU law into national law. This means that the interests of all 27 member states currently play a decisive role in the European legislative process, which makes it even more difficult to reach an agreement on a paradigm shift, such as the introduction of RoN.

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The EU's current approach is mainly pursuing the concept of ecosystem services, which is increasingly being brought into line with EU policies (Bouwma et al., 2018). This concept emphasizes the function of natural ecosystems to contribute to the sustainable development of human societies. Environmental and climate protection is seen as a necessity to ensure the continued existence of humankind (La Notte et al., 2017). The greater the influence of certain natural entities on human development, the more important it is to preserve them - not out of a moral imperative to grant those entities their own rights, but out of a moral obligation to current and future generations of humanity.

This focus on intergenerational justice through the preservation of the environment as the basis of human life is also reflected in the activities of particularly strong civil society movements. For example, the first statement on the official website of Fridays for Future Germany reads: "The climate

crisis is a real threat to human civilization" (FFF Germany, 2024). The Bund für Umwelt und Naturschutz Deutschland (BUND) also represents an anthropocentric perspective: "We advocate the fair use of global environmental space on the basis of ecological renewal and social justice." (BUND, 2024). This principle is also incorporated into the German constitution. Article 20a of the Basic Law has read since 2002: "The state shall protect the natural foundations of life and animals within the framework of the constitutional order through legislation and, in accordance with the law and justice, through executive power and jurisdiction." (Grundgesetz, 2024).

3 Run Run in the European context

The example of the fox Run Run in Peru illustrates the fundamental difference between the two contrasting concepts of RoN and ecosystem services. In Peru, the right to freedom is granted to a single individual that has no relevance from a species conservation perspective, without considering economic or ecological counterarguments. In contrast, it is sometimes a necessary practice in the interests of preserving an ecosystem or an endangered species to remove or kill other animals (Allen et al., 2023).

The anthropocentric perspective in Europe is particularly evident when it comes to wildlife management. The wolf, for example, is strictly protected throughout the EU. However, the aim of this protection is not to guarantee rights for the individual, but to preserve the species. The German Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection also states: "In wolf management, the safety of people comes first." (BMUV, 2024). Civil society also has an ambivalent relationship with wolves. In Germany's rural federal states, a majority is in favor of shooting so-called problem wolves (Teigeler, 2024). The problem here is mostly an economic one, as some wolves attack farmers' livestock and kill animals, but also frighten parts of the population by staying close to their homes. Recognizing the wolf as an independent legal entity would not be politically feasible under these conditions.

Even under the current EU species protection regulations, this can lead to conflicts of interest with other sustainability goals. One example of this is the case of *Stuttgart 21*. Due to the discovery of several specimens of Osmoderma eremita, a highly endangered species of beetle that is strictly protected throughout the EU, the construction of a railroad tunnel had to be interrupted for three years because the EU decided that two trees on the planned route could not be felled as they are home to the rare beetles (Reinhardt, 2019). Subsequently, the tunnel had to be built at considerable additional expense so that it runs 5 meters below the trees. In total, this additional expenditure amounted to around 20 million euros (ibid.). This corresponded to the total budget of the federal state of Baden-Württemberg for its so-called *Forest Emergency Plan*, which was intended to combat heat damage in the state's forests (ibid.). Significantly higher additional costs were also caused by protected lizards, which had to be captured and relocated from another part of the planned railroad line, although this species is not endangered (ibid.).

The reason why the German planning authorities needed approval from the EU was that the protection of Osmoderma eremita under the 1992 Habitats Directive by the European Commission also applies to this species outside the designated protected areas (Spiegel Online, 2011).

The recognition of RoN, as in the case of Run Run, could contribute to an increase in such conflicts and a decline in public acceptance of nature and species conservation. It would also give radical animal rights activists the opportunity to obstruct numerous large-scale projects that are needed for the green transformation, by arbitrarily releasing individuals, which could further impair social acceptance.

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4 European societies and the green transformation

As mentioned above, the growing ecological awareness of EU civil societies cannot necessarily be linked to a willingness to abandon the anthropocentric worldview in favor of an ecocentric one.

The ecological transformation of the EU towards a climate-neutral and sustainable society, as envisaged by the European Green Deal, presents societies in all EU member states with major challenges, which are also associated with strong fears. A study conducted by the Umweltbundesamt (Germany) in 2022 illustrates this social ambiguity. 91% of respondents stated that they would like to see an environmentally and climate-friendly economy in Germany. At the same time, 31% fear that an ecological economic transformation will put Germany at a competitive disadvantage. Concerns about the social impact are even greater. 74% assume that the ecological economic transformation will increase the discrepancy between the upper- and lower-income classes. 72% expect an increase in social conflicts as a result. 39% are afraid of social decline because of the necessary transformation processes (Umweltbundesamt, 2023).
These fears often lead to a negative attitude towards environmental protection measures, which they expect to cause personal disadvantages.

5 Psychological barriers to RoN

In its statutes, the EU clearly acknowledges the obligation of all member states to respect and protect basic democratic principles. Despite certain democratic deficits in individual member states - particularly Hungary and Poland (Smolka, 2021) - free elections are therefore held regularly. Consequently, the success of political actors depends on the acceptance of their political programs by voters.

It is therefore important to know the main reasons for the population's rejection of environmental policies. A Swiss study, the results of which can also be applied to other industrialized nations in the EU (Huber et al., 2019), has identified three main reasons for this. According to the study, it depends on voters' beliefs in the effectiveness, intrusiveness and fairness of the intended measures (ibid.). Intrusiveness means that it has a negative effect on acceptance if individuals or groups feel that they must bear the costs of a certain measure alone and perceive this as unjustified. One example of this is the sometimes-violent protests by farmers in Germany against the abolition of agricultural diesel subsidies.

The targeted communication of the objectives and the consequences of the intended measures for the community and the individual is therefore of the utmost importance in a liberal democracy. A particularly important aspect of this communication is the targeted framing of the desired measures. People tend to be subject to cognitive biases in their attitudes and actions. One of these biases is the so-called loss aversion (Kahneman and Tversky, 1979). This means that most people prefer actions that avoid losses rather than choosing actions that could generate equivalent or even greater gains. Thus, when communicating climate and environmental policies, it is advisable to emphasize the negative consequences of failing to act. The success of this strategy has been empirically proven (Homar and Cvelbar, 2021). Against this background, it is worth comparing the possibilities of loss aversion emphasized communication of the ecosystem services approach and that of the RoN.

As the ecosystem services approach clearly identifies the human benefits of ecosystems, it is easy to frame the loss of these ecosystems as a loss for societies and individuals. This is already happening both in politics and in media reporting, for example because of the flood disasters in the Ahr valley or the Valencia region. There, the monetary damage can be quantified very precisely.

In addition, the immediate fatalities ensure that the climate and environmental crisis is seen as a current emergency that makes the otherwise rather diffuse and difficult to grasp hyper-object of climate change physically tangible. The framing of environmental and climate protection as self-protection therefore speaks directly to people's personal needs.

This direct link between environmental protection and self-protection is missing from the RoN concept in the EU. The potential consequences of this can be seen in a current political dispute in the EU. The increasing number of refugees is also meeting with increasing resistance from the population of the host countries. Studies show that the increase in the influx of migrants is contributing significantly to the strengthening of far-right parties (Davis and Deole, 2017). It is striking that these parties know how to specifically address many people's fears of loss, by framing the interests of migrants and locals as a zero-sum game. This works particularly effectively with population groups that already see themselves as social losers, for example due to the loss of jobs because of structural change processes, often because of the green transformation. Something similar can be observed in current German politics, for example, when it comes to environmental and climate protection, such as the deliberately highly emotionalized debate on the Building Energy Act, in which fears of loss were specifically activated.
In this context, the introduction of RoN in the EU carries the risk of further loss of support for necessary environmental protection legislation, as, in contrast to the ecosystem services approach, the RoN approach can give the impression that the trade-off between socio-economical and environmental interests is a zero-sum game.

6 Change is needed, but culturally embedded

The global community is at a historic crossroads in view of the challenges posed by the necessary ecological transformation. Time plays a significant role in tackling this task and therefore the fastest possible implementation of effective measures. Nevertheless, in the interests of social justice, it is important to approach this transformation in a culturally sensitive manner. Otherwise, social resistance to these measures will increase and prevent important progress. Dividing society also has a negative impact on pro-environmental behavior, as there is a statistically significant correlation between social cohesion and pro-environmental behavior (Moon et al., 2023). Therefore, in cultures where the protection of individual natural entities corresponds to a deep spiritual need, it can be a useful addition to implement RoN, provided they go beyond their symbolic character. On the other hand, in EU countries where faith and spirituality are increasingly losing importance (Koscielniak et al., 2022) and where there are hardly any indigenous populations, there is a risk that a concept borrowed from the indigenous spiritualism could give the impression that an ecocentric ideology is placed above the actual needs of the European population. This belief could be another reinforcing factor for the increasing shift to the far-right in European politics. Instead, the effective implementation of existing environmental legislation should be further developed to strengthen the belief of European civil societies that it is effective and fair, and not at the expense of particularly vulnerable sections of the population.

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