

Journal of international and digital communication:
Sustainability perspectives

Special Issue 2/2024

Theoretical
Impulses + Case
Studies

Interdisciplinary Perspectives on the Interplay between Human Rights and Sustainability

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InDi 

Institut für Internationale &
Digitale Kommunikation

Trier University
of Applied Sciences

H O C H
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T R I E R

Impressum



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ISSN 2940-1992

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Environmental Campus Birkenfeld, 2024

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Bibliographic information from the German Library: The German Library lists this publication in the German National Bibliography; detailed bibliographic data is available on the Internet at www.dnb.de.



Institut für Internationale und Digitale
Kommunikation

Contact:

Bibliothek der Hochschule Trier,
Umwelt-Campus Birkenfeld
Publikationsservice: Open Access Server

+49 6782 17-1477
bibliothek@umwelt-campus.de
[www.umwelt-campus.de/campus/organisation/
verwaltung-service/bibliothek](http://www.umwelt-campus.de/campus/organisation/verwaltung-service/bibliothek)

Layout and editorial design:

Nina Giordano
www.nina-giordano.com

Images and icons:

Adobe Stock
The Noun Project



We would like to thank proWIN for supporting this publication.

Preface

The following collection of manuscripts emerged from an interdisciplinary virtual exchange held during the Winter semester of 2023/2024 at the Environmental Campus Birkenfeld, organized by Prof. Dr. Milena Valeva and Prof. Dr. Kathrin Nitschmann. Additionally, Prof. Dr. Héctor Bombiella Medina, a lecturer of anthropology in the Department of World Languages and Cultures at Iowa State University, contributed to the virtual exchange and supervised case studies 3 and 4, bringing his extensive experience in this field and facilitating the international exchange. Within the elective module on Human Rights, students from the Bachelor's programs "Nonprofit and NGO Management" and "Environmental and Business Law," as well as the Master's program "Energy and Corporate Law," explored the interconnections between human rights and sustainability.

In an era marked by unprecedented environmental challenges and profound social transformations, the intersection of human rights and the rights of nature has emerged as a critical area of inquiry and debate. Today, as we face the dual crises of climate change and biodiversity loss, the traditional boundaries between human and environmental rights are increasingly blurred. This confluence demands a fresh, interdisciplinary approach to understanding and addressing the complex and interrelated issues at hand.

Human rights, fundamental to the dignity and freedom of individuals, are deeply impacted by environmental degradation. Communities worldwide are experiencing firsthand the devastating effects of polluted air, contaminated water, and deforested landscapes, all of which undermine basic human rights to health, livelihood, and well-being. Conversely, recognizing the rights of nature – the intrinsic value of ecosystems and species – challenges us to reconsider our legal, ethical, and philosophical frameworks. It calls for a paradigm shift from an anthropocentric world-

view to one that embraces the interconnectedness of all life forms.

Engaging in robust discussions and research on these topics is essential in today's context. By exploring interdisciplinary perspectives, we can forge innovative solutions that honor both the rights of individuals and the integrity of nature. This special issue aims to contribute to this vital discourse, providing insights and fostering dialogue on how we can collectively navigate the complex landscape of human rights and environmental sustainability.

The first chapter „Human rights and SDGs in the context of democracy“ examines the significance of international human rights in today's context and links them to new value systems like sustainability.

The second chapter, the case study „Rights of Nature“ explores the concept of granting legal rights to nature itself by comparing laws from various countries to show how it combats environmental exploitation.

The third chapter, the case study „Traditional coca leaf consumption and drug trafficking in Colombia“ delves into the complex issues surrounding coca cultivation in Colombia, highlighting its economic, social, and political impacts.

The fourth chapter, the case study „The artisanal fishing community of Chorrillos, Peru“ aims to provide theoretical insights and recommendations for improving the livelihoods of artisanal fishing communities in Peru, considering legal, ethical, and environmental perspectives as well as how economic liberalization, privatization, and deregulation affect the community's socio-economic conditions.

not for the benefit of people who rely on these ecosystems but for the sake of nature itself. Contrary to our current legal system, in which even the environmental protection measures are anthropocentric, Rights of Nature are ecocentric and focus solely on the environment. It addresses complex issues, e.g., deforestation, at the systemic level, thereby enforcing proactive action and effective restoration projects (IPBES Secretariat).

5 Conclusion

However we call this era of human domination over nature, one of the biggest misguided developments was the dualist world view. Through this, a hierarchy of humans over nature and men over women was trying to be justified. Due to its rising popularity in the scientific revolution, it had catastrophic impacts on everyone and everything that was not defined as a subject in the Cartesian sense. Women were subjected, nature was exploited, and during colonialism, indigenous people were seen as things just because they did not fit in the picture of European civilization. The logic of domination over nature and even over marginalized people is still present to this day.

The only way to get rid of this logic is by actively questioning it and exploring the flaws it has in its argumentation. We should realize that neglecting the experiences humans all around the globe have about the nature that surrounds them is inconsistent. Philosophy is the school of thoughts and experiences and should therefore take any experiences into consideration, even the ones that may vary. Our worldview is not based on reason but on a wrong assumption made centuries ago that became embedded in our society. So when we think of nature as something to subdue, we are not progressive but holding on to a tradition of dominance.

Ecofeminism laid out an excellent analysis of the parallels of discrimination against nature and against women; hence, they call for combining efforts to abolish them. A successful fight against discrimination should be universal and seek to eliminate not one form of discrimination but the entire logic of domination. A very important part of this is the inclusiveness of different perspectives, especially those of marginalized groups. For some, it might seem helpful to look at the indige-

nous way of living, but we need to comprehend that cultural appropriation is not the solution but instead a shift in our worldview due to our renewed perception.

Rights of Nature can be a complementary measure to effectively defend nature in our current system. A shift from exploitation and capitalism to a world of mutual respect will certainly take its time, and in the case of the climate crisis, we have absolutely no time to lose. Therefore, the fight for a better future should have a vision of what needs to be overcome and what we want to archive, but it also has to take direct action by defending every other being.



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Rights for Nature in selected states

Author: Sahar Mallak

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1 Introduction

In recent years, a paradigm shift in environmental ethics has given rise to a groundbreaking concept granting legal rights to nature itself. As the global community grapples with escalating environmental challenges, select nations have taken unprecedented steps to acknowledge nature as a subject with inherent rights, transcending the conventional view of the environment as mere property. This term paper dives into the evolving landscape of environmental jurisprudence by exploring the inclusion of nature's rights in the constitutional frameworks of Ecuador, Bolivia, New Zealand, Colombia and India. Through a comparative analysis of these distinct cases, we unravel the diverse approaches these countries have adopted to recognize and protect the rights of nature, examining the legal, cultural, and ecological implications of this transformative concept. From the constitutional enshrinement of Pachamama's rights in Ecuador to the legal personification of the Whanganui River in New Zealand, this paper sheds light on the global movement for the rights of nature and its

potential impact on environmental conservation and societal harmony.

2 Rights for Nature in selected States

The following section focuses on selected countries such as Ecuador, Bolivia, New Zealand, Colombia, and India. In these countries, nature successfully gained rights.

2.1 Ecuador

Ecuador adopted a new constitution in 2008 (Gutmann, 2019). The Latin American country is the first and so far, only country in the world to include the rights of nature in its constitution (Johns, 2023). With this step, Ecuador laid the foundation for the inherent rights of nature. The Constitution de la República del Ecuador (CRE) stood up for the rights of nature. The CRE is a hybrid structure in which various influences are combined. This formerly colonized country rejects any capitalist economic models and development concepts from the West that are growth oriented. However, it does incorporate elements of the legal system of

the former colonial powers and Western concepts of constitutional protection into its development. Their aim is to have a form of society in which nature and people can live together in solidarity and harmony (Gutmann, 2019). This form of society is intended to create mutual acceptance between cultures. Something different does not automatically mean that it is bad. It can be seen as an opportunity to constantly learn from others. Article 71 of the Ecuadorian Constitution attributes the following rights to nature:

"Nature or Pachamama, which realizes and reproduces life, has the right to have its existence, the preservation and regeneration of its life cycles, structure, functions and development processes fully respected." (Wolf, 2022, p. 451). It is also noted that any person can demand from public authorities that the rights of nature be respected (Wolf, 2022). But what does the word "Pachamama" mean? The term Pachamama means Mother Earth in the most widespread non-European language of the Andean region. The Pachamama is considered the goddess of fertility in the Andean cosmology. It is the source of all life and gives humans everything they need to survive. As a result, there is no separation between human beings and nature,

Ecuador as the first, and so far only country in the world, included the rights of nature in its new constitution in 2008. With this step, the Latin American country laid the foundation for the inherent rights of nature. The "Constitution de la República del Ecuador" is a hybrid structure in which various influences are combined. The formerly colonized country rejects any capitalist economic models and development concepts from the West that are growth oriented.

as the cosmos is perceived as living in its entirety (Gutmann, 2019). The principle of realization is the relationships between non-human and human components of the cosmos, which exist because of this vitality. This leads to dependence. It means that people are perceived through their relationships with the community and the cosmos. In other words, when humans harm nature, they harm themselves. It is important to create and maintain balance and harmony. In practice, it means building and maintaining a relationship with the Pachamama, just like a relationship with a human being (Gutmann, 2019).

Nature has acquired rights under the Constitution and is designated as a legal subject under Article 10(2) of the CRE (Deutscher Bundestag, 2021). In Ecuadorian practice, there are decisions in which environmental interests are weighed against human interests.

The CRE sees the nature as an ecosystem. Many regulations are defined in which the protection of ecosystems is seen as a public interest. Even after environmental damage, the restoration of the affected ecosystems should be required. This is essential to maintain the balance within the ecosystems (Gutmann, 2019). In this way, the CRE incorporates an indigenous understanding of the relationship between humans and nature into law (Deutscher Bundestag, 2021).

In the political process, nature's own rights at a constitutional level are more permanent than a simple regulation (Johns, 2022). Not only the state but also private individuals are bound by the Ecuadorian rights of nature. The majority of environmental damage is caused by private individuals. Therefore, all Ecuadorians are obliged by Article 83 No. 6 CRE to respect the rights of nature (Gutmann, 2019). However, the Constitution does not provide any information on the procedural approach or the representation of nature (Johns, 2023).

2.2 Bolivia

In 2009, the Bolivian constitution came into force, in which many articles are related to the environment. Just like in Ecuador, the Pachamama is recognized as an important component and is included in the preamble. In contrast to Ecuador, however, nature in Bolivia has no inherent rights at the constitutional level.

One year later, the "Law on the Rights of Mother Earth" was enacted. The aim of the Article 1 Ley 071 is to recognize the rights of Mother Earth, also known as Madre Tierra, as well as the duties of the state and respect for these rights in society. To protect Madre Tierra's rights, it is defined as a collective subject of public interest in Article 5 of Ley 071. The rights of Mother Earth can be found in Article 7 of Ley 071. Article 8 of Ley 071 outlines the obligations of the state to guarantee these rights. A natural or legal person who represents Madre Tierra and brings a legal action in court (Johns, 2023).

2.3 New Zealand

The agreement, which was concluded in 2012 between the Maori of the Whanganui River and the New Zealand government, is a historic step towards recognizing the river as a living being and a legal entity. The Whanganui River Agreement in New Zealand is about recognizing the rights of indigenous peoples and the rights of nature. The indigenous people struggled for environmental sovereignty and a permanent connection between the Whanganui iwi and the river.

The historical context reveals more than a century of legal battles in which the Whanganui iwi fought against Crown laws and policies that eroded their customary rights over the river. The 1999 Waitangi Tribunal report recognized Maori interests in the river and emphasized their authority over the river's land, water, and fisheries. The legal recognition paved the way for negotiations that resulted in the 2012 Tūtohu Whakatupua Agreement, which granted the Whanganui River its own legal personality and recognized it as Te Awa Tupua, a living entity with its own legal status.

The importance of this recognition in the broader context of the movement for the rights of nature draws parallels with international efforts, such as Bolivia's constitutionalizing of the rights of Mother Earth. The ongoing negotiations are about appointing a guardian for the river and developing a strategy for the river to manage its ecological, social, cultural, and economic aspects (Hsiao, 2012).

The case of the Whanganui River is presented as a transformative story of decolonization, highlighting its potential influence on other jurisdic-

tions and contribution to the global movement for the rights of nature.

2.4 Columbia

In 2016, the river Rio Atrato was granted the right to protection, conservation, maintenance, and reforestation after the Colombian Constitutional Court dealt with illegal mining activities. The river was protected by members of the government and the local population as guards (Johns, 2022).

The river Rio Atrato has rights regarding hydraulic engineering projects and the extraction of mineral resources after indigenous and Afro-American communities stood up for it (Wolf, 2022).

2.5 India

The religion of Hinduism dominates in India. Because of the strong spiritual connection to the rivers Ganges and Yamuna a court in India has granted both rivers' rights (Deutscher Bundestag, 2021).

3 Legal perspectives

In our society, it is difficult to imagine that people do not have rights that protect them. Why can't the right to life, liberty, and security of person from the Article 3 of the Human Rights Convention also apply to nature? At the end of the day, we are not only harming ourselves but also the nature when we shamelessly exploit it. Article 4 of the Human Rights Convention prohibits slavery in all its forms. This prohibition and the prohibition of torture in Article 5 of the Human Rights Convention should not only apply to us humans, but also to nature.

4 Conclusion

In conclusion, the exploration of rights to nature in Ecuador, Bolivia, New Zealand, Colombia and India reveals different approaches and perspectives in recognizing the intrinsic value of our environment. Ecuador is a pioneering example that enshrines the rights of nature in its constitution and promotes a holistic vision of a society where nature and humanity coexist harmoniously. The indigenous concept of "Pachamama" reflects the interwoven relationship and reminds us that harming nature is inherently harmful to ourselves.

Bolivia, while recognizing the importance of Pachamama, is taking a different path by adopting

the "Law on the Rights of Mother Earth". This distinct legal framework designates Mother Earth as a collective object of public interest and emphasizes the social obligation to respect her rights. The New Zealand case of the Whanganui River Agreement demonstrates the historic struggle for environmental sovereignty and indigenous rights that culminated in the river being given legal personality as Te Awa Tupua.

Colombia, facing ecological problems with the Rio Atrato, demonstrates the role of legal intervention in protecting the rights of nature. The granting of rights to the river, together with the active involvement of local communities, highlights the importance of grassroots movements in ensuring environmental justice.

The absence of procedural details or mechanisms for the representation of nature in some constitutional frameworks during this examination prompts further reflection on the practical aspects of the implementation and enforcement of these rights. As we celebrate these milestones, it is essential to critically examine potential challenges and ensure that the rights-of-nature paradigm effectively contributes to environmental protection without undermining human interests or creating legal ambiguity.

The global movement for the rights of nature witnessed in these selected states offers a transformative narrative of decolonization and environmental stewardship. As we navigate the complexities of the twenty-first century, these legal advances underscore the importance of redefining our relationship with the natural world, not as a resource to be exploited, but as a partner with rights of our own. The ongoing dialogue on the rights of nature serves as a beacon to guide nations towards a future where environmental sustainability and human prosperity come together.



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Rights for Nature in Germany

Author: Nergiz Dogan

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1 Introduction

In the last decades, the development of the rights of nature has become a significant issue in various parts of the world. This emerging approach views nature not only as a resource for human use, but as a value in its own right that must be protected and respected. Over the last years the discussion about a rights for nature have also increased in Germany. This paper takes a look at the current state of the debate on natural rights in Germany. The first part gives an overview about the current status of natural rights all over the world. The second part deals with the rights of nature in Germany and how these have developed in recent years, for example through the citizens' initiative in Bavaria, which addresses the rights of nature and makes them the subject of a referendum. The third part deals with the decision of the Federal Constitutional Court. This decision in March 2021 on the issue of climate protection marked a significant milestone in the context of the global climate crisis and finally the class action lawsuit.

2 The current status of nature rights

The discussion about the inherent rights for nature has recently become increasingly important in law. But what is the aim behind giving the nature its own rights and why is it so important? The aim of this concept is to provide the nature with more effective and powerful protection by granting it legal personality and individual rights, and at the same time to initiate a fundamental change in the perspective of nature. The aim is to move away from the idea that nature is merely an exploitable resource and to create a sustainable relationship between humans and nature. The first initiation for the concept of recognition of nature rights came from Christopher Stone. In his book "Should trees have standing" in which he illustrates the extension of rights that were previously only available to a certain group of individuals to legal entities and all persons in a company. According to Stone, progress in this direction was previously unimaginable and the next step in the legal sphere would be for animals and plants to be recognized as living being (Johns, 2023). The questions whether the nature should be granted its own rights

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