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# Welcome to the Anthropocene! May Nature Have a Seat?

## Human Rights, Rights of Nature, Environmental Personhood and Dignity: The Place of Nature in Law, and How Relationality Between Humans and Nature Matters

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# Abstract

The anthropocentric approach of mainstream law underlies how the relationship between humans and nature and the chasm between the two is understood in law and thought.

This paper addresses two core questions. Firstly, it investigates the place of nature and humans in law and how Environmental Personhood and Rights of Nature offer alternative ways of conceiving this relationship. It considers case law on the Rights of Nature from Ecuador and Environmental Personhood in New Zealand, and analyses how Indigenous cosmovisions have shaped the laws and jurisprudence in these related but different approaches to giving nature a seat at the table. The paper investigates how Indigenous cosmovisions of reciprocity and interrelatedness reconfigure a 'Western' understanding of nature in law, as a form of 'ecosystem thinking.' It further compares this relationality to the Human Right to the Environment, which approaches such an understanding through extending *human* rights.

Secondly, the paper looks at how the human rights law principle of dignity should be extended to nature. It argues that it is crucial that nature is recognized as having an inherent worth independent of humans. The inherent worth of humans is linked to the idea of dignity, which it is argued could extend to nature to ensure that the environment is protected for its own sake. This paper also considers how the extension of dignity beyond humans is connected with the concept of relationality between humans and nature. Interconnectedness, in that sense, means that humans let nature into their systems, including law.

The paper builds on a desk-based literature review and expert interviews, deepening the understanding of the most relevant aspects, and concludes that both rights-systems (Human Right to the Environment and Rights of Nature) aim at a reconfiguration of humans and nature in law. It argues for the idea of a 'triangle' in which Rights of Nature, human rights and Indigenous peoples' rights interact and interconnect.

**Keywords**: Rights of Nature, Environmental Personhood, The Human Right to the Environment, Ecuador, New Zealand, Indigenous Peoples, Ecosystem, Dignity, Relational Personhood, Anthropocentrism, Ecocentrism, Inherent Worth of Nature.

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# List of Abbreviations

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| Banjul Charter | African Charter on Human and Peoples' Rights |
| EP | Environmental Personhood |
| ECtHR | European Court of Human Rights |
| GARN | Global Alliance for the Rights of Nature |
| HRC | Human Rights Council |
| HRtEnv | Human Right to the Environment |
| IACtHR | Inter-American Court of Human Rights |
| IPCC | Intergovernmental Panel on Climate Change |
| NZ | New Zealand |
| OAS | Organization of American States |
| RoN | Rights of Nature |
| UDHR | Universal Declaration of Human Rights |
| UDRME | Universal Declaration of the Rights of Mother Earth |

# 1 Introduction

> "There will be resistance to giving the thing 'rights' until it can be seen and valued for itself; yet, it is hard to see it and value it for itself until we can bring ourselves to give it 'rights.'"[1]

With his text from 1972, *Should trees have standing?* Christopher Stone is considered the originator of the debate on the concept of Rights of Nature (RoN) and Environmental Personhood (EP).[2] While RoN focus on giving nature rights, EP considers the granting of legal personhood to nature.[3] This can encompass nature as a whole or specific parts, such as a river.[4] EP and RoN are not only developing as a theory but have been implemented by different countries, such as Ecuador and New Zealand (NZ). This rights-system has to be distinguished from animal rights, which is about granting rights to individual non-human beings.[5]

Stone considers this extension of rights to natural entities as something unthinkable for many people but regards it as a natural next step for the legal developments of the 20th and 21st centuries. Historically, the broadening of rights to children, women, black people and others has been considered unimaginable fifty or hundred years ago. However, it became logical and necessary to encompass larger groups of people when thinking of rights. Social and political change have made this happen and have ensured a safer space for all.[6] Society and its legal regimes have therein responded to historical events, or as David R. Boyd puts it: "rights emerge from wrongs, transgressions of what we believe to be ethical behaviour."[7]

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[1] Christopher D. Stone, "Should trees have standing? Toward legal rights for natural objects," *Southern California Law Review* 45 (1972): 456.

[2] Ibid.

[3] Some sentences and formulations of this text are taken out of the paper for class HUMR5191, *Rights of Nature and Ecocentrism: The Case of 'Environmental Personhood'*, submission 30. November 2021.

[4] Erin O'Donnell and Julia Talbot-Jones, "Creating legal rights for rivers: lessons from Australia, New Zealand, and India," *Ecology and Society* 23, no. 1 (2018).

[5] See: Peter Singer, *Animal liberation*, 2nd ed. (London: Thorsons, an imprint of HarperCollins, 1991); Steven M. Wise, *Drawing the line: Science and the case for animal rights* (Cambridge, Massachusetts: Perseus Books, 2002).

[6] See: Jack Donnelly, "The relative universality of human rights," *Human Rights Quarterly* 29 (2007); Yehezkel Dror, "Values and the Law," *The Antioch Review* 17, no. 4 (1957).

[7] David R. Boyd, *The Rights of Nature: A Legal Revolution That Could Save the World* (Toronto: ECW Press, 2017): xxxii.

Therefore, "[new] wrongs can and do emerge as our perceptions of what constitutes ethical behaviour evolve."[8] In 2022, social change and environmental events are pushing for better inclusion of nature into legal systems, be it through a human right to the environment (HRtEnv) or RoN. These two rights-systems involve discussions on personhood, inherent worth or value, and the question if humans have responsibilities and duties to nature. In Paul Taylor's view, this sense of responsibility ties back to a respect for nature, where Earth's natural ecosystems possess an inherent worth.[9] Such an inherent worth and responsibility is often contrasted with the perspective that nature is here to be exploited and used by humans as the only moral agents.[10]

This last view is based on an anthropocentric worldview where humans are the driving force behind change and alternation.[11] At the centre lie therefore human needs and interests.[12] The Anthropocene is thereby used as a critique of how humans have altered nature. An anthropocentric mode of environmental protection "is based on the idea that a right to a healthy environment is inherent in the dignity of every person; that a healthy environment is a prerequisite for the enjoyment of human rights."[13] In that sense, the HRtEnv, recognized in 2021 by the Human Rights Council (HRC),[14] contrasts with the concept of EP which builds on the legal standing of nature. However, not only human rights law has been critiqued to be anthropocentric, but that all of law is. These aspects are further discussed in this thesis.

Besides, from an anthropocentric perspective, nature is only looked at from a human perspective and with a view on how to best use it. This approach misses the needs of nature and reinforces the idea that human benefits are of greater value.[15] The concept of RoN, on the other

[8] Ibid.

[9] Paul W. Taylor, *Respect for Nature: A Theory of Environmental Ethics* (Princeton, NJ: Princeton University, 1986): 46.

[10] Ibid., 15-16.

[11] See: Kathleen Birrell and Julia Dehm, "International law and the humanities in the Anthropocene," in *Routledge Handbook of International Law and the Humanities*, ed. Shane Chalmers and Sundhya Pahuja (Routledge, 2021).

[12] Gwendolyn J. Gordon, "Environmental personhood," *Columbia Journal of Environmental Law* 43 (2018): 72.

[13] Susana Borràs, "New transitions from human rights to the environment to the rights of nature," *Transnational Environmental Law* 5, no. 1 (2016): 115.

[14] Human Rights Council, *The human right to a clean, healthy and sustainable environment*, Resolution A/HRC/48/L.23/Rev.1, UNGA (05. October, 2021), https://documents-dds-ny.un.org/doc/UNDOC/LTD/G21/270/15/PDF/G2127015.pdf?OpenElement.

[15] O'Donnell and Talbot-Jones, "Creating legal rights for rivers."

hand, stands for a "re-evaluation of the place of human interests in relation to nature."[16] For the climate change-related problems the world faces, this question of how we perceive nature is essential. Rockström et al. identified nine planetary boundaries which are threatened by anthropogenic pressures. Climate change and biodiversity are two of the nine boundaries that humanity has already transgressed.[17] If they collapse further, they might pull down the rest of the system with them and bring unprecedented and tremendous change.

Therefore, do people continue to regard the environment as a resource to use for short-term human benefits, or are we able to shift to an understanding of nature as something with its own inherent dignity? This inherent dignity underlies the idea of human rights.[18] An entity that is regarded to have inherent worth or dignity is then "considered to be *worthy of respect*"[19] by all agents without reference to an instrumental value or reference to another being.[20] For RoN, this inherent worth aspect is often factored in through the beliefs and approaches of local Indigenous groups who see themselves in harmony with nature. Additionally, in cases, where RoN have been recognized, it is often Indigenous groups who serve as custodians of the granted rights. They hold a worldview that builds on the idea that humans and all other beings are part of a bigger ecosystem. This paper generally refers to this worldview as 'ecosystem thinking.' This highlights that human interests cannot be considered apart from and above those of the natural environment.

Another important element to consider are short-term vs long-term human interests. Increasingly, the HRtEnv is connected to the idea of sustainable development, which entails that we preserve nature for future generations.[21] This stands in contrast to arguments of anthropocentric human rights where current generations exploit the environment in an extreme

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[16] Gordon, "EP," 52.

[17] Johan Rockström et al., "Planetary boundaries: exploring the safe operating space for humanity," *Ecology and Society* 14, no. 2 (2009).

[18] Ilias Bantekas and Lutz Oette, *International human rights law and practice*, 3rd ed. (Cambridge University Press, 2020): 6.

[19] Taylor, *Respect for Nature*, 72.

[20] Ibid., 75.

[21] Human Rights Council, *Resolution A/HRC/48/L.23/Rev.1*; UN Conference on Environment and Development, *Rio Declaration on Environment and Development*, A/CONF.151/26 (Vol. I), (Rio de Janeiro, 12. August, 1992): principle 3; For a definition of sustainable development: World Commission on Environment and Development, *Report of the World Commission on Environment and Development: Our common future (Brundtland Report)*, A/42/427, (New York, 04. August, 1987): Chapter 2, para.1.

manner. If we then consider this concern of future generations, we also have to take into account the longer-term interests of humanity, which often overlap with environmental concerns. This means that even in an anthropocentric human rights-system, the embeddedness of humanity in nature cannot be completely ignored.

Where is then the place of humans in the RoN approach? Does it see humans as part of the environment? And how do Indigenous peoples and their approaches help us better understand the place of humans in legal approaches? This paper reflects on these tensions and compares the different concepts. This contrast between human rights and RoN is often translated into a comparison between anthropocentrism and ecocentrism. The former approach subordinates ecosystems to human interests,[22] while the latter values "nature for its own sake."[23] However, this paper also shows that the two approaches cannot be fully placed within this dichotomy and both have aspects of the other.

At the same time, the paper looks at whether RoN can acknowledge a form of dignity for nature in the same way that human rights do for humans. It is about the question if the concept of RoN could allow law to move away from a narrow anthropocentric view, recognizing that "environmental protection encompasses a much wider group of actors and consequences than the human rights movement."[24]

It builds on the hypothesis that the concept of RoN recognizes the environment's inherent worth in the same manner as human rights recognize the inherent dignity of humans, and therefore, is better positioned to tackle environmental issues than a HRtEnv. Hence, a HRtEnv highlights the importance of the human position, rather than showing that nature is essential as its own entity in this equation. RoN, in contrast, extends the domain of rights to "unthinkable" rightsholders and levels humans and nature.[25]

Another system focusing on environmental protection is the regime of environmental law. This paper does not focus on that legal system, because current environmental protection has failed

[22] Borràs, "New transitions," 143.

[23] Suzanne C. Gagnon Thompson and Michelle A. Barton, "Ecocentric and anthropocentric attitudes toward the environment," *Journal of Environmental Psychology* 14, no. 2 (1994): 149.

[24] Sumudu Atapattu, "The right to a healthy life or the right to die polluted?: The emergence of a human right to a healthy environment under international law," *Tulane Environmental Law Journal* (2002): 71.

[25] Stone, "Should trees have standing?," 453.

to stop the destruction of whole ecosystems and species.[26] It is also "missing deep ontological commitments to cooperation between human beings and the natural world."[27] It is hypothesized that newer concepts, such as RoN or HRtEnv, could be more powerful in moving towards better protection of nature. Environmental law has taken centre stage in the field since the 1970s in addressing environmental issues. This law regime, however, is considered a very fragmented and complex system. One of the biggest challenges for environmental law is showing how certain damages directly affect a person. Stone concludes that the introduction of legal personhood for nature brings "a flexibility and open-endedness that no series of specifically stated rules […] can capture."[28] Giving rights has bigger power than mere protection of an entity, because "designating something a right effects an important qualitative difference: there is something fundamentally different between an education policy goal and the right to education because a right implies a duty."[29] Therefore, the comparison of the two rightsholders – humans and nature – is what drives this paper.

## 1.1 Research Question

Thus, the research question builds on the place of nature and humans in the two rights-systems and asks:

> Are Environmental Personhood and Rights of Nature able to reconfigure our general and legal conception of nature, and the place of humans in the equation of law? And how do they approach the relation between the two in comparison to the Human Right to the Environment?

The sub-questions focus in on two aspects:

The first sub-question discusses the ecosystem thinking and Indigenous cosmovisions,[30] which is one of the ways EP and RoN approach the place of nature and humans in law and the relation between the two.

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[26] Chris Cadogan, "Cry Me a River: The Sociocultural Impacts of Environmental Personhood," (2019). https://mjps.ssmu.ca/2019/06/03/environmental-personhood/.

[27] Afshin Akhtar-Khavari, "Restoration and cooperation for flourishing socio-ecological landscapes," *Transnational Legal Theory* 11, no. 1-2 (2020): 62.

[28] Stone, "Should trees have standing?," 488.

[29] Siobhán McInerney-Lankford, "Legal methodologies and human rights research: challenges and opportunities," in *Research Methods in Human Rights: A Handbook* (Edward Elgar Publishing, 2017): 58.

[30] Formulation chosen based on the interviews undertaken for this thesis, meaning vision, worldview, philosophy.

I. Where do Environmental Personhood and Rights of Nature place humans and nature in law, and do they encourage the creation of an ecosystem thinking where humans become part of the environment? And how do Indigenous peoples and their cosmovisions help us better understand the place of humans and nature in law?

The second sub-question focuses on the idea of dignity, which is the way human rights are positioning humans within law and connect to nature through the HRtEnv.

II. How does the idea of dignity tie into the concept of Environmental Personhood, Rights of Nature and the Human Right to the Environment? And to what extent are the two rights-systems able to recognize dignity for nature?

The paper aims to research how to best reconfigure our understanding of nature and the place of humans in the equation of law against the backdrop of planetary destruction and climate change. It therefore provides a critique of anthropocentric approaches to the environment and aims at enhancing an ecosystem conception where humans form part of nature. Hence, humans and nature are dependent on each other and co-exist. If legal and social systems want to move away from current ways of approaching the environment, they have to reconsider the place of humans and nature within these systems. Therefore, the importance of this study is derived from the need to put humans into the concept of ecosystems and the environment into law.

## 1.2 Definitions

This section provides several definitions before explaining how the research questions and problems are approached.

### 1.2.1 Environment and Nature

The two definitions of environment and nature have to be explained to better understand where the different notions of the paper come from.

Some scholars focus on a notion of nature excluding humans, since there is a lack of respect and understanding of nature. This follows a definition by Oxford Languages: “the phenomena of the physical world collectively, including plants, animals, the landscape, […] as opposed to

humans or human creations."[31] This is more in line with defining nature in a natural environment sense.[32] Meanwhile, the elevation of nature to humans through concepts such as RoN is aiming at creating one ecosystem including humans which many definitions of the environment, especially in environmental law, fail to include.[33] In Michael Kidd's point of view, the environment should not be too widely defined, to avoid an unclear terminology, but also should not be confined to the physical environment.[34] It is important to place people within the definition, because most people are affected adversely by environmental issues. Excluding humans would create and reinforce the dichotomy of humans-nature, which the concept of RoN and this paper want to argue against. Especially regarding Indigenous peoples' views, planet Earth is one ecosystem where humans form part of the environment. Therefore, in this thesis, nature and environment are used as synonyms.

While animals fall under this category of nature, animal rights are not treated separately and only largely addressed within RoN. Animals are therein not regarded individually but as part of the ecosystem and environment to be protected.

### 1.2.2 Anthropocentrism and Ecocentrism

As explained before, the comparison of the HRtEnv and RoN can be broadly translated into discussions on anthropocentrism and ecocentrism.

Anthropocentrism comes from Ancient Greek 'ánthrōpos' for 'human being' and 'kéntron' for 'centre,' signifying 'human-centred.'[35] It is defined as "the theory of normative ethics that locates independent value solely or predominantly in human interests."[36] It is linked to the time of the Anthropocene which is a term used to exemplify the "period of large-scale human effects on this planet."[37] From an anthropocentric philosophical view, only humans are "intrinsically valuable[,] [all] other things, including other forms of life, are valuable only to the extent that

[31] Oxford University Press. "nature," The Oxford Dictionary of Phrase and Fable, 2006, accessed 01. February, 2022, https://www.oxfordreference.com/view/10.1093/acref/9780198609810.001.0001/acref-9780198609810-e-4825?rskey=C1WeL0&result=4816.

[32] Michael Kidd, *Environmental Law* (Juta, 2011).

[33] Ibid., 2.

[34] Ibid., 4.

[35] See: Ruth F. Chadwick, *Encyclopedia of applied ethics: E-I*, vol. 2 (San Diego: Academic Press, 1998); Roderick Frazier Nash, *The rights of nature: a history of environmental ethics* (University of Wisconsin Press, 1989).

[36] Chadwick, *Encyclopedia of applied ethics*, 73.

[37] William F. Ruddiman, "The anthropocene," *Annual Review of Earth and Planetary Sciences* 41 (2013): 45.

they are means or instruments that may serve human beings."[38] It hereby makes humans "the most important measure."[39] Thus, anthropocentrism views "human beings as separate and superior to nature"[40] which is only valued for its benefits for humans.[41]

On the other hand, ecocentrism focuses on a nature-centred idea and is a criticism of anthropocentrism. It is derived from the Greek 'oikos' for 'house' and 'kéntron' for 'centre.' This idea is most known from the works of Aldo Leopold and his land ethics and Arne Næss' Deep Ecology.[42] These movements focus on the intrinsic value and place of nature in the universe. They state that nature has an intrinsic value and therefore merits moral consideration "aside from its usefulness to humans."[43] Ecocentrism thereby talks about the interconnections between humans and nature and includes all species and ecosystems in its field. "Ecocentrism suggests that 'the earth does not belong to human beings, it is rather us, the ones who belong to the many species that inhabit it.'" Therefore, "nature is recognized as a subject of protection to limit and govern anthropocentric activities."[44] In legal terms, this is often connected to the RoN movement and the concept of posthuman legalities.[45]

Overall, the comparison between anthropocentrism and ecocentrism is mainly a distinction between instrumental and intrinsic value and where to place humans in relation to nature.[46]

### 1.2.3 Environmental Personhood

As aforementioned, EP refers to granting rights and legal personhood to nature or specific natural entities. Legal personhood comes with a set of rights, duties and responsibilities and has three elements: the element of (I) legal standing with the right to sue and be sued, (II) the right

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[38] Neelke Doorn, "Do ecosystems have ethical rights?," *Integrated environmental assessment and management* 13, no. 5 (2017): 952.

[39] Fiona Probyn-Rapsey, "Anthropocentrism," *Critical Terms for Animal Studies* (2018): 47.

[40] Peter Burdon, "Wild law: the philosophy of earth jurisprudence," *Alternative Law Journal* 35, no. 2 (2010): 62.

[41] Thompson and Barton, "Ecocentric and anthropocentric attitudes," 149.

[42] Aldo Leopold, *A Sand County Almanac. 1949* (New York: Ballantine Books, 1970); Arne Næss, *Ecology, community and lifestyle: outline of an ecosophy* (Cambridge University Press, 1990).

[43] Katherine V. Kortenkamp and Colleen F. Moore, "Ecocentrism and anthropocentrism: Moral reasoning about ecological commons dilemmas," *Journal of Environmental Psychology* 21, no. 3 (2001): 262.

[44] Rosemary J. Coombe and David J. Jefferson, "Posthuman rights struggles and environmentalisms from below in the political ontologies of Ecuador and Colombia," *Journal of Human Rights and the Environment* 12, no. 2 (2021): 198.

[45] See: Anna Grear et al., *Posthuman legalities: new materialism and law beyond the human* (Edward Elgar, 2021).

[46] Linda Hajjar Leib, *Human rights and the environment: philosophical, theoretical and legal perspectives*, vol. 3, ed. Panos Merkouris Malgosia Fitzmaurice, Phoebe Okowa (Leiden: Koninklijke Brill NV, 2011): 27.

to enter and enforce legal contracts, and (III) to own property.[47] A guardian is appointed to represent nature and its entities. "[L]egal problems of natural objects [can then be handled the same way] as one [handles] the problems of legal incompetents,"[48] such as children or persons with disabilities.

Stone started the debate on the concept in 1972 and asked if trees should have standing. He advocated for an extension of the regime of rights and compares this expansion to blacks, women, children, and corporations who were considered unthinkable rightsholders in the past. He says that it has not only been the "human form that has come to be recognized as the possessor of rights."[49]

EP has to be separated from a more general environmental approach which focuses on "nature-based solutions" for climate change,[50] such as ecological restoration.[51] These solutions fall broadly under RoN and are at times recognized by the Global Alliance for the Rights of Nature (GARN), but do not deal with EP.[52]

EP is part of the RoN movement which is why RoN is used as an umbrella term in this paper while specifying the differences in certain instances. A discussion on that differentiation is presented throughout the next chapters and case studies. Generally, Ecuador grants RoN, and NZ acknowledges legal personhood of the entities.

### 1.2.4 Dignity

There is no one agreed comprehensive definition of dignity. However, within the philosophical field, one prominent family of definitions focuses on worth.[53] Especially Immanuel Kant's account of 'Würde' (dignity) is best known for that family. His work on the metaphysics of morals relates Würde with "an unconditional, incomparable worth."[54] This relates to how law defines that worth, "[for] nothing can have a worth other than that which the law determines for

[47] O'Donnell and Talbot-Jones, "Creating legal rights for rivers."

[48] Stone, "Should trees have standing?," 464.

[49] Ibid., 452.

[50] Katherine Lofts, "Analyzing rights discourses in the international climate regime," in *Routledge Handbook of Human Rights and Climate Governance*, ed. Sébastien Duyck et al. (Routledge, 2018): 22.

[51] For overview of nature-based solutions: Commission on Ecosystem Management. "Nature-based Solutions," International Union for Conservation of Nature, 2022, accessed 08. April, 2022, https://www.iucn.org/commissions/commission-ecosystem-management/our-work/nature-based-solutions.

[52] GARN. "GARN," accessed 22. February, 2022, https://www.garn.org.

[53] Brett G. Scharffs and Ewelina U. Ochab, *Dignity and International Human Rights Law* (Routledge, 2021): 132f.

[54] Immanuel Kant, *Practical Philosophy*, ed. Mary J. Gregor, The Cambridge Edition of the Works of Immanuel Kant, (Cambridge University Press, 1996): 85.

it."[55] Kant relates dignity closely to autonomy and rationality but also to a sense of worth independent of a means to an end: "for as a person […] is not to be valued merely as a means to the ends of others […], but as an end in itself, that is, he possesses a dignity (an absolute inner worth) by which he exacts respect."[56] Hereby, respect becomes the expression towards others peoples' dignity.[57] Historically, Kant's and others' account have been recognized as ideas placing humans superior to everything else due to their dignity,[58] but Christopher McCrudden perfectly summarizes the "basic minimum content" of the concept in three elements: "The first is that every human being possesses an intrinsic worth […]. The second is that this intrinsic worth should be recognized and respected by others, and [third] some forms of treatment by others are inconsistent with, or required by, respect for this intrinsic worth."[59] Human rights recognize an inherent dignity of humans[60] which could be applied to nature.

## 1.3 Methodology

The methodology chosen to approach the topic and research question(s) is divided into two parts:

(I) A desk-based literature review of RoN, EP, the HRtEnv, anthropocentrism vs ecocentrism, and dignity of humans and nature. The last aspect includes an analysis of how Indigenous peoples attribute inherent worth to nature and how it ties into the concept of RoN.

This paper focuses on the case studies of Ecuador and NZ to analyse on an empirical basis the arguments. Ecuador is taken as an example of a country where RoN encompass nature as a whole, and NZ which granted legal personhood to specific entities. Other cases of RoN could have lent themselves for case studies, but Ecuador and NZ were chosen due to their inclusion of Indigenous groups in setting up RoN.[61] The beliefs of the local Indigenous groups are explored through these case studies, as well as the different developments and outcomes.

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[55] Ibid.

[56] Ibid., 557.

[57] Ibid., 85.

[58] See: Dina L. Townsend, "A history of dignity," in *Human Dignity and the Adjudication of Environmental Rights* (Edward Elgar Publishing, 2020).

[59] Christopher McCrudden, "Human dignity and judicial interpretation of human rights," *The European Journal of International Law* 19, no. 4 (2008): 679.

[60] See: Kateb George, *Human dignity* (Cambridge, Massachusetts: Belknap Press of Havard University Press, 2011).

[61] Mihnea Tănăsescu, "Rights of nature, legal personality, and indigenous philosophies," *Transnational Environmental Law* 9, no. 3 (2020).

The main challenges for the research were encountered with the case study of Ecuador. While constitutional documents and newspaper articles were easy to find, legal cases that adjudicated RoN in Ecuador and notes to these cases were untraceable or of bad quality, e.g. an almost unreadable scan of the court decision. This mainly entails older cases when the RoN was first implemented after 2008, which was solved by relying on academic case discussions. Additionally, many of them did not come with an English translation, which made their analysis more complex. Newer cases, though, could be found in better quality online.

(II) The second research method focuses on expert interviews, deepening the understanding of the most relevant aspects for using the two rights-systems. The experts were asked for their input and expertise on the advantages of EP or RoN, the link to Indigenous cosmovisions and dignity, the case studies and how that approach differs from a HRtEnv. These interviews followed a semi-structured format and included five experts from the field of RoN or EP, and two experts from the human rights field. Further, one of the RoN experts was a legal advisor in the Latin-American and two in the Oceanian region. Their inputs are included in several parts of this paper and have guided a few of the arguments.

The paper is structured as follows: The next chapter focuses on the discussion of anthropocentrism and ecocentrism and how the HRtEnv is often perceived as anthropocentric, while RoN are considered ecocentric. It starts off by introducing the two concepts, before asking if such a distinction is useful and how a HRtEnv and RoN differ. It also includes a discussion on personhood to differentiate RoN and EP.
The third chapter transitions into the two case studies and how the local Indigenous groups and their beliefs of the inherent worth of nature have shaped it.
It continues, in the fourth chapter, to discuss dignity of humans and respect for nature, before going into the question of why it matters in this context to give nature rights and legal personhood.
Chapter five lastly refers back to the research question on whether EP and RoN are able to reconfigure the place of humans and nature in law and how it approaches the relation between the two, before it concludes the paper.

# 2 Anthropocentrism and Ecocentrism

> "[When] it comes to law's relationship with […] the lifeworld of the planet and its non-human denizens, it is intensely problematic that the human subject stands at the centre of the juridical order as its only true agent and beneficiary. Law, in other words, is often accused of being resolutely 'anthropocentric', of rotating, as it were, around an *anthropos* […] for whom all other life systems exist as objects."[62]

This quote perfectly summarizes some of the main aspects discussed when comparing anthropocentrism and ecocentrism, and how law is perceived as an inherent anthropocentric system. Discourses of RoN and the HRtEnv circle around these aspects, which are presented in this chapter. The chapter first gives an overview of the two rights-systems, including a few aspects of anthropocentrism and ecocentrism, and then compares the two approaches. Before turning to the two case studies and the next chapter, a short introduction to legal personhood is presented, which aims at giving a small insight into the discussion on what personhood means.

## 2.1 The Human Right to the Environment

The importance of nature for humans is what drives the HRtEnv. Generally, "all human rights are [considered] indivisible, interdependent and interrelated,"[63] but especially the human right to a healthy environment is "critical to the enjoyment of all human rights."[64] Therefore, the HRC recognized on October 5, 2021, for the first time "the right to a safe, clean, healthy and sustainable environment as a human right."[65] This proclamation is an important step towards a better recognition of nature's importance for humans. In addition, the HRtEnv is linked to procedural rights of participation, which deals with the inclusion of Indigenous groups and local voices in the process.

Before 2021, this human right has already been recognized in Article 24 of the African Charter on Human and Peoples' Rights (Banjul Charter)[66] and Article 11 of the Protocol of San

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[62] Anna Grear, "Deconstructing anthropos: A critical legal reflection on 'anthropocentric'law and anthropocene 'humanity'," *Law and critique* 26, no. 3 (2015): 225.

[63] Human Rights Council, *Resolution A/HRC/48/L.23/Rev.1*, 1.

[64] Ibid., 2.

[65] Ibid., 3.

[66] Organisation of African Unity, *African (Banjul) Charter on Human and Peoples' Rights*, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), (27. June, 1981), https://www.achpr.org/legalinstruments/detail?id=49.

Salvador of the Inter-American human rights system.[67] These regional systems are thereby legally a step further with articles in their official human rights documents, while the resolution of the HRC is more symbolic. It has the power to transfer the legal international system, but it has to be transferred into binding law before unfolding its full effect. In the Latin-American context, the HRtEnv is considered in a "triangle" with RoN and Indigenous peoples' rights, where both RoN and the HRtEnv are inherently connected to rights of Indigenous groups.[68]

As referred above, this human right focuses on humans in the equation and tries to link the protection of the environment to human survival and reliance on nature.

## 2.2 Environmental Personhood and Rights of Nature

On the other hand, "legal personhood has struck observers as a promising tool for protecting nature."[69] Several countries have included it in their national systems. In most of those countries, RoN has been influenced by local Indigenous groups and their perception of nature or a natural entity. In NZ, the Whanganui Māori regard the Whanganui River as an ancestor and therefore as a person.[70] Similarly in Ecuador, increased pressure from Indigenous groups has led to the recognition of 'Pachamama' – roughly translated to 'Mother Nature' – in the Ecuadorian constitution.[71] With this step, Ecuador was the first country to implement RoN state-wide and to include it in its constitution. NZ, on the other hand, limits the rights to specific natural entities. Ecuador and NZ are investigated further below.

Nature as a whole or other natural entities have been granted legal personhood and rights in Bolivia through legislation,[72] Uganda through the National Environment Act,[73] Colombia by

[67] Organization of American States, *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador")*, A-52, OAS, TREATY SERIES, NO.69, (El Salvador, 17. November, 1988), https://www.oas.org/juridico/english/treaties/a-52.html.

[68] Constanza Prieto Figelist, "Interview on RoN, Latin-America," by author, over Zoom, 05. April, 2022.

[69] Gordon, "EP," 50.

[70] Ibid., 56.

[71] Erin Daly, "The Ecuadorian exemplar: the first ever vindications of constitutional rights of nature," *Review of European Community and International Environmental Law* 21 (2012).

[72] Asamblea Legislativa Plurinacional de Bolivia, *Ley Marco de la Madre Tierra y Desarrollo Integral para Vivir Bien*, (15. October, 2012), http://www.gacetaoficialdebolivia.gob.bo/edicions/view/431NEC.

[73] National Environmental Management Authority, *The National Environment Act*, The Uganda Gazette No.10, Volume CXII, (07. March, 2019), https://nema.go.ug/sites/all/themes/nema/docs/National%20Environment%20Act,%20No.%205%20of%202019.pdf.

Supreme Court rulings,[74] India by judicial pronouncements,[75] Bangladesh through a Supreme Court judgment,[76] Canada through resolutions[77] and in different states of the United States of America.[78] Recently, the list of countries to grant nature rights expanded to Panama which does so through national law,[79] and Chile voted to recognize RoN in their new Constitution which they are currently drafting.[80] Other cases are being discussed in different countries, which indicates the interest in this movement. In all those examples the "essential question that must be asked whenever proposals for an environmental declaration of rights are raised is whether those rights are going to be enforceable, and if so, by whom."[81] Like the HRtEnv, RoN suffer in some countries from bad implementation and enforcement mechanisms.[82] Both rights-systems recognize some sort of inherent worth of nature, but are the humans behind the legal systems willing to implement them properly?

Besides these national mechanisms, the Universal Declaration of the Rights of Mother Earth (UDRME) was proclaimed at the World People's Conference on Climate Change and the Rights of Mother Earth on 22 April 2010.[83] It recognizes Mother Earth as a living being in Article 1(1). Article 4 defines the term 'being' and notes that "[nothing] in [the] Declaration restricts the recognition of other inherent rights of all beings or specified beings."[84] It therein

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[74] Stephen Schmidt, "Colombian high court grants personhood to Amazon rainforest in case against country's government," (06. May, 2018). https://theworld.org/stories/2018-05-06/colombian-high-court-grants-personhood-amazon-rainforest-case-against-country-s.

[75] Sanket Khandelwal, "Environmental Personhood: Recent Developments and the Road Ahead," (24. April, 2020). https://www.jurist.org/commentary/2020/04/sanket-khandelwal-environment-person/.

[76] See Writ Petition No.13989 at: Anima Mundi Law Initiative, *Rights of Nature Case Study Turag River*, (2021), http://files.harmonywithnatureun.org/uploads/upload1130.pdf.

[77] Elizabeth Raymer, "Quebec's Magpie river is granted personhood," (09. March, 2021). https://www.canadianlawyermag.com/practice-areas/esg/quebecs-magpie-river-is-granted-personhood/353752.

[78] Ashley Westerman, "Should Rivers Have Same Legal Rights As Humans? A Growing Number Of Voices Say Yes," (03. August, 2019). https://www.npr.org/2019/08/03/740604142/should-rivers-have-same-legal-rights-as-humans-a-growing-number-of-voices-say-ye.

[79] Asamblea Nacional Panamá, *Gaceta Oficial No.29484-A*, Gobierno Nacional (Panamá, 24. February, 2022).

[80] Pablo Solón, "Chile approves the Rights of Nature," (17. March, 2022). https://systemicalternatives.org/2022/03/17/%EF%BF%BCchile-approves-the-rights-of-nature/.

[81] Joseph L. Sax, *Defending the Environment. A Strategy for Citizen Action* (New York: Alfred A. Knopf, Inc., 1971): 235.

[82] Implementation challenges identified by former UN Secretary-General in 2005 which still largely apply: UNGA, *In larger freedom: towards development, security and human rights for all: report of the Secretary-General*, A/59/2005, (21. March, 2005).

[83] World People's Conference on Climate Change, *Universal Declaration of Rights of Mother Earth*, (Cochabamba, Bolivia, 22. April, 2010).

[84] Ibid.

manifestly shows that the recognition of RoN has no harmful impact on the rights of other beings, such as humans, and therefore does not aim at creating hierarchy or competition. This Declaration has no binding character and is so far only a symbolic instrument. Some researchers of RoN are wary about the idea of universal RoN and rather prefer 'place- and relational-based' governance systems of nature.[85] This is taken up again concerning the Indigenous peoples' inclusion into RoN.

Since the 1970s and the impetus of the discussion by Stone, the concept of RoN has been debated in arenas from philosophy to law. It has changed ideas and approaches in ethics and philosophy, which traditionally have focused on humans, their moral elements and actions. The growth of environmental awareness let the field of environmental ethics become more prominent, "focusing on the moral aspects of nonhuman nature."[86] Maurice Merleau-Ponty's visions offer many scholars the basis for a new philosophical lens. His philosophy understands human beings and the living world as one "unified, vulnerable living order."[87] New movements, such as environmental ethics or Deep Ecology, emerged in the field which reconfigured the relationships between humans and nature and extended moral considerations to the environment.[88] "Environmental ethics is based on the idea that morality ought to be extended to include the relationship between humans and nature."[89] Deep Ecology suggests that nature has an intrinsic value and therefore the right to exist.[90] It pushes for an ethical status of nature that is equal to humans. Ecological law, which puts forward an ecological and ecocentric approach in law, argues then that the environmental crisis of today is based on a conception where "human beings view themselves as separate from and dominant over the natural world."[91] Most prominently, Thomas Berry's work challenges this conception with his concept of 'Earth Community' where he argues for a transformation of the relation human-Earth.[92] Such a relationship should be mutually beneficial and benign.

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[85] Elizabeth Macpherson, "Interview on EP, NZ," by author, over Zoom, 13. April, 2022.

[86] Doorn, "Do ecosystems have ethical rights?," 952.

[87] Anna Grear, "The vulnerable living order: human rights and the environment in a critical and philosophical perspective," *Journal of Human Rights and the Environment* 2, no. 1 (2011): 38.

[88] See: Taylor, *Respect for Nature*; Næss, *Ecology, community and lifestyle*; Peter Singer, *Practical ethics*, 3rd ed. (Cambridge University Press, 2011); H. J. McCloskey, *Ecological ethics and politics*, Philosophy and society, (Totowa, N.J: Rowman and Littlefield, 1983).

[89] Kortenkamp and Moore, "Ecocentrism and anthropocentrism," 261-62.

[90] Nash, *The RoN*, 9-10.

[91] Peter Burdon, "Ecological law in the Anthropocene," *Transnational Legal Theory* 11, no. 1-2 (2020): 38.

[92] Thomas Berry, *The Great Work: Our Way Into the Future* (New York: Harmony/Bell Tower, 1999).

Besides these philosophical reorientations, early discussions have centred on the debate of RoN being inherently ecocentric and any other law system being inherently anthropocentric. Bebhinn Donnelly and Patrick Bishop's account of the two terms serves as a basis: "(1) An anthropocentric action is taken to be one in which the reason to act is the provision of a benefit to human beings. (2) An ecocentric action is taken to be one in which the reason to act is the provision of a benefit to the environment."[93] Deep anthropocentrism is thereby defined over the human value without any concern for the environment. On the other side of the spectrum lies Deep Ecology which was coined by Næss.[94]

Furthermore, the concept of anthropocentrism is used to criticize the way humans have altered and used nature. It thereby challenges ecocentric arguments "that suggest that nature has its own independent integrity […] outside the parameters of human affairs."[95] Law has come to mirror this anthropocentric usage of nature and reflects that humans make laws for themselves. Anthropocentrism has therefore spurred how environmental laws have been established: The ultimate aim of environmental protection seems to be its utilitarian benefit for humans. Most of environmental law has been adopted during the 1970s and 80s which came to push that understanding.[96] Thus, "the environment was created as an object of and for international regulation."[97] The 'environment' which has certain ascribed characteristics is man-made and created for legal regulation. An anthropocentric approach proposes then that humans are "the purpose of environmental protection" and the environment is property.[98] RoN by Stone made the place of the environment in law a subject of discussion. It highlighted that nature should be

[93] Bebhinn Donnelly and Patrick Bishop, "Natural law and ecocentrism," *Journal of Environmental Law* 19, no. 1 (2007): 90.

[94] Næss, *Ecology, community and lifestyle*; See further: Eccy De Jonge, "An alternative to anthropocentrism: Deep ecology and the metaphysical turn," in *Anthropocentrism. Humans, Animals, Environments*, ed. Rob Boddice (Leiden: Brill, 2011).

[95] Burdon, "Ecological law," 43.

[96] Highlighted by: Peter Burdon, "Interview on EP," by author, over Zoom, 22. April, 2022; See: UNGA, *Report of the United Nations Conference on the Human Environment (Stockholm Declaration)*, A/RES/2994, (15. December, 1972); UNGA, *Convention on the Law of the Sea*, (10. December, 1982).

[97] Usha Natarajan and Julia Dehm, "Where is the environment? Locating nature in international law," (30. August, 2019). https://twailr.com/where-is-the-environment-locating-nature-in-international-law/.

[98] Borràs, "New transitions," 114; See further: Robyn Eckersley, *Environmentalism and political theory: Toward an ecocentric approach* (Albany, USA: State University of New York Press, 1992).

more than just human property.[99] However, power struggles shape both rights-systems and humans cannot be forgotten in both rights-talks.[100]

Some argue that RoN and EP are abstractions that humans and lawyers cannot grasp. It is thereby easier to convince people to change their environmental behaviour based on arguments that humans can comprehend and focus on the 'ánthrōpos.'[101] Humans are in that pragmatic approach motivated to act based on issues that they can relate to. In Tim Hayward's point of view, a HRtEnv is more adequate to respond to that.[102] This is due to how it is better positioned to talk to other rights and law regimes. Further, sustainable development, with which the HRtEnv is often intrinsically linked, comprises aspects of equity or social justice and rights of future generations which sets the basis for other rights.[103]
Nevertheless, such a narrow view blurs our understanding of the complex world. Law and ecosystems were never easy to grasp. Hence, without changing fundamentally the way we view nature, our laws are not able to fully address the environmental challenges the world faces. In the end, it is often argued that both anthropocentric and ecocentric views will find similar ways of protecting nature. If we compare the HRtEnv to RoN, we reach similar conclusions on the recognition of the environment's value for humans.[104]

Apart from this, many argue that the anthropocentric worldview that resulted in the Anthropocene will keep destroying nature, which is why law has to move away from an anthropocentric approach. This was, as described above, based on ethical considerations, such as Deep Ecology. On the other hand, Peter Burdon believes that a return to pre-Anthropocene times or moving forward is impossible.[105] The impact by humans is irreversible and must be acknowledged: "[We] now live in a post-natural world, in which all the major earth system processes […] have been altered by humans."[106] Even a system based on ecocentrism or RoN

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[99] Nicola Pain and Rachel Pepper, "Can Personhood Protect the Environment? Affording Legal Rights to Nature," *Fordham International Law Journal* 45, no. 2 (2021).

[100] Doorn, "Do ecosystems have ethical rights?."

[101] See: ibid., 953f.

[102] Tim Hayward, "The Case for a Human Right to an Adequate Environment," in *Constitutional Environmental Rights* (Oxford: Oxford University Press, 2004): 35.

[103] Ibid., 28.

[104] See: Jedediah Purdy, "Our Place in the World: A New Relationship for Environmental Ethics and Law," *Duke Law Journal* (2013).

[105] Burdon, "Ecological law."

[106] Lofts, "Analyzing rights discourses," 26.

relies on the implementation by humans. "Indeed anthropocentrism in law may appear inescapable; law is a human institution, […] primarily designed to advance human needs."[107] The aims of RoN and a HRtEnv are not to return to pre-anthropocentric times but to challenge "those deeply vested neoliberal […] interests that threaten Earth system integrity"[108] and "the persistent anthropocentrism of law."[109] In this regard, Burdon clearly states that "[our] challenge is not to construct a non-anthropocentric ethics but to come to terms with our new-found power."[110] This is essentially linked to the recognition that "environmental problems are of 'paramount moral importance' because they threaten human life."[111]

Moreover, "[human] survival requires the integrity of the biosphere and therefore its protection."[112] Science clearly shows that the protection of biospheres is essential for humanity.[113] Human rights must come to realize this interdependence and not rely on an anthropocentric perception that separates the two entities.[114] It is similarly important to not separate the interests of nature and humans. We must establish a system where the two converge rather than diverge and where the interconnection is highlighted rather than split.

Looking at how this debate connects to case law: There are several cases by the European Court of Human Rights (ECtHR) that follow an anthropocentric approach and disregard damages to other entities because the impact on humans was not clear. For example, in the 2003 case of *Kyrtatos v. Greece*, the Court argued in Article 53: "[Even] assuming that the environment has been severely damaged […], the applicants have not brought forward any convincing arguments showing that the alleged damage to the birds and other protected species […] was of such a nature as to directly affect their own rights."[115]

This can be compared to more recent jurisprudence of the Inter-American Court of Human Rights (IACtHR) where the distinction between human rights and RoN are blurrier. In the 2020

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[107] Donnelly and Bishop, "Natural law," 90. See further: Alan E. Boyle and Michael R. Anderson, *Human rights approaches to environmental protection* (Oxford: Clarendon Press, 1996).

[108] Paola Villavicencio Calzadilla and Louis J. Kotzé, "Living in harmony with nature? A critical appraisal of the rights of Mother Earth in Bolivia," *Transnational Environmental Law* 7, no. 3 (2018): 424.

[109] Ibid., 399.

[110] Burdon, "Ecological law," 45.

[111] Hajjar Leib, *Human rights and the environment*, 91.

[112] Martin Schönfeld, "Who or what has moral standing?," *American Philosophical Quarterly* 29, no. 4 (1992): 355.

[113] See IPCC Assessment Reports: Intergovernmental Panel on Climate Change (IPCC). "Reports," 2022, accessed 08. March, 2022, https://www.ipcc.ch/reports/.

[114] Sumudu Atapattu and Andrea Schapper, *Human rights and the environment: key issues* (Routledge, 2019).

[115] *Case of Kyrtatos v. Greece*, No. 41666/98 (European Court of Human Rights, 22. May, 2003).

case, *Indigenous Communities Members of the Lhaka Honhat Association v. Argentina*, the human right to a healthy environment was defined "as an autonomous right [...] it protects the components of the environment, such as forests, rivers and seas, as legal interests in themselves, even in the absence of the certainty or evidence of a risk to individuals."[116] The Court underlined the legal interests of the natural components themselves without direct impact on humans. It thereby moves closer to RoN.

Generally, many opponents of the concept of RoN fear that nature will be placed superior to humans. However, Stone clearly states that nature is not supposed to have every right that humans have. "[To] bring the environment into the society as a rights-holder would not stand it on a better footing than the rest of us mere mortals."[117] It would, however, achieve to bring humans and nature on a similar legal footing. In that sense, ecocentrism and RoN are not against humans altogether but "against the ideology of human chauvinism" which places humans superior to everything else.[118]

Apart from that, RoN cannot avoid anthropocentrism completely. Regarding the justiciability of rights, a guardian or steward is taking responsibility to advocate for the protection of nature, which puts the human, and anthropocentrism, into the equation again. It creates a system of mutual care.[119] However, "these 'environmental persons' [have to be given] legal footing that is independent of directly connected human interests."[120] This strongly connects it back to the cases before the ECtHR and the IACtHR. RoN, therefore, aims at creating a system of representation of nature and giving the environment a legal platform.[121]

Overall, the question remains "whether the environment is really well served by enhancing the rights of humans, particularly in view of how it often seems to be precisely the human pursuit of their rights-protected interests which are causing environmental harm in the first place."[122]

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[116] *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, Art.203, (Inter-American Court of Human Rights, 06. February, 2020); Based on: *The Environment and Human Rights*, No. Advisory Opinion OC-23/17, requested by the Republic of Colombia (Inter-American Court of Human Rights, 15. November, 2017).

[117] Stone, "Should trees have standing?," 482.

[118] Eckersley, *Environmentalism and political theory*, 56.

[119] See: Coombe and Jefferson, "Posthuman rights struggles," 196.

[120] Gordon, "EP," 61.

[121] Mihnea Tănăsescu, *Environment, political representation and the challenge of rights: Speaking for nature* (Palgrave Macmillan, 2016).

[122] Hayward, "The Case," 32.

One cannot disregard that the motives of ecocentrics and anthropocentrics for preserving natural resources are different. Anthropocentrics are interested in conservation for the future of humans and their health which is dependent on a healthy ecosystem, while ecocentrics "support environmental issues because they see nature as worth preserving regardless of the economic or lifestyle implications."[123] Anthropocentrism then means that only human beings have intrinsic value while other entities are considered instrumentally valuable, meaning that they are only viewed as "means or instruments which may serve human beings."[124]
Consequently, "[if] anthropocentric ethics derives its views of how we may act on the natural world from features of human life, it can supposedly accord the natural world little respect or protection."[125] Nature should be included in this rights' equation to ensure that the environment is protected and preserved for the future. The place where a HRtEnv most diverges from the RoN movement is whether humans or nature need to be prioritized.

Despite this, a HRtEnv is helping to break the restrictions of more traditional human rights approaches, which struggle to look forward and are more concerned with violations that were committed in the past. The HRtEnv is herein more ecocentric than other human rights, due to the "inextricable connection between human beings and ecosystems."[126] The human-rights based approach to the environment is bringing nature and its elements into the field and realm of human rights. It is therein questionable if there is a big distinction between a HRtEnv or rights of the environment, "because essentially when you frame humans as being inside the ecosystem, then […] you cannot have a river that has rights without any people because people are there."[127] However, we cannot forget that "[we] do not do very well with this human-inside-the-ecosystem approach. We see ourselves as being quite separate to nature."[128] Such a point has to be appropriately addressed in both rights-system.

Nonetheless, there is increasingly this idea that RoN and HRtEnv are placed somewhere in-between these anthropocentric-ecocentric extremes, because RoN have some elements of

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[123] Thompson and Barton, "Ecocentric and anthropocentric attitudes," 150.

[124] J. Baird Callicott, "Non-anthropocentric value theory and environmental ethics," *American Philosophical Quarterly* 21, no. 4 (1984): 299.

[125] Onora O'Neill, "Environmental values, anthropocentrism and speciesism," *Environmental values* 6, no. 2 (1997): 128.

[126] Hajjar Leib, *Human rights and the environment*, 4.

[127] Macpherson, *Interview*.

[128] Ibid.

anthropocentrism, and the HRtEnv has some elements of ecocentrism. This is mainly due to the idea that humans are embedded in nature and both are interrelated – the idea which connects to an ecosystem thinking.[129] In the human rights sphere, this is linked to dignity and how environmental human rights are linked to other rights in the system.[130] Everyone's dignity is thereby interconnected, and anyone has responsibilities towards humans and the ecosystem.[131] This notion of embeddedness and dignity might be a kind of midway between anthropocentrism and ecocentrism which finds expression in RoN and a HRtEnv and highlights that the dualism of an anthropocentric HRtEnv and ecocentric RoN has proven unhelpful to approach the two rights-systems. Scholars are thereby moving more towards a relational approach in line with Berry's 'Earth Community.'[132] Several interviewees highlighted: "[Any] of the early rights of nature literature was […] ecocentric versus anthropocentric, and as we have gone on, we have realized that these distinctions do not help to understand what is going on, because [there are] overlaps."[133] Further, one should not forget that we also protect the environment for humans through the concept of RoN,[134] which implies that it cannot be separated from an anthropocentric view. It is thereby important to realize that better environmental and social outcomes can be achieved through different routes and rights-systems. They have to be considered through a contextual and place-based lens.

In conclusion to the discussion on anthropocentrism and ecocentrism, human rights are not inherently anthropocentric, while RoN and "ecocentrism as a concept [are] not inherently immune from anthropocentric interests."[135] In the end, RoN cannot be immune from law, human factors and interests. Similarly, the human rights regime comes to recognize that humans

[129] Eckersley, *Environmentalism and political theory*.

[130] Dina L. Townsend, *Human Dignity and the Adjudication of Environmental Rights* (Edward Elgar Publishing, 2020).

[131] Boyd, *The RoN*; See further: Jennifer Nedelsky, *Law's relations: A relational theory of self, autonomy, and law* (New York: Oxford University Press, 2012): 12: "The very concept of ecology is relational. It is about fundamental interdependence."

[132] Highlighted by: Macpherson, *Interview*; Also: Mihnea Tănăsescu, "Interview on EP, philosophy," by author, over Zoom, 04. April, 2022; Human Rights Expert, "Interview on RoN," by author, over Zoom, 05. April, 2022.

[133] Macpherson, *Interview*; See further: Elizabeth Macpherson, "The (Human) Rights of Nature: A Comparative Study of Emerging Legal Rights for Rivers and Lakes in the United States of America and Mexico," *Duke Environmental Law & Policy Forum* 31 (2021).

[134] Mary Warnock, "Should trees have standing?," *Journal of Human Rights and the Environment* 3 (2012); Hayward, "The Case."

[135] Hajjar Leib, *Human rights and the environment*, 157.

without nature are not able to thrive in the future and move away from a too anthropocentric perception. Hence, both approaches have strengths and weaknesses. RoN brings new aspects of how we see nature into law and thereby fills gaps within the HRtEnv.

### 2.2.1 Legal Personhood

If we then look at how to position nature, humans and persons within law, the question of what legal personhood actually means and how it relates to RoN and EP arises. This is not a full account of this discussion, as it would exceed the scope of this paper, but it aims to give an insight into some of the issues.

Personhood is defined within the three elements outlined above for the definition of EP: (I) legal standing, (II) the right to enter and enforce legal contracts, and (III) to own property.[136] For RoN, this is defined within the concept of a 'legal subject' which has those rights that "are explicitly enumerated."[137]

Generally, law relates the concept of a legal person and its rights to individuals and humans.[138] "Thus, part of the problem of defining law's subject seems to be the very word used by lawyers to designate it: 'the person.'"[139] Yet, the legal conceptualization of 'person' and the institutions behind it reflect who are seen as the "most influential members of a given age and society."[140] Discussions on who are legal persons are then often occupied with integrating humans the right way into the system, including power struggles and interests of different groups. The legal system has not gone too far yet in wondering about the inclusion of non-human entities unless humans strongly profit from it, e.g. corporations.

For nature then, there are arguments to shift to an understanding of 'legal entity' rather than person, which for example has been used in NZ.[141] It is argued that 'legal entity' could be used "as an alternative to the conundrums that personhood throws up."[142] Other voices, on the other

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[136] O'Donnell and Talbot-Jones, "Creating legal rights for rivers."

[137] Erin O'Donnell, "Interview on EP, Oceania," by author, over Zoom, 04. April, 2022.

[138] See: Mihnea Tănăsescu, *Understanding the Rights of Nature, A Critical Introduction* (Bielefeld: transcript Verlag, 2022): 130.

[139] Ngaire Naffine, *Law's meaning of life: Philosophy, religion, Darwin and the legal person* (Oxford and Portland, Oregon: Hart Publishing, 2009): 7.

[140] Ngaire Naffine, "Legal personality and the natural world: on the persistence of the human measure of value," *Journal of Human Rights and the Environment* 3 (2012): 70.

[141] For usage of legal entity: Department of Conservation, *Te Urewera Act 2014*, (Parliamentary Counsel Office, 27. July, 2014), https://www.legislation.govt.nz/act/public/2014/0051/latest/DLM6183601.html.

[142] Tănăsescu, *Understanding the RoN*, 132.

hand, point to the idea that 'personhood' is as much of a legal construct as 'entity.'[143] It is however for some more linked to humans due to its 'person' aspect. Just the word itself does not mean much, but the legal manifestation and interpretation of it matter. In Gwendolyn Gordon's point of view, it is "law that defines the categories of persons" and therefore, law can also extend to the environment.[144] Hence, legal personhood is an artificial construct.[145] 'Legal person' is thereby defined over the idea of a "bundle of legal positions"[146] or seen as a cluster concept where entities have different sets and clusters of rights.[147]

Furthermore, the law of persons is marked by uncertainty and inconsistency.[148] It is a "not a flesh-and-blood human being."[149] For corporate personality, "'person' might legally mean whatever the law makes it mean" and is more used in the sense of a "right-and-duty-bearing unit."[150] In the NZ cases, this could then relate to what Gordon calls "slippery personhood,"[151] where "a new kind of personhood [is conceptualized in contrast to] the natural person and the artificial person – the corporation."[152] It encourages compromise and normalizes EP while giving it cultural and legal credibility.

Other arguments ask for a break-down of the individual as subject of law and the subject-object distinction rather than "expanding anthropogenic models of personhood"[153] which have "operated in exclusionary and marginalising ways."[154] Nevertheless, "[without] legal personhood, Nature is legally weak, and cannot protect itself against the actions of humans."[155]

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[143] Erin O'Donnell, "Rivers as living beings: rights in law, but no rights to water?," *Griffith Law Review* 29, no. 4 (2020).

[144] Gordon, "EP," 51.

[145] See: Richard Tur, "The "person" in law," in *Persons and personality: A contemporary inquiry*, ed. Arthur Peacocke and Grant Gillett (Oxford: Basil Blackwell, 1987); Ngaire Naffine, "Who are law's persons? From Cheshire cats to responsible subjects," *The Modern Law Review* 66, no. 3 (2003).

[146] Visa A. J. Kurki, "Who or What Can be a Legal Person?," in *A Theory of Legal Personhood* (Oxford University Press, 2019): 133.

[147] Tur, "The "person" in law," 122.

[148] Naffine, "Who are law's persons?," 346.

[149] Ibid., 348.

[150] John Dewey, "The historic background of corporate legal personality," *Yale Law Journal* 35 (1925): 656.

[151] Gordon, "EP," 82f.

[152] Ibid., 87.

[153] Birrell and Dehm, "International law," 419.

[154] Ibid., 418.

[155] Anna Arstein-Kerslake et al., "Relational personhood: a conception of legal personhood with insights from disability rights and environmental law," *Griffith Law Review* (2021): 532.

For RoN and EP and the question of how Indigenous cosmovisions play into it, it was further highlighted by interviewees that it might be important to "reframe personhood as relational, rather than individualized and atomistic."[156] This idea looks at "how natural entities can exercise their personhood via their relationship with humans – including Indigenous Peoples."[157] In line with this relational personhood, it is argued that "legal personhood is always relational, and all people use some form of assistance in exercising legal personhood" because of the highly social nature of society.[158] Meanwhile, it can tackle problems of domination and level the playing field.[159] Further, it is problematic that "agency has erroneously become exclusive to humans, thereby removing non-human agency from what constitutes a society."[160] The two important aspects to consider in relational personhood for nature are that "the relationship must be specific, between nominated individuals and local, place-based understandings of nature [and it] should be active and contemporaneous."[161] This extends, on the one hand, the understanding of personhood but also limits its application to very specific instances. It thereby sets up a new conception of legal personhood which emphasizes "relational closeness as the necessary element for giving full effect to legal personhood for nature."[162] This reciprocity and relationality for RoN and EP are also taken up in this paper further down, highlighting how Indigenous cosmovisions play into the case studies.

In conclusion, law and legal personhood are what society makes of them. Extending our understanding of what constitutes agency, personhood and relationality is crucial to include the environment moving forward. Voices are pushing for either an extension of personhood or reshaping it through relational personhood. RoN and the HRtEnv are then often claimed to be mutually reinforcing, as can be seen in the Ecuadorian cases below. Regardless of the chosen approach, interests of humans and nature along with power struggles have to be balanced out.[163]

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[156] O'Donnell, *Interview*.

[157] Arstein-Kerslake et al., "Relational personhood," 532.

[158] Ibid., 533.

[159] Ibid.

[160] Vanessa Watts, "Indigenous place-thought and agency amongst humans and non humans (First Woman and Sky Woman go on a European world tour!)," *Decolonization: Indigeneity, Education & Society* 2, no. 1 (2013): 20.

[161] Arstein-Kerslake et al., "Relational personhood," 544-45.

[162] Ibid., 545.

[163] Burdon, *Interview*.

# 3 Indigenous Peoples' Cosmovisions and the Inherent Worth of Nature

Power struggles have been a challenge for both RoN and HRtEnv. The political will is decisive for a working and successful implementation in both these systems. However, socially and culturally they create different dynamics and perceptions and include Indigenous values differently.[164] In most places, RoN is based on beliefs by local Indigenous groups – on their perception of nature and the relation of humans to nature. Chapter 3 focuses on these Indigenous cosmovisions and investigates the specific ways of acknowledging the inherent worth of nature. Through three subchapters of the case study of Ecuador, NZ and Indigenous cosmovisions, this chapter presents aspects of EP and RoN empirically and how Indigenous values are included. As aforementioned, Ecuador recognizes rights to nature as a whole, while NZ grants personhood to certain entities. Thus, this chapter is guided by the sub-questions of where EP and RoN place humans and nature in law and society, and how they encourage an ecosystem thinking. It zooms into those questions by looking at Indigenous cosmovisions.

In that regard, RoN are considered a 'triangle' between Indigenous peoples' rights, human rights and RoN, which support and interact with each other.[165] The first aspect of the triangle comes out of the discussion that in many countries Indigenous peoples are the driving force behind the push of RoN and are strongly included in setting up the laws. Further, in cases such as in NZ, their role after the legislation has been introduced is fundamental.[166] For human rights, the triangle relates to the idea that all human rights are connected to the concept of a healthy environment.[167] Therefore, this interconnection of Indigenous groups and the natural world as well as human rights is fundamental to understand.

[164] It has to be pointed out that this paper is written by a Western researcher, as highlighted by one of the interviewees. Other research has been led by Indigenous peoples, and this thesis is not aiming at taking away from these experiences and opinions at all.

[165] Prieto Figelist, *Interview*.

[166] O'Donnell, *Interview*.

[167] Prieto Figelist, *Interview*.

## 3.1 Case Study 1: Ecuador and 'Buen Vivir'

"We're making history! Onward!," proclaimed former President Rafael Correa when the new Constitution of Ecuador was approved by the people in 2008.[168] Ecuador includes the rights of Nature or Pachamama in Articles 71-74 of that new Constitution.[169] It states in Article 71: "Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes."[170] It gives "[all] persons, communities, peoples and nations" the possibility to enforce these rights.[171] The articles recognize nature for its own worth and remove some of the procedural hurdles to the enforcement of rights. In this case, no specific guardian or steward is appointed to stand for nature, but anyone in Ecuador can sue other entities or the government for breaches.

The first court case taking up these rights in Ecuador was decided in 2011 by the Provincial Justice Court of Loja.[172] A road construction project by the government was planned in the Southern mountains of Ecuador which, according to the claims, did not follow proper procedural environmental standards. The dumping of debris affected the close-by river Vilcabamba and its surroundings. Calling on the RoN recognized in Articles 71-74, the court urged the government to stop their activities, ensure the appropriate environmental permits, clean the area from pollution, and assure better protection onward.

An important recognition by the court included the declaration that RoN prevail over other constitutional rights because a "'healthy' environment is more important than any other right and affects more people."[173] Further, by highlighting procedural aspects rather than only the substantive elements of the right, the Court tried to ensure that nature can be effectively protected by the people of Ecuador. This puts RoN higher than other rights and provides

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[168] Haroon Siddique, "Ecuador referendum endorses new socialist constitution," (29. September, 2008). https://www.theguardian.com/global/2008/sep/29/ecuador.

[169] Asamblea Nacional Ecuador, *Constitución de la Republica del Ecuador 2008*, (Registro Oficial número uno, 20. October, 2008), https://educacion.gob.ec/wp-content/uploads/downloads/2012/08/Constitucion.pdf.

[170] National Assembly Ecuador, *Constitution of 2008 of the Republic of Ecuador*, (Official Register, 20. October, 2008), https://pdba.georgetown.edu/Constitutions/Ecuador/english08.html.

[171] Ibid.

[172] *Richard Frederick Wheeler y Eleanor Geer Huddle c/ Gobierno Provincial de Loja*, No. Juicio 11121-2011-0010 (Provincial Justice Court of Loja, 30. March, 2011).

[173] Daly, "The Ecuadorian exemplar," 64.

stronger protection of the environment than with arguments based on environmental law or human rights.

Besides these milestones of the ruling, several flaws of this case have to be pointed out. Generally, environmental cases take a lot of time and resources and need continued effort of enforcement and compliance. In the above-mentioned case, the provincial government had not taken any steps to stop the construction of the road or the pollution of the area. Meanwhile, the plaintiffs did not have the resources to run a second trial.[174] Hence, most decisions by the Court were not put into practice.

Additionally, if RoN follow a broad and vague definition, similar to the one in Ecuador, the responsibility to protect as well as litigate in the name of nature lies with everyone and at the same time no one. The standing of nature is, in that sense, diluted and unclear. The definitions of nature and Pachamama are also extremely vague and do not make it clear what can be litigated for. If the enforcement is the responsibility of all, it is not just a right of nature but also a right of people to the environment. It raises then the question of what the difference is between humans' right to nature and RoN.[175] However, it creates a powerful rhetoric and serves as an important signpost of the values of society and as guidance for policy and legal decision-making.[176]

Another issue with environmental protection is the clash of those rights with economic and development projects. Although the Constitution is the highest law in the country and all other legislation would have to be amended to it, many economic and development legislations in Ecuador are protected under the Constitutional provisions focusing on development and progress.[177] Thus, the government must demonstrate strong intentions to implement RoN to protect the environment effectively which is important not only for RoN but also a HRtEnv. Merely putting such provisions in the constitution or legislation cannot guarantee actions on the

[174] Westerman, "Should Rivers Have Same Legal Rights As Humans?."

[175] Highlighted by: Macpherson, *Interview*.

[176] Highlighted by: Prieto Figelist, *Interview*.

[177] See: Louis J. Kotzé and Paola Villavicencio Calzadilla, "Somewhere between rhetoric and reality: environmental constitutionalism and the rights of nature in Ecuador," *Transnational Environmental Law* 6, no. 3 (2017); Highlighted by: Burdon, *Interview*.

ground.[178] In Ecuador, the government had adopted a new mining law in 2009,[179] just a year after the recognition of RoN. It allowed metal mining by foreign companies and underlined for many the fact that President Correa had other priorities than protecting nature.[180] These frictions between economic interests and the environment are a recurring theme in law generally. They show how nature is often perceived as less important in comparison to economic benefits.
Similar tensions and problems have arisen in other court cases since 2011. Unclear standing, accountability and enforcement have proven to be the biggest hurdles for RoN in Ecuador so far.

The latest case decided in late 2021 makes the most promising step towards a shift away from economic interests as the main concern. In the ruling, the Constitutional Court of Ecuador safeguarded the *Los Cedros* protected Forest in the North-West of the country from mining.[181] When the Court agreed to hear the case in May 2020, two-thirds of the Forest was allowed to be mined by the government and other partners.
The Court voted in favour of banning mining in the *Los Cedros* Forest region and recognized legal personhood of the Forest.[182] It also recognized the right to a healthy environment and the right to water for the people in the region, which highlights the triangle and interconnection between human rights and RoN again. The Court decided that the Forest's ecosystem and biodiversity must be protected from activities that threaten the RoN and human rights, such as mining and other extractive activities. Further, the Court issued different orders to the Ministry of the Environment to ensure compliance with the decision, such as an order to construct a management plan for the Forest to ensure that RoN are respected.[183]
This ruling marks an unprecedented and historic decision in Ecuador and points towards a new understanding of recognizing that RoN prevail over other rights, especially economic ones.

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[178] See: Mary Elizabeth Whittemore, "The problem of enforcing nature's rights under Ecuador's constitution: Why the 2008 environmental amendments have no bite," *Pacific Rim Law and Policy Journal* 20 (2011).

[179] English translation of Act at: Tobar ZVS, *Ecuador Mining Act*, (Quito), https://www.tzvs.ec/wp-content/uploads/2016/11/LeyMineria-Eng-102016.pdf.

[180] Whittemore, "The problem of enforcing nature's rights under Ecuador's constitution."

[181] *Revisión de Sentencia de Acción de Protección Bosque Protector Los Cedros*, No. Caso 1149-19-JP/21 (Corte Constitucional del Ecuador, 10. November, 2022).

[182] GARN Communications, "Ecuador's Constitutional Court enforced Rights of Nature to Safeguard Los Cedros Protected Forest," (01. December, 2021). https://www.garn.org/los-cedros-rights-of-nature/.

[183] Earth Law Center, "Ecuador's Constitutional Court Enforces Constitutional Rights of Nature to Safeguard Los Cedros Protected Forest," (02. December, 2021). https://www.earthlawcenter.org/elc-in-the-news/2021/12/ecuadors-constitutional-court-enforces-constitutional-rights-of-nature-to-safeguard-los-cedros-protected-forest.

Further, in contrast to the 2011 case, this case was decided by the highest court in the country and signifies one of many important precedents for carving out the meaning of RoN in the Ecuadorian Constitution. Other more recent cases take a similar stance and symbolize a legal paradigmatic shift in Ecuador. They additionally often recognize a specific entity as a legal person, such as the *Los Cedros* Forest, and thereby shift away from a broad and general RoN approach to EP of an entity.

Thus, RoN mark a new ecocentric avenue to fight for 'Buen Vivir.'[184] What the idea of *Buen Vivir* means and how it relates to RoN in Ecuador is explained in the next section.

### 3.1.1 'Buen Vivir' in Ecuador

The concept of *Buen Vivir*, which translates from Spanish into *Good Living*,[185] is the political concept behind the ancient Andean philosophy of *Sumak Kawsay*, mainly influenced in Ecuador by the Kichwa Indigenous group.[186] However, it has nothing to do with a Western understanding of good living or well-being mainly framed by health and economic factors, but "[it] expresses a deeper change in knowledge […] and spirituality, an ontological opening to other forms of understanding the relation between humans and non-humans."[187] It also "promotes the dissolution of the Society – Nature dualism."[188] It builds on traditional elements of Indigenous beliefs and newer elements criticizing modernity. It is differently conceptualized depending on the social, historical, and ecological context.[189] Especially in Bolivia and Ecuador, it has gained political support through its recognition in the Constitution.

The concept of *Buen Vivir* is one of the main principles of the Ecuadorian Constitution.[190] The whole Constitution and the territorial organization of the State build on the idea of achieving *Buen Vivir*. One way to achieve this notion is to "guarantee the rights of people, communities and nature."[191] In the Ecuadorian context, it relates "to the art of good and harmonious living in a community […] defined in social and ecological dimensions."[192] It thereby highlights a

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[184] Coombe and Jefferson, "Posthuman rights struggles," 195.

[185] Townsend, *Human Dignity*, 60-61.

[186] Tănăsescu, "RoN," 436-37.

[187] Mónica Chuji et al., "Buen Vivir," in *Pluriverse: a post-development dictionary*, ed. Ashish Kothari et al. (New Delhi: Tulika Books and Authorsupfront, 2019): 111.

[188] Eduardo Gudynas, "Buen Vivir: today's tomorrow," *development* 54, no. 4 (2011): 445.

[189] Chuji et al., "Buen Vivir," 111.

[190] Asamblea Nacional Ecuador, *Constitución*, Art.275.

[191] Ibid., Art.277, para.1.

[192] Chuji et al., "Buen Vivir," 112.

notion of community dependent on ecological aspects. The concept is also used in opposition to modern notions of development and its focus on growth, consumerism and commodification of nature.[193] It challenges ideas of separation between humans and nature and acknowledges communities beyond humanity.[194] Hence, the idea of *Buen Vivir* is the cornerstone of all provisions in the Ecuadorian Constitution and the rights of Pachamama. It aims at creating one community where all Earth elements come together and acknowledge each other.

However, due to its ambiguous character, *Buen Vivir* has been used by governments in South American countries for different purposes. Although it has been introduced in Ecuador for a post-development agenda, the political reality has looked very different. The government has defined *Buen Vivir* "as a type of socialism" and thus, has placed it back within development and economic benefits.[195] Nevertheless, *Buen Vivir* has been employed by local Indigenous groups to fight for Pachamama and has been tied back on many occasions to its original Indigenous *Sumak Kawsay*. It was for example raised in the *Los Cedros* Forest case where it was highlighted as a founding principle of the Ecuadorian nation.[196] Thus, legally speaking, "*Buen Vivir* […] is concerned with the inclusion of nature in our understandings of ourselves and our societies."[197]

To sum up, although Ecuador has included *Buen Vivir* and RoN in their Constitution, the environment has been left on the side bench due to an ambiguous standing of nature. In 2008, it was regarded as revolutionary and exceptional, but fourteen years later no extensive progress in the recognition of nature as more than a resource can be recorded. Only the *Los Cedros* Forest case from December 2021 gives hope for more *Sumak Kawsay*.

In the following section, the case study of NZ is taken up. First, the different acts granting EP are outlined, before looking at how these acts have implemented Māori views within them.

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[193] Coombe and Jefferson, "Posthuman rights struggles," 183; See also: Chuji et al., "Buen Vivir," 112; Sofía Suárez, *Defending Nature: Challenges and Obstacles in Defending the Rights of Nature; Case Study of the Vilcabamba River*, No. 9978941401, Friedrich-Ebert-Stiftung (August 2013).

[194] Chuji et al., "Buen Vivir," 112; Townsend, *Human Dignity*, 62.

[195] Chuji et al., "Buen Vivir," 113.

[196] *Revisión de Sentencia de Acción de Protección Bosque Protector Los Cedros*, para.32.

[197] Townsend, *Human Dignity*, 62.

## 3.2 Case Study 2: New Zealand, Environmental Personhood, and the Māori

In 2014, two years after a Settlement Agreement between the Māori Iwi (tribe) *Tūhoe* and the government, the *Te Urewera* Act was signed. The Act puts the Settlement Agreement into practice and acknowledges the Urewera Forest, which was a national park before, as a legal entity:[198] "Te Urewera is a legal entity, and has all the rights, powers, duties, and liabilities of a legal person."[199] Interestingly, the Act recognizes the Forest as an 'entity' but also grants the legal status of a 'person' which are especially morally speaking two different notions. 'Person' is more closely related to morality and humans than 'entity,'[200] but legally speaking they often entail similar things.

Besides the establishment of a legal entity, the general purpose of the Act is "to establish and preserve in perpetuity a legal identity and protected status for Te Urewera for its intrinsic worth, its distinctive natural and cultural values, […] and for its national importance."[201] It thereby allows the recognition of an intrinsic worth of the Forest and clearly states that it aims at creating this purpose through the recognition of a legal entity.

A Board is established to speak on behalf of the Forest in Article 11(2). The Board is supposed "(a) to act on behalf of, and in the name of, Te Urewera; and (b) to provide governance for Te Urewera in accordance with this Act."[202] It was made up equally by *Tūhoe* appointed persons and members of the Crown for the first three years and changed to Māori Iwi majority after.[203] Further, a management plan was prepared to achieve the purpose of the Act. The Board and management plan form two structural aspects which relate the area to a more managerial unit, but it should be noted that the Forest is recognized as its own entity therein.

Another case resulting in EP in NZ was the outcome of a long battle of the Whanganui Iwi against the Crown. The tribe of local Whanganui Māori had challenged ownership aspects of the Whanganui Awa (River) since 1873 on the basis of breaches against the Treaty of Waitangi,

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[198] Australian Earth Laws Alliance. "New Zealand – legal rights for forests and rivers," 2022, accessed 22. February, 2022, https://www.earthlaws.org.au/aelc/rights-of-nature/new-zealand/; Department of Conservation, *Te Urewera Act*.

[199] Department of Conservation, *Te Urewera Act*, Art.11(1).

[200] See: Tănăsescu, "RoN."

[201] Department of Conservation, *Te Urewera Act*, Art.4.

[202] Ibid., Art.17.

[203] Australian Earth Laws Alliance, "New Zealand."

considered NZ's founding document.[204] The River is regarded as the *Te Awa Tupua* – the "whole of River."[205]

In 2012, the tribe and the Crown signed an Agreement called *Tūtohu Whakatupua* with the commitment to develop a legal framework.[206] In 2014, the *Ruruku Whakatupua* (Whanganui River Deed of Settlement) was signed which settles the Iwi's Treaty of Waitangi claims concerning the River.[207] To put the Deed of Settlement into legislation,[208] in March 2017, the *Te Awa Tupua* (Whanganui River Claims Settlement) Bill was passed.[209] This Act gives legal personhood to the Whanganui Awa: "Te Awa Tupua is a legal person and has all the rights, powers, duties, and liabilities of a legal person."[210] It hereby recognizes the river with the same worldview as the Whanganui Iwi: "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."[211] It continues in Article 13 to include the "intrinsic values that represent the essence of Te Awa Tupua."[212] Thus, it extends the understanding of the River beyond its physical water body and recognizes the essence of *Te Awa Tupua* through an intrinsic value and dignity.

The *Te Pou Tupua* represents the river: "The purpose of Te Pou Tupua is to be the human face of Te Awa Tupua and act in the name of Te Awa Tupua."[213] Here one can see the anthropocentric face of EP by looking at how it is legally enacted and refers to the 'human face' of the River. It shows the indivisibility of humans and law, even where nature is seen as its own

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[204] O'Donnell and Talbot-Jones, "Creating legal rights for rivers."; See: Te Kawanatanga o Aotearoa - New Zealand Government. "The Treaty of Waitangi," accessed 22. February, 2022, https://www.archives.govt.nz/discover-our-stories/the-treaty-of-waitangi.

[205] Ministry of Justice of NZ, *Tūtohu Whakatupua*, (30. August, 2012): Art.2.1, https://www.ngatangatatiaki.co.nz/assets/Uploads/Important-Documents/WhanganuiRiverAgreement.pdf.

[206] Ibid.

[207] Ministry of Justice of NZ, *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*, (05. August, 2014), https://www.govt.nz/assets/Documents/OTS/Whanganui-Iwi/Whanganui-River-Deed-of-Settlement-Ruruku-Whakatupua-Te-Mana-o-Te-Iwi-o-Whanganui-5-Aug-2014.pdf.

[208] Whanganui District Council. "Te Awa Tupua - Whanganui River Settlement," accessed 22. February, 2022, https://www.whanganui.govt.nz/About-Whanganui/Our-District/Te-Awa-Tupua-Whanganui-River-Settlement.

[209] Parliament of NZ, *Te Awa Tupua (Whanganui River Claims Settlement) Bill*, (05. August, 2014).

[210] Ibid., Art.14(1).

[211] Ibid., Art.12.

[212] Ibid.

[213] Ibid., Art.18(2).

person and entity. The *Te Pou Tupua* consists of one guardian appointed by the Crown and one by the Whanganui Iwi, who together act as one person.
Further, the Act establishes an advisory group, *Te Karewao*, and a strategy group, *Te Kōpuka*. These two groups support the implementation process of the Awa's rights. Lastly, the Act is supported by a series of payments from the Crown and a $30 million fund to effectively enforce the rights of the river and "to support the health and well-being of Te Awa Tupua."[214]

Both Acts[215] – for the Urewera Forest and the Whanganui River are beautiful pieces of law which set up an impressive and effective system to ensure accountability, resource and enforcement mechanisms. These stand in stark contrast to the implementation hurdles of the Ecuadorian constitutional provision and make the NZ case unique worldwide. They additionally define a narrower body of nature as a legal person, such as a river, which might make the implementation easier.[216] They are also based on very specific natural entities, in the sense that they are definable within the borders of NZ. In contrast, for example, the Indian judicial attempts to create legal personhood for the Ganges and Yamuna rivers failed because of difficulties with their transboundary nature.[217] This points to a difference in success between the approach of granting rights to nature as a whole versus specific natural entities. However, RoN in Ecuador were also used to grant personhood to one specific entity, the *Los Cedros* Forest, and therein show that they can be used effectively to protect nature once legal precedents have been established, and it has been carved out what RoN stand for.

The longer-term effects and results of the acts in NZ have yet to be determined, but the detailed legislation and cooperation between the Māori and Crown make the NZ case a promising one. Moreover, NZ's Supreme Court allowed the inclusion of *Tikanga Māori*, which roughly equates to Māori laws and practices, for common law of NZ.[218] This extends the cooperation with Māori

[214] Ibid., Art.57(3).

[215] Beside these two Acts, a Record of Understanding between Crown and Taranaki Iwi was signed in 2017 which states the intention to set up legal personhood for the Taranaki Maunga: Deena Coster, "Settlement talks over Taranaki Maunga reach final stages," (17. June, 2020). https://www.stuff.co.nz/taranaki-daily-news/news/121839622/settlement--talks-over-taranaki-maunga-reach-final-stages.

[216] Art.7 of the Te Awa Tupua Bill defines what is considered part of the River: Parliament of NZ, *Te Awa Tupua Bill*.

[217] BBC, "India's Ganges and Yamuna rivers are 'not living entities'," (07. July, 2017). https://www.bbc.com/news/world-asia-india-40537701.

[218] Natalie Coates, "The recognition of tikanga in the common law of New Zealand," *New Zealand Law Review* 2015, no. 1 (2015).

legal systems even further. EP has herein a strong link to "a generational change in the way that people think about and relate to the [entity] and it's an opportunity to embed Māori ontologies and cosmologies into the Western legal framework."[219]

The visions and relations of Māori to nature have been integrated into the acts in different ways, which are outlined in the following section.

### 3.2.1 The Māori and Nature

In the *Te Urewera* Act, the Forest is recognized as its own spirit. Article 3 sets out that:

> "(1) Te Urewera is ancient and enduring, a fortress of nature, alive with history […].
>
> (2) Te Urewera is a place of spiritual value, with its own mana and mauri.
>
> (3) Te Urewera has an identity in and of itself, inspiring people to commit to its care."[220]

It therein uses the Māori language of the Forest having its *mana* and *mauri* which relate to the ideas of own authority and life force.[221] It also underlines that the *Te Urewera* has an own identity which relates directly to how people commit to it. In doing so, it respects the autonomy of the Forest and ties it together with *Tūhoe* Iwi's perception. This is further outlined in the subsequent paragraphs:

> "(4) For Tūhoe, Te Urewera is […] the heart of the great fish of Maui, its name being derived from Murakareke, the son of the ancestor Tūhoe.
>
> (5) For Tūhoe, Te Urewera is […] their place of origin and return, their homeland.
>
> (6) Te Urewera expresses and gives meaning to Tūhoe culture, language, customs, and identity […]."[222]

Thus, the Forest has its own spirit, the great fish of Maui, and is closely interconnected with the local *Tūhoe* Iwi. They see the Forest as the place they are born from and return to in death.

The Act likewise points out that:

> "(8) Te Urewera is also prized by all New Zealanders as a place of outstanding national value and intrinsic worth; it is treasured by all […] for its indigenous ecological systems and biodiversity, its historical and cultural heritage, its scientific importance, and as a place for outdoor recreation and spiritual reflection."[223]

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[219] O'Donnell, *Interview*.

[220] Department of Conservation, *Te Urewera Act*.

[221] Australian Earth Laws Alliance, "New Zealand."

[222] Department of Conservation, *Te Urewera Act*, Art.3.

[223] Ibid.

It thereby integrates economic and scientific aspects prized by all New Zealanders, but moreover all New Zealanders respect the Forest's intrinsic worth.

For the Whanganui River, the acts are based on the inherent connection between the Whanganui Iwi, their principal ancestors Paerangi and Ruatipua and the River.[224] The *Tūtohu* and *Ruruku Whakatupua* state at the beginning that "I am the River, and the River is me."[225] Further, for the settlement of the Whanganui River claim, the vision of the Whanganui Iwi was founded on two principles:

> "1.8.1 Te Awa Tupua […] – an integrated, indivisible view of Te Awa Tupua in both biophysical and metaphysical terms from the mountains to the sea;
> and 1.8.2 […] the health and wellbeing of the Whanganui River is intrinsically interconnected with the health and wellbeing of the people."[226]

These Articles reflect how the Whanganui Māori see the river. It points toward this notion of the river as a person and the whole river system as a spirit, and that its wellbeing is interconnected with the wellbeing of the people. For Māori cosmologies, "Rivers are inextricably linked to tribal identities."[227] The sentence 'I am the River, and the River is me' further highlights this connection of the river not only with the community but with every individual. In this sense, the "Te Awa Tupua designates both the unity of the river itself, and that of the river and the people."[228]

Hence, the *Te Urewera* Act and the acts to *Te Awa Tupua* establish a new idea of human sovereignty over nature. They embrace Māori perspectives on how "the landscape is personified, and that the earth is the *Papatuanuku*, earth mother."[229] They recognize that the Urewera Forest has its spirit, the Whanganui River belongs to no one, and both have an intrinsic value. "They are now recognized in law as having their own presence, their own needs and their own well being."[230]

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[224] Ministry of Justice of NZ, *Tūtohu Whakatupua*, Art.1.1.

[225] See: ibid.

[226] Ibid., Art.1.8.

[227] Linda Te Aho, "Indigenous challenges to enhance freshwater governance and management in Aotearoa New Zealand-the Waikato river settlement," *Journal of Water Law* 20 (2010): 285.

[228] Tănăsescu, *Environment, political representation*, 121.

[229] Australian Earth Laws Alliance, "New Zealand."

[230] Kathleen Calderwood, "Why New Zealand is granting a river the same rights as a citizen," (06. September, 2016). https://www.abc.net.au/radionational/programs/sundayextra/new-zealand-granting-rivers-and-forests-same-rights-as-citizens/7816456.

Moreover, the accountability and enforcement issues encountered in Ecuador have been solved in different ways in NZ by creating legal frameworks of stewardship and resource management. It remains to be seen how NZ's implementation will differ from Ecuador's case, but the legal and cultural differences highlighted above signal the right direction.

More such cultural and social differences are outlined in the following section where the paper is looking generally at what it means to include Indigenous cosmovisions in law and how that could enhance an ecosystem thinking and recognition of dignity or inherent worth of nature.[231] To highlight the triangle again: In many countries, Indigenous peoples are a driving force behind the recognition of RoN. Further, all human rights are connected to a healthy environment. Therefore, understanding the interconnection between Indigenous groups and the natural world is vital.

What is more, EP is considered an integral part of many countries recognizing Indigenous ownership of land and reconciling with Indigenous groups in post-colonial times.[232] It has even been highlighted that the movement should be strongly "founded in and led by Indigenous people, [if not,] you'll end up yet again excluding those people" that have been forced off their lands and excluded in environmentalism before.[233]

## 3.3 Indigenous Peoples, Ecosystem Thinking, and Inherent Worth of Nature

> "There is a hue and cry for human rights, they said, for all people, and the Indigenous people said: What of the rights of the natural world? Where is the seat for the buffalo or the eagle? Who is representing them at this forum? Who is speaking for the water of the earth? Who is speaking for the trees and the forests? Who is speaking for the fish—for the whales, for the beavers, for our children?"
>
> Chief Oren Lyons Jr., Faithkeeper of the Onondaga tribe of the Haudenosaunee (Iroquois) Nation[234]

[231] A note that it is generally disputed how much EP or RoN are connected to Indigenous peoples, for a critical discussion: Tănăsescu, *Understanding the RoN*.

[232] Highlighted by: O'Donnell, *Interview*; See further: Cadogan, "Cry Me a River."

[233] O'Donnell, *Interview*.

[234] Quoted in: Boyd, *The RoN*, xxi.

Ecuador and NZ organize a system of RoN and EP in different ways, but both build this legal system on Indigenous values of the inherent worth of nature and close interconnection between people and environment. It is important to not generalize the term 'Indigenous' or 'Western' and to throw all Indigenous belief systems into one pot.[235] Further, the idea that RoN are linked to Indigenous peoples does not take away from the own struggles of these groups and the backgrounds of EP and RoN in these countries. However, the chosen case studies show a link between RoN and Indigenous beliefs which could provide a powerful alternative to reforming environmental law and rights-systems. It shows how we can learn "from indigenous worldviews, especially to the extent that they provide alternative ways of juridically framing Earth system care."[236]

This underlines the ecosystem thinking which recognizes that we are all part of a bigger natural system and that humans form part of nature, but also that nature is made up by humans. Robyn Eckersley calls it an "ecological model of internal relatedness [in] respect of human-nonhuman relations [but also] respect of relations among humans."[237] In that regard, it follows the idea that "[human] beings make nature and nature, both literally and by contrast, makes the human."[238] Furthermore, such thinking conforms to the emphasis on long-term preservation not only for human needs but to preserve nature as a whole, which many Western societies struggle with.[239]

How well Indigenous value systems are integrated into these legal systems depends on how RoN or EP are set up.[240] Granting legal personhood to nature as a whole has many differences from granting legal personhood to one specific entity. While EP falls for many under RoN, the case studies highlight a difference in their realization and conceptualization. In most research, NZ is observed from an EP perspective while Ecuador is a RoN one. Looking back at how EP has then been conceptualized in NZ, it seems more powerful in changing how we humans see

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[235] Highlighted by: Tănăsescu, *Interview*; See further: Tănăsescu, "RoN."

[236] Calzadilla and Kotzé, "Living in harmony," 424; For a discussion see: Erin O'Donnell et al., "Stop burying the Lede: The essential role of indigenous law(s) in creating rights of nature," *Transnational Environmental Law* 9, no. 3 (2020).

[237] Eckersley, *Environmentalism and political theory*, 53.

[238] Gordon, "EP," 82.

[239] Singer, *Practical ethics*, 242.

[240] Tănăsescu, "RoN."

ourselves relating to nature.[241] The country distances itself from the tensions with economic interests and sets up a representation system for natural entities which is new to law. However, personhood and rights cannot be separated because even where entities have been granted personhood in NZ, they are considered entities with rights. Additionally, NZ is a very contextual and historical example where the legal aspects of EP are not the most fundamental but the local Indigenous context.[242]

Similarly, 'nature' and 'rights' in themselves are "inexact translations of the indigenous vision," but were taken out of Indigenous concepts to approach nature and Indigenous ideas in law.[243] This relates to the idea of *Buen Vivir* which is a political translation of the idea of *Sumak Kawsay*. *Buen Vivir*, similar to RoN, ensures political and legal representation. The Indigenous perspective should then guarantee that nature becomes a "subject with inherent and inalienable rights."[244] This phrasing has a strong connection to human rights and the Universal Declaration of Human Rights (UDHR) where inalienable rights are mentioned together with inherent dignity as the "foundation of freedom, justice and peace in the world."[245] Subsequently, it could be argued that EP and RoN contribute to this foundation, and to the triangle, by recognizing nature's rights and inherent dignity. They do so by including legal translations of Indigenous perspectives.

These perspectives are represented in the NZ acts through the close relationship between the entity and a specific Māori group, while Ecuador leaves this link between humans and nature "wide open."[246] Ecuador struggles more in realizing an ecosystem thinking where humans and nature become closely interconnected. It also can be argued that NZ is better at integrating Māori people in their conceptualization through specific references to and translations of Māori cosmovisions. In both country cases, Indigenous groups were a driving force behind the implementation, however, NZ took it further and implemented a system where Indigenous peoples are centre stage beyond the law-making process and where their voices are decisive for EP. In Ecuador, this is left to everyone which gives room for Indigenous groups but maybe too much room to fill.

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[241] Ibid., 451.

[242] Emphasized by: Macpherson, *Interview*.

[243] Tănăsescu, *Environment, political representation*, 93.

[244] Ibid., 132.

[245] UNGA, *Universal Declaration of Human Rights*, 217 A (III), (10. December, 1948): Preamble.

[246] Tănăsescu, "RoN," 447.

This ecosystem thinking relates back to Eckersley's idea of a model of 'interrelatedness' between humans and nature, discussed in the introduction to this subchapter, which is an underlying theme of the HRtEnv.[247] Another model discussed in this context is the concept of 'relational ontology' where relations between entities and contextual experiences are strengthened.[248] This translates in law into an idea of deviating from rights which are considered individualistic because they focus on individuals rather than communities.[249] This has been highlighted by some interviewees as a criticism against RoN.[250] However, the case study in NZ for example shows how the acts propose an underlying connectedness between Māori and the natural entities and are thereby grounded on an idea of relational ontology. Similarly, the concept of *Buen Vivir*, which underlies RoN in Ecuador, is about a connection between humans and nature and is relational to the specific context. It has been used in Ecuador for economic interests as well, but it does not deny a stronger bond between humans and nature. Both case studies thereby include rights that are considered individualistic, and a notion of interconnectedness, which shows that both concepts can be used to strengthen each other. It describes an "'ontological relationality' of place-based Indigenous cosmologies."[251]

Returning to the idea that Indigenous peoples and their value systems play a crucial role for EP, in the *Te Urewera* Act, the inherent worth and dignity are not only highlighted in the purpose of the Act to protect the Forest "for its intrinsic worth,"[252] but also by Article 3 on how the Māori relate to the entity as a "place of spiritual value, […] [as] the heart of the great fish of Maui […] [and the Tūhoe's] place of origin and return, their homeland."[253] It is thereby strengthening the connection between the *Tūhoe* Iwi and the *Te Urewera* and preserving the Forest for its dignity while making it available "as a place for outdoor recreation and spiritual

[247] Eckersley, *Environmentalism and political theory*.

[248] For a discussion see: Tănăsescu, *Understanding the RoN*; Joaquin Santuber and Lina Krawietz, "La sociomaterialidad de la justicia: una ontología relacional para el Diseño legal," *Revista Chilena de Diseño: creación y pensamiento* 6, no. 11 (2021).

[249] Highlighted by: Human Rights Expert, *Interview*; Tănăsescu, *Interview*.

[250] Human Rights Expert, *Interview*; Tănăsescu, *Interview*.

[251] Arstein-Kerslake et al., "Relational personhood," 544.

[252] Department of Conservation, *Te Urewera Act*, Art.4.

[253] Ibid., Art.3(2)-(5).

reflection."[254] It extends this recognition of the intrinsic worth by the *Tūhoe* Iwi to all of NZ by including the reference to a "place of outstanding national value and intrinsic worth."[255]
This is also valued through the honouring of "Tūhoetanga, which gives expression to Te Urewera" and reflects *Tūhoe* identity and culture.[256] Further, the Board "must consider and provide appropriately for the relationship of iwi and hapū [subtribe, or clan] and their culture and traditions with Te Urewera when making decisions."[257] This ensures the inclusion of the Māori worldview throughout any actions taken regarding the *Te Urewera*.

Ecuador, on the other hand, does refer throughout its Constitution to *Buen Vivir* but fails to create a framework that ensures the understanding of that concept and exchange between government and local Indigenous peoples on it. The only way the concept of Pachamama is recognized is Article 71 outlining that it is the place "where life is reproduced and occurs" which is vague and ambiguous.[258] It therein barely touches upon this idea of connectedness with humans and the way Indigenous groups relate to Pachamama. It rather links RoN in the Constitution to development and restoration in the long-term,[259] whereby it moves away from shorter-term environmental protection and economical gains, but it is doubtful if it goes far enough. Regardless of the inclusion of Pachamama, *Buen Vivir* as basis for the Ecuadorian Constitution is connected to an intrinsic value of nature independent of humans.[260] RoN in Ecuador does thereby grant a right to exist for nature.[261] At the same time, *Buen Vivir* focuses on the satisfaction of human needs and relates it closely to ecological dimensions. It creates there an anthropocentric connection to humans. However, "*Buen Vivir* displaces the centrality of humans as the sole subject endowed with political representation and as the source of all valuation."[262] It gives worth to nature through rights.

In conclusion, how strongly Indigenous values will continue to shape NZ's laws is to be determined, but Ecuador's economic forces have proven to be strong. This can be observed in

[254] Ibid., Art.3(8).
[255] Ibid.
[256] Ibid., Art.5(1)(c).
[257] Ibid., Art.20(1).
[258] National Assembly Ecuador, *Constitution of 2008 of the Republic of Ecuador*.
[259] Ibid., see Art.72-74.
[260] Chuji et al., "Buen Vivir," 112.
[261] Deep Ecology and the right to exist: Nash, *The RoN*.
[262] Chuji et al., "Buen Vivir," 112.

older case law, such as the *Richard Frederick Wheeler* case, which was the first case ever defending RoN. The second case presented on the *Los Cedros* Forest is the latest one which highlights a paradigmatic shift. The different forces in the country are fighting for their conceptualization of *Buen Vivir* where some have little connection to the notion of *Sumak Kawsay*.[263] Nevertheless, Indigenous worldviews have shaped and impacted both Ecuador's and NZ's idea of RoN and EP. They underline an idea of dignity and intrinsic worth of nature that most law neglects. These cosmovisions create an ecosystem thinking where humans and nature are one. They translate this ecosystem thinking into law and equate humans and nature to the same level.

# 4 Inherent Worth of Nature and Human Dignity

> "[The] profound shift that happens when you have rights of nature or environmental personhood is that you're starting to pay attention to the entity. […] [It] does change the way that people begin relating to what was previously a resource."[264]

This chapter focuses on the question of inherent worth of nature and how the concept of human dignity could help enhance nature's value. It tries to answer the question of how dignity ties into RoN and the HRtEnv and if giving nature rights can recognize a certain degree of dignity, and therefore respect, for nature. It first looks at dignity of humans and nature, before looking at how giving nature legal personhood and rights impacts these aspects.

Overall, nature has mostly been considered for its resources, as property and means of development. Changing this relation determines how humans and the environment continue to co-exist. Human rights set up a system that highlights humans' dignity and gives them inherent rights. Does giving rights to nature accomplish the same?

## 4.1 Dignity of Humans and Nature

In an extreme anthropocentric case, nature has no value on its own and does not deserve the same type of respect as humans. In an extreme ecocentric case, nature takes all space and is completely disconnected from humans. It is then often debated that a HRtEnv recognizes a

[263] Ruby Russell, "Rights of nature: Can Indigenous traditions shape environmental law?," (02. February, 2020). https://www.dw.com/en/environment-nature-rights-indigenous-activism-legal-personhood/a-52186866.

[264] O'Donnell, *Interview*; Also: Burdon, *Interview*.

worth of nature for humans, which is rather an instrumental value of nature than an inherent one. In that sense, it sees the worth of nature through human rights and the enjoyment of the rest of this rights regime. Human rights are thereby created for humans and their specific interests.

This subchapter discusses the link between human rights and dignity, and how that understanding of dignity comes with a recognition of respect and worth. Therefore, the sub-questions of this section are how a perspective of inherent worth and dignity of nature can be established and how EP and a HRtEnv play into it. It considers three arguments for why dignity of humans should be extended to the environment, looking at hierarchy and equality, dignity through humanness, and dignity defined by autonomy and rationality.

As referred to above, the inclusion of an Indigenous perspective into RoN ensures that nature receives the same inalienable rights which are recognized for humans through the UDHR. The UDRME states in Article 1: "Just as human beings have human rights, all other beings also have rights which are specific to their species or kind and appropriate for their role and function within the communities within which they exist."[265] These specific functions of nature and other non-human beings should be per their worth and own role and not only the role they have for humans. Peter Singer states that we are ready to place value on all things, once we can see that "every living thing is 'pursuing its own good in its own unique way.'"[266] Dignity has played a crucial role in defining how humans deserve rights due to their unique characteristics. Human rights then recognize that all humans are equal and worthy of respect.[267] It is argued here that nature could need a similar concept to ensure that the environment is protected for its own sake and preserved for the future.

Firstly, if we consider the aspect of hierarchy and equality: Generally, the question persists if it is law that gives dignity, or is it dignity that makes an entity worthy of rights? For human rights, the second aspect is important: Humans are worthy of rights because of their inherent worth, humanity and dignity. In the human rights regime, this equates to equality between all humans, regardless of other aspects. But what makes us humans worthy of dignity and respect? How do we differ from nature, especially considering that we are part of nature? Human rights or rights

[265] World People's Conference on Climate Change, *UDRME*, para.6.

[266] Singer, *Practical ethics*, 249.

[267] Townsend, *Human Dignity*, 271-72.

should generally extend to nature to ensure equality not only between humans but between nature and humans. It would thereby argue against a hierarchy and ensure that nature can be treated equally. This is linked to the thought of interconnectedness, which is based on "a process of becoming fully aware of how human beings are connected with other [entities]."[268]

Furthermore, dignity for nature and interconnectedness would also achieve to move away from "human chauvinism."[269] This 'human chauvinism' is built on the idea that humans have attributes exclusive to them which "fails to recognize the special attributes of other life-forms" and sees humans as "*more worthy* […] rather than simply different."[270] This brings forth an important aspect that is not often discussed when talking about anthropocentrism and ecocentrism. Ecocentrism does not have to mean that all elements of Earth have to be regarded the same. It rather gets problematic when those differences are equated with less or more respect and different levels of worth. Human rights are exactly about this divergence and try to ensure that all humans are considered equal, although there are differences in our appearances, preferences and backgrounds. RoN could bring nature into this realm by recognizing differences but also equal worth of the environment. Hence, ecocentrism is an "orientation of nonfavoritism" that "ensures that the interests of […] ecological communities […] are not ignored […] *simply* because they are not human or because they are not of instrumental value to humans."[271]

In line with the same thinking, it is often argued that human dignity creates duties between humans rather than anything else. This argument excludes non-human entities and says that the concept of dignity is created to separate humans from others.[272] Despite these aspects, if one reduces dignity to the "basic minimum content,"[273] dignity can extend to nature as it forms a point of reference for respect and intrinsic worth. Moreover, "the concept of human dignity seems to be compatible with the deep ecologists' call for more respect for and awe of nature."[274] Additionally, translations in the concept of EP and RoN, such as *Buen Vivir*, do not relate to

[268] Timothy Morton, *The Ecological Thought* (Harvard University Press, 2010): 7.
[269] Eckersley, *Environmentalism and political theory*, 50.
[270] Ibid.
[271] Ibid., 57.
[272] Townsend, *Human Dignity*.
[273] McCrudden, "Human dignity," 679.
[274] Hajjar Leib, *Human rights and the environment*, 158.

separation and hierarchy but to a "change in knowledge […] to other forms of understanding the relation between humans and non-humans."[275]

Secondly, looking at the anthropocentric argument that humans have received rights because of their human status: Especially in the human rights realm, dignity "resides in the condition of being human."[276] Hence, "[all] human beings are born free and equal in dignity and rights."[277] Different groups of people have been granted rights based on such a conception. Towards the 20th century, this rights-granting based on dignity and being human shifted once corporations entered the realm of law.[278] It is difficult to turn this around and say that corporations have been granted rights based on dignity, but because it was necessary for the time to incorporate them into the legal field. It is argued that it is necessary today to incorporate nature better into law, and the way to do this is through granting it rights. Nature has a better argument to be considered worthy of dignity and inherent value than a corporation, due to the interconnectedness with humans.

Moreover, many Indigenous groups define differently what it means to be fully human. As pointed out by one interviewee: "Aboriginal people call Country with a capital C to mean all of the world around them. […] [They] define their humanity in terms of their relationship with Country […] [which] is the first signifier of what it means to be fully human."[279] Nature is thereby a signifier for humanity and human dignity. Thus, being a legal human is "influenced by cultural ideas of what it is to be a whole and proper […] person."[280] If one looks at the aspects mentioned above on how Indigenous peoples conceptualize the human, it is clear that being a proper person is inherently linked to the environment. As a result, humans cannot exist and therefore become legal persons without nature. The same can be said the other way around: the environment does not become a legal entity without humans. This entails that nature forms part of human dignity and that human dignity can be transferred to nature.

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[275] Chuji et al., "Buen Vivir," 111.

[276] Naffine, "Who are law's persons?," 358.

[277] UNGA, *UDHR*, Art.1.

[278] See: Gordon, "EP."; Naffine, "Who are law's persons?."; Cormac Cullinan, *Wild law: A manifesto for earth justice*, 2nd ed. (Vermont: Chelsea Green Publishing, 2011); Eckersley, *Environmentalism and political theory*.

[279] O'Donnell, *Interview*.

[280] Naffine, "Who are law's persons?," 360.

Another anthropocentric point in line with humanness and dignity approaches the argument of how value judgment is human-centred.[281] Therefore, only humans can decide what is worthy of value and dignity. However, it is difficult to comprehend why humans struggle to value nature higher and closer to them. Generally, this has created a system of separation in law and thought. Meanwhile, Indigenous groups have proven that their interconnection with the environment creates a system where nature or a natural entity is respected and valued for its spirit. In this context, it is not so much a judgment and a value driven by that judgment but a cosmovision focusing on reciprocity and interconnection.

Thirdly, addressing the argument that dignity is related to autonomy which concerns political and economic questions as well.[282] Therein, dignity accords humans autonomy and liberty from other humans. Within this argument, there is then a fear that if one grants nature rights and dignity, it will become more autonomous and free of human influence. However, such a perception is misguided, because nature cannot be separated from humans in law, nor does RoN aim at separating the environment from any human interference. As pointed out above, the goal is not to return to a pre-anthropocentric idea. "It should be clear […] that ecocentric theorists are not seeking to discard the central value of autonomy in Western political thought and replace it with something completely new[,] [but they are] concerned to revise the notion of autonomy and incorporate it into a broader, ecological framework."[283] Human autonomy and dignity can in that sense be realized through a strong link to the environment. A relational ontology is important again. Such an approach also states that in different contexts we need "different relational structures to foster the same values, such as […] dignity."[284] In Ecuador and NZ, this dignity and inherent worth paired with interconnection are legally supported by EP and RoN. It also has to be noted that everyone is surrounded by a web of people "that enable them to be this sort of fully autonomous human that is just floating along on top of it," which makes every individual dependent on other people.[285] Thus, dignity defined by autonomy and thereby relating to single human beings is misleading, because no individual is just autonomous by themselves.

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[281] Purdy, "Our Place in the World."
[282] Townsend, *Human Dignity*.
[283] Eckersley, *Environmentalism and political theory*, 54.
[284] Nedelsky, *Law's relations*, 12.
[285] O'Donnell, *Interview*.

Lastly, other philosophers base the argument of the intrinsic worth of humans on humans' rationality and self-consciousness.[286] However, such argument cannot extend to anyone having rights today if we take babies, children or persons with disabilities into account. No one would deny these groups rights based on missing aspects of rationality or self-consciousness, or even go as far as to renounce their intrinsic worth. Therefore, basing dignity on rationality is misleading and does not take away from the argument to extend dignity to nature.

Beside these arguments on an extension of dignity to nature, it is essential within the human rights sphere to recognize that the environment is crucial for human dignity. Such a perception is often observed to be anthropocentric and considers nature only valuable through humans. However, it enhances the human rights-system and ensures better environmental human rights.[287] "[The] human rights concept […] can be expanded to include the environment […] on the premise that the intrinsic value of nonhuman entities is part of human dignity."[288] It relates back to the triangle where one system cannot exist without the other. Hence, both RoN and a HRtEnv aim at a system where humans and nature co-exist, creating a system of mutual respect.

For these reasons, if we keep on arguing that nature is not able to have elements of dignity or personhood, we miss out on the opportunity to bring nature and humans to the same level. We keep on insisting that nature has only value for humans. The refusal of worth for nature cannot be based on the argument of fear that humans will be forgotten, and their suffering subordinated to nature. It is worth highlighting that RoN do not equate to the disappearance of human rights or Indigenous peoples' rights. The triangle of RoN mentioned above can guarantee that nature will not be positioned superior to humans. Approaches toward the environment should be regarded as complementary.[289] Thereby, "the idea of the inherent and intrinsic value of nature is very important […] and comes to reinforce the view of nature as a kind of subject."[290] Such value and interconnection between humans and nature have never been forgotten by many Indigenous groups worldwide. Both case studies show how these Indigenous cosmovisions can be used through EP and RoN.

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[286] Doorn, "Do ecosystems have ethical rights?."
[287] See: Townsend, *Human Dignity*.
[288] Hajjar Leib, *Human rights and the environment*, 71.
[289] Highlighted by: Prieto Figelist, *Interview*; Burdon, *Interview*.
[290] Tănăsescu, *Environment, political representation*, 138.

In conclusion, there is a strong appeal to make dignity a flexible and broader concept encompassing more than only humanness or autonomy. It would reflect "the choices communities and peoples make in the name of human dignity."[291] For concepts like *Buen Vivir*, this idea suggests an approach to dignity which is less about humanness and its special character, and more a conception of humans and communities in nature.[292] "Nature becomes a subject; human beings as the only source of values are therefore displaced."[293] In the human rights sphere, this would mean that dignity extends to nature for the sake of human dignity. If we then enlarge the rights and subject regime to the environment through RoN, we might be able to broaden the concept of dignity to nature. RoN thereby create a system of inherent value which is often expressed through Kant's approach to dignity.[294] Dignity of humans and nature are closely interconnected and should be regarded "in harmony […] rather than in opposition."[295] In such an account, it is about a "sense of wholeness," and interconnectedness.[296]

The next subsection relates this back to the conception of giving nature rights and personhood.

## 4.2 Giving Nature Legal Personhood and Rights

> "[The] recognition of nature's subject-status [in law] comes from the human being understanding itself as part of a greater whole, and respecting this whole and its integrity."[297]

Historically, giving rights to other groups of people has been grounded on the change of perception of each group's dignity and inherent worth. Naffine considers this a "benchmarking of the legal person against a male template of humanity."[298] Slaves have been considered

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[291] Adeno Addis, "Human dignity in comparative constitutional context: in search of an overlapping consensus," *Journal of International and Comparative Law* 2, no. 1 (2015): 5.

[292] Townsend, *Human Dignity*.

[293] Gudynas, "Buen Vivir," 445.

[294] Kant, *Practical Philosophy*; See further: Townsend, *Human Dignity*.

[295] Kenneth A. Manaster, "Law and the Dignity of Nature: Foundations of Environmental Law," *DePaul Law Review* 26 (1976): 743.

[296] Ibid., 744.

[297] Tănăsescu, *Environment, political representation*, 137-38.

[298] Naffine, "Who are law's persons?," 356.

property and not worthy of rights. When society and its values changed, rights were given to them in line with the idea that they are humans and possess dignity as much as any other individual. Women were only considered property. Their rights only existed through their father or husband. When society changed, rights were recognized for women independently of anyone else. In the past, rejecting personhood to a group was then linked to the demoralization of this group. It was about keeping them under control and fitting them into the appropriate boxes. This created a "hierarchy of law [that] has gone unchallenged."[299] Nature has similarly been put into a box saying 'to be used and exploited' rather than 'to be valued and protected.' Extending nature's worth to include the second meaning would need effort and changing perceptions. The case studies also show that it not only needs this narrative change and shift of perceptions but legal actions and mechanisms for implementation on the ground. EP "[on] its own […] can struggle to make an impact, you [rather] have to see it as part of any real fundamental change to institutions."[300] If not, it runs into a similar risk to human rights which are then considered grand gestures but often lack proper institutions and implementation mechanisms.[301] Equally important is to not equate the struggles of nature with certain disadvantaged human groups and to apply any concept of these groups to nature. However, one can draw parallels and insights from how the legal system has changed and adapted.[302] In legal terms, giving something or someone rights has a lot of power. It brings different elements with it, and for humans that often entailed inherent worth and dignity. "All of human history shows that the only way to truly protect human beings' fundamental interests is to recognize their rights."[303] It might not be different for nonhuman entities, because we should not treat RoN any different from other fundamental rights, while keeping in mind the caveat above that equal dignity does not mean equal treatment in all cases based on different characteristics of rightsholders.

This leads back to Stone's account stating that "each time there is a movement to confer rights onto some new 'entity,' the proposal is bound to sound odd or frightening or laughable[,] […]

[299] Arstein-Kerslake et al., "Relational personhood," 537.

[300] O'Donnell, *Interview*.

[301] Human Rights Expert, *Interview*; Burdon, *Interview*.

[302] Arstein-Kerslake et al., "Relational personhood."

[303] Nonhuman Rights Project. "Nonhuman Rights Project," 2022, accessed 06. April, 2022, https://www.nonhumanrights.org.

because until the rightless thing receives its rights, we cannot see it as anything but a thing for the use of 'us.'"[304]

Other arguments against RoN see that giving rights hides the more important aspect of relationality. Law and society should expand the realm of entities they have relationships with, "rather than zealously erecting rights as further barriers to relationality."[305] It is thereby recognized that rights are "morally persuasive and rhetorically powerful" while also being "a social construct."[306] However, EP and RoN do not aim at breaking down this relationality. As aforementioned, in both case studies, the interconnection between human beings and nature is highlighted in the conceptualization of the legal frameworks and the triangle.

This debate on giving nature legal rights and extending the realm of law to the environment also has a close link to the question if law influences society or if society influences law. RoN could be a powerful tool to regulate the relationship humans-nature, but there is also caution about its (limited) potential "to counter deeply vested […] interests."[307] Ecuador has proven to be a country where political and economic interests weigh stronger than RoN. It shows that transforming law to include RoN does not change the social value system. At the same time, NZ is an example of a country where social and Indigenous peoples' pressure has led to changes in politics and the inclusion of nature. What the ingredient to a successful societal change is extends beyond the scope of this paper, but RoN can be a powerful tool to change the relationship, regardless of if law comes before societal change or societal change before law. Thereby, "rights as limits to the legitimate power of governments have been important institutional means for articulating a society's core values and for holding governments accountable to those values."[308]

Coming back to the question of this chapter of how dignity ties into the two rights-systems and to what extent they can recognize dignity for nature, "[rights] are a powerful rhetorical tool in struggles for justice all around the world."[309] However, we do not only need rights-based

[304] Stone, "Should trees have standing?," 455.
[305] Lofts, "Analyzing rights discourses," 27; Highlighted by: Tănăsescu, *Interview*.
[306] Lofts, "Analyzing rights discourses," 26.
[307] Calzadilla and Kotzé, "Living in harmony," 423.
[308] Nedelsky, *Law's relations*, 231.
[309] Ibid.

arguments and legal change but social and cultural change.[310] Human dignity has been a tool for humans to fight for human rights, equality and justice and to have their inherent worth recognized. With a flexible and broad concept of dignity advocated for above, dignity could relate closer to how Indigenous peoples view nature and extend to include it. It would create an ecosystem thinking beneficial to both humans and the environment and assure that both are protected, and recognized as interconnected. Thus, both rights-systems recognize an own form of dignity for nature.

# 5 Conclusion

This paper started with a clear distinction between what humans and nature want and regarded them as separate entities within thought and law. It went on to discuss anthropocentrism and ecocentrism, analysing the ideas behind RoN and a HRtEnv. It further investigated how Indigenous cosmovisions have impacted the case studies of Ecuador and NZ. Finally, it looked at dignity and how its idea could achieve the recognition of nature's inherent worth but also interconnectedness and relationality between humans and nature. It became clear after considering all these concepts that humans and nature are inseparable from each other.

Referring to the research question, both rights-systems ask for a transformative change of law's understanding of nature and the place of humans, because of the destructive impacts of the Anthropocene. They ask for a change in the relationship between the two and a reconfiguration of our place on Mother Earth. They ask for a change in perceiving nature as property. They ask for the creation of one ecosystem. It would therefore be wrong to position RoN and the HRtEnv on opposite ends of a solution. While human rights can be regarded as anthropocentric and RoN as ecocentric, they both strive to enhance the protection of the environment and to recognize dignity. Interconnectedness, in that sense, means that humans let nature into their systems, including law. Hence, both rights-system aim at a reconfiguration of humans and nature in law and place importance on the triangle idea. The triangle would thereby fall apart without sufficient recognition of human rights, RoN, EP and Indigenous peoples' rights.

Whether humans can restore this interdependence remains to be seen, but a form of ecosystem dignity where humans, nature and other entities have inherent but also relational worth is necessary. RoN can thereby be seen as a basis for environmental dignity, but the practice behind

[310] Boyle and Anderson, *Human rights approaches*, 86f.

the law is what makes nature inherently worth without regard to an instrumental value to humans. In many instances, an Indigenous notion has been transformed and translated into the Western legal system. *Sumak Kawsay* became *Buen Vivir* and RoN in Ecuador, and *mana* and *mauri* became EP in NZ. One way to look at EP and RoN is as ways to better understand Indigenous peoples' laws and philosophies on how humans and nature co-exist and interact.[311] "And so again, the voices of local people become crucial in these conversations, because it really should be about the relationship between people [and nature] in place, [and] not so much about how you can weaponize nature to fight back."[312]

In conclusion, as pointed out by the interviewees, essential is the reconfiguration of humans' relationship to nature to increase an ecosystem thinking and to extend social and legal considerations to nature: "[To] consider a mountain as a living, majestic being is to already suggest a different relation to it. One does not feel like beheading an enthralling, mythical creature, in order to search its bowels for coal."[313]

[311] Arstein-Kerslake et al., "Relational personhood," 548.

[312] O'Donnell, *Interview*.

[313] Tănăsescu, *Environment, political representation*, 79.

# Table of Reference


Addis, Adeno. "Human Dignity in Comparative Constitutional Context: In Search of an Overlapping Consensus." *Journal of International and Comparative Law* 2, no. 1 (2015): 1–28.

Akhtar-Khavari, Afshin. "Restoration and Cooperation for Flourishing Socio-Ecological Landscapes." *Transnational Legal Theory* 11, no. 1-2 (2020): 62-74.

Anima Mundi Law Initiative. *Rights of Nature Case Study Turag River.* (2021). http://files.harmonywithnatureun.org/uploads/upload1130.pdf.

Arstein-Kerslake, Anna, Erin O'Donnell, Rosemary Kayess, and Joanne Watson. "Relational Personhood: A Conception of Legal Personhood with Insights from Disability Rights and Environmental Law." *Griffith Law Review* (2021): 1-26.

Asamblea Legislativa Plurinacional de Bolivia. *Ley Marco De La Madre Tierra Y Desarrollo Integral Para Vivir Bien.* (15. October, 2012). http://www.gacetaoficialdebolivia.gob.bo/edicions/view/431NEC.

Asamblea Nacional Ecuador. *Constitución De La Republica Del Ecuador 2008.* (Registro Oficial número uno: 20. October, 2008). https://educacion.gob.ec/wp-content/uploads/downloads/2012/08/Constitucion.pdf.

Asamblea Nacional Panamá. *Gaceta Oficial No.29484-A.* Gobierno Nacional (Panamá: 24. February, 2022).

Atapattu, Sumudu. "The Right to a Healthy Life or the Right to Die Polluted?: The Emergence of a Human Right to a Healthy Environment under International Law." *Tulane Environmental Law Journal* (2002): 65-126.

Atapattu, Sumudu, and Andrea Schapper. *Human Rights and the Environment: Key Issues.* Routledge, 2019.

Australian Earth Laws Alliance. "New Zealand – Legal Rights for Forests and Rivers." 2022, accessed 22. February, 2022, https://www.earthlaws.org.au/aelc/rights-of-nature/new-zealand/.

Bantekas, Ilias, and Lutz Oette. *International Human Rights Law and Practice.* 3rd ed.: Cambridge University Press, 2020.

BBC. "India's Ganges and Yamuna Rivers Are 'Not Living Entities'." (07. July, 2017). Accessed 26. March, 2022. https://www.bbc.com/news/world-asia-india-40537701.

Berry, Thomas. *The Great Work: Our Way into the Future.* New York: Harmony/Bell Tower, 1999.

Birrell, Kathleen, and Julia Dehm. "International Law and the Humanities in the Anthropocene." In *Routledge Handbook of International Law and the Humanities*, edited by Shane Chalmers and Sundhya Pahuja, 407-21: Routledge, 2021.

Borràs, Susana. "New Transitions from Human Rights to the Environment to the Rights of Nature." *Transnational Environmental Law* 5, no. 1 (2016): 113-43.

Boyd, David R. *The Rights of Nature: A Legal Revolution That Could Save the World.* Toronto: ECW Press, 2017.

Boyle, Alan E., and Michael R. Anderson. *Human Rights Approaches to Environmental Protection.* Oxford: Clarendon Press, 1996.

Burdon, Peter. "Ecological Law in the Anthropocene." *Transnational Legal Theory* 11, no. 1-2 (2020): 33-46.

———. "Interview on Ep,“ by author, over Zoom. 22. April, 2022.

———. "Wild Law: The Philosophy of Earth Jurisprudence." *Alternative Law Journal* 35, no. 2 (2010): 62-65.

Cadogan, Chris. "Cry Me a River: The Sociocultural Impacts of Environmental Personhood." (2019). Accessed 08. February, 2022. https://mjps.ssmu.ca/2019/06/03/environmental-personhood/.

Calderwood, Kathleen. "Why New Zealand Is Granting a River the Same Rights as a Citizen." (06. September, 2016). Accessed 31. March, 2022. https://www.abc.net.au/radionational/programs/sundayextra/new-zealand-granting-rivers-and-forests-same-rights-as-citizens/7816456.

Callicott, J. Baird. "Non-Anthropocentric Value Theory and Environmental Ethics." *American Philosophical Quarterly* 21, no. 4 (1984): 299-309.

Calzadilla, Paola Villavicencio, and Louis J. Kotzé. "Living in Harmony with Nature? A Critical Appraisal of the Rights of Mother Earth in Bolivia." *Transnational Environmental Law* 7, no. 3 (2018): 397-424.

Cano Pecharroman, Lidia. "Rights of Nature: Rivers That Can Stand in Court." *Resources* 7, no. 1 (2018): 13.

*Case of Kyrtatos V. Greece*, No. 41666/98 (European Court of Human Rights, 22. May, 2003)

*Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association V. Argentina*, (Inter-American Court of Human Rights, 06. February, 2020), https://www.corteidh.or.cr/docs/casos/articulos/seriec_400_ing.pdf.

Chadwick, Ruth F. *Encyclopedia of Applied Ethics: E-I.* Vol. 2, San Diego: Academic Press, 1998.

Chuji, Mónica, Grimaldo Rengifo, and Eduardo Gudynas. "Buen Vivir." In *Pluriverse: A Post-Development Dictionary*, edited by Ashish Kothari, Ariel Salleh, Arturo Escobar, Federico Demaria and Alberto Acosta, 111-14. New Delhi: Tulika Books and Authorsupfront, 2019.

Coates, Natalie. "The Recognition of Tikanga in the Common Law of New Zealand." *New Zealand Law Review* 2015, no. 1 (2015): 1-34.

Commission on Ecosystem Management. "Nature-Based Solutions." International Union for Conservation of Nature, 2022, accessed 08. April, 2022, https://www.iucn.org/commissions/commission-ecosystem-management/our-work/nature-based-solutions.

Coombe, Rosemary J., and David J. Jefferson. "Posthuman Rights Struggles and Environmentalisms from Below in the Political Ontologies of Ecuador and Colombia." *Journal of Human Rights and the Environment* 12, no. 2 (2021): 177-204.

Coster, Deena. "Settlement Talks over Taranaki Maunga Reach Final Stages." (17. June, 2020). Accessed 22. February, 2022. https://www.stuff.co.nz/taranaki-daily-news/news/121839622/settlement--talks-over-taranaki-maunga-reach-final-stages.

Cullinan, Cormac. *Wild Law: A Manifesto for Earth Justice.* 2nd ed. Vermont: Chelsea Green Publishing, 2011.

Daly, Erin. "The Ecuadorian Exemplar: The First Ever Vindications of Constitutional Rights of Nature." *Review of European Community and International Environmental Law* 21 (2012): 63.

De Jonge, Eccy. "An Alternative to Anthropocentrism: Deep Ecology and the Metaphysical Turn." In *Anthropocentrism. Humans, Animals, Environments*, edited by Rob Boddice, 307-20. Leiden: Brill, 2011.

Department of Conservation. *Te Urewera Act 2014.* (Parliamentary Counsel Office: 27. July, 2014). https://www.legislation.govt.nz/act/public/2014/0051/latest/DLM6183601.html.

Dewey, John. "The Historic Background of Corporate Legal Personality." *Yale Law Journal* 35 (1925): 655-73.

Donnelly, Bebhinn, and Patrick Bishop. "Natural Law and Ecocentrism." *Journal of Environmental Law* 19, no. 1 (2007): 89-101.

Donnelly, Jack. "The Relative Universality of Human Rights." *Human Rights Quarterly* 29 (2007): 281.

Doorn, Neelke. "Do Ecosystems Have Ethical Rights?". *Integrated environmental assessment and management* 13, no. 5 (2017): 952-53.

Dror, Yehezkel. "Values and the Law." *The Antioch Review* 17, no. 4 (1957): 440-54.

Earth Law Center. "Ecuador's Constitutional Court Enforces Constitutional Rights of Nature to Safeguard Los Cedros Protected Forest." (02. December, 2021). Accessed 15. March, 2022. https://www.earthlawcenter.org/elc-in-the-news/2021/12/ecuadors-constitutional-court-enforces-constitutional-rights-of-nature-to-safeguard-los-cedros-protected-forest.

Eckersley, Robyn. *Environmentalism and Political Theory: Toward an Ecocentric Approach*. Albany, USA: State University of New York Press, 1992.

*The Environment and Human Rights*, No. Advisory Opinion OC-23/17, requested by the Republic of Colombia (Inter-American Court of Human Rights, 15. November, 2017), https://www.corteidh.or.cr/docs/opiniones/seriea_23_ing.pdf.

GARN. "Garn." accessed 22. February, 2022, https://www.garn.org.

GARN Communications. "Ecuador's Constitutional Court Enforced Rights of Nature to Safeguard Los Cedros Protected Forest." (01. December, 2021). Accessed 15. March, 2022. https://www.garn.org/los-cedros-rights-of-nature/.

George, Kateb. *Human Dignity*. Cambridge, Massachusetts: Belknap Press of Havard University Press, 2011.

Gordon, Gwendolyn J. "Environmental Personhood." *Columbia Journal of Environmental Law* 43 (2018): 49.

Grear, Anna. "Deconstructing Anthropos: A Critical Legal Reflection on 'Anthropocentric'law and Anthropocene 'Humanity'." *Law and critique* 26, no. 3 (2015): 225-49.

———. "The Vulnerable Living Order: Human Rights and the Environment in a Critical and Philosophical Perspective." *Journal of Human Rights and the Environment* 2, no. 1 (2011): 23-44.

Grear, Anna, Emille Boulot, Iván Darío Vargas-Roncancio, and Joshua Sterlin. *Posthuman Legalities: New Materialism and Law Beyond the Human*. Edward Elgar, 2021.

Gudynas, Eduardo. "Buen Vivir: Today's Tomorrow." *development* 54, no. 4 (2011): 441-47.

Hajjar Leib, Linda. *Human Rights and the Environment: Philosophical, Theoretical and Legal Perspectives*. Edited by Panos Merkouris Malgosia Fitzmaurice, Phoebe Okowa. Vol. 3, Leiden: Koninklijke Brill NV, 2011.

Hayward, Tim. "The Case for a Human Right to an Adequate Environment." In *Constitutional Environmental Rights*. Oxford: Oxford University Press, 2004.

Human Rights Council. *The Human Right to a Clean, Healthy and Sustainable Environment.* Resolution A/HRC/48/L.23/Rev.1. UNGA (05. October, 2021). https://documents-dds-ny.un.org/doc/UNDOC/LTD/G21/270/15/PDF/G2127015.pdf?OpenElement.

Human Rights Expert. "Interview on Ron,“ by author, over Zoom. 05. April, 2022.

Intergovernmental Panel on Climate Change (IPCC). "Reports." 2022, accessed 08. March, 2022, https://www.ipcc.ch/reports/.

Kant, Immanuel. *Practical Philosophy.* The Cambridge Edition of the Works of Immanuel Kant. Edited by Mary J. Gregor. Cambridge University Press, 1996.

Khandelwal, Sanket. "Environmental Personhood: Recent Developments and the Road Ahead." (24. April, 2020). Accessed 15. February, 2022. https://www.jurist.org/commentary/2020/04/sanket-khandelwal-environment-person/.

Kidd, Michael. *Environmental Law.* Juta, 2011.

Kortenkamp, Katherine V., and Colleen F. Moore. "Ecocentrism and Anthropocentrism: Moral Reasoning About Ecological Commons Dilemmas." *Journal of Environmental Psychology* 21, no. 3 (2001): 261-72.

Kotzé, Louis J., and Paola Villavicencio Calzadilla. "Somewhere between Rhetoric and Reality: Environmental Constitutionalism and the Rights of Nature in Ecuador." *Transnational Environmental Law* 6, no. 3 (2017): 401-33.

Kurki, Visa A. J. "Who or What Can Be a Legal Person?". In *A Theory of Legal Personhood*, 127-52: Oxford University Press, 2019.

Leopold, Aldo. *A Sand County Almanac. 1949.* New York: Ballantine Books, 1970.

Lofts, Katherine. "Analyzing Rights Discourses in the International Climate Regime." In *Routledge Handbook of Human Rights and Climate Governance*, edited by Sébastien Duyck, Sébastien Jodoin and Alyssa Johl, 16-30: Routledge, 2018.

Macpherson, Elizabeth. "The (Human) Rights of Nature: A Comparative Study of Emerging Legal Rights for Rivers and Lakes in the United States of America and Mexico." *Duke Environmental Law & Policy Forum* 31 (2021): 327-77.

———. "Interview on Ep, Nz,“ by author, over Zoom. 13. April, 2022.

Manaster, Kenneth A. "Law and the Dignity of Nature: Foundations of Environmental Law." *DePaul Law Review* 26 (1976): 743.

McCloskey, H. J. *Ecological Ethics and Politics.* Philosophy and Society. Totowa, N.J: Rowman and Littlefield, 1983.

McCrudden, Christopher. "Human Dignity and Judicial Interpretation of Human Rights." *The European Journal of International Law* 19, no. 4 (2008): 655-724.

McInerney-Lankford, Siobhán. "Legal Methodologies and Human Rights Research: Challenges and Opportunities." In *Research Methods in Human Rights: A Handbook*: Edward Elgar Publishing, 2017.

Ministry of Justice of NZ. *Ruruku Whakatupua - Te Mana O Te Iwi O Whanganui.* (05. August, 2014). https://www.govt.nz/assets/Documents/OTS/Whanganui-Iwi/Whanganui-River-Deed-of-Settlement-Ruruku-Whakatupua-Te-Mana-o-Te-Iwi-o-Whanganui-5-Aug-2014.pdf.

———. *TūTohu Whakatupua.* (30. August, 2012). https://www.ngatangatatiaki.co.nz/assets/Uploads/Important-Documents/WhanganuiRiverAgreement.pdf.

Morton, Timothy. *The Ecological Thought.* Harvard University Press, 2010.

Næss, Arne. *Ecology, Community and Lifestyle: Outline of an Ecosophy.* Cambridge University Press, 1990.

Naffine, Ngaire. *Law's Meaning of Life: Philosophy, Religion, Darwin and the Legal Person.* Oxford and Portland, Oregon: Hart Publishing, 2009.

———. "Legal Personality and the Natural World: On the Persistence of the Human Measure of Value." *Journal of Human Rights and the Environment* 3 (2012): 68-83.

———. "Who Are Law's Persons? From Cheshire Cats to Responsible Subjects." *The Modern Law Review* 66, no. 3 (2003): 346-67.

Nash, Roderick Frazier. *The Rights of Nature: A History of Environmental Ethics.* University of Wisconsin Press, 1989.

Natarajan, Usha, and Julia Dehm. "Where Is the Environment? Locating Nature in International Law." (30. August, 2019). https://twailr.com/where-is-the-environment-locating-nature-in-international-law/.

National Assembly Ecuador. *Constitution of 2008 of the Republic of Ecuador.* (Official Register: 20. October, 2008). https://pdba.georgetown.edu/Constitutions/Ecuador/english08.html.

National Environmental Management Authority. *The National Environment Act.* The Uganda Gazette No.10, Volume CXII. (07. March, 2019). https://nema.go.ug/sites/all/themes/nema/docs/National%20Environment%20Act,%20No.%205%20of%202019.pdf.

Nedelsky, Jennifer. *Law's Relations: A Relational Theory of Self, Autonomy, and Law.* New York: Oxford University Press, 2012.

Nonhuman Rights Project. "Nonhuman Rights Project." 2022, accessed 06. April, 2022, https://www.nonhumanrights.org.

O'Donnell, Erin. "Interview on Ep, Oceania,“ by author, over Zoom. 04. April, 2022.

———. "Rivers as Living Beings: Rights in Law, but No Rights to Water?". *Griffith Law Review* 29, no. 4 (2020): 643-68.

O'Donnell, Erin, Anne Poelina, Alessandro Pelizzon, and Cristy Clark. "Stop Burying the Lede: The Essential Role of Indigenous Law(S) in Creating Rights of Nature." *Transnational Environmental Law* 9, no. 3 (2020): 403-27.

O'Donnell, Erin, and Julia Talbot-Jones. "Creating Legal Rights for Rivers: Lessons from Australia, New Zealand, and India." *Ecology and Society* 23, no. 1 (2018).

O'Neill, Onora. "Environmental Values, Anthropocentrism and Speciesism." *Environmental values* 6, no. 2 (1997): 127-42.

Organisation of African Unity. *African (Banjul) Charter on Human and Peoples' Rights.* OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982). (27. June, 1981). https://www.achpr.org/legalinstruments/detail?id=49.

Organization of American States. *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador").* A-52, OAS, TREATY SERIES, NO.69. (El Salvador: 17. November, 1988). https://www.oas.org/juridico/english/treaties/a-52.html.

Oxford University Press. "Nature." The Oxford Dictionary of Phrase and Fable, 2006, accessed 01. February, 2022, https://www.oxfordreference.com/view/10.1093/acref/9780198609810.001.0001/acref-9780198609810-e-4825?rskey=C1WeL0&result=4816.

Pain, Nicola, and Rachel Pepper. "Can Personhood Protect the Environment? Affording Legal Rights to Nature." *Fordham International Law Journal* 45, no. 2 (2021): 315.

Parliament of NZ. *Te Awa Tupua (Whanganui River Claims Settlement) Bill.* (05. August, 2014).

Prieto Figelist, Constanza. "Interview on Ron, Latin-America,“ by author, over Zoom. 05. April, 2022.

Probyn-Rapsey, Fiona. "Anthropocentrism." *Critical Terms for Animal Studies* (2018): 47-63.

Purdy, Jedediah. "Our Place in the World: A New Relationship for Environmental Ethics and Law." *Duke Law Journal* (2013): 857-932.

Raymer, Elizabeth. "Quebec's Magpie River Is Granted Personhood." (09. March, 2021). Accessed 15. February, 2022. https://www.canadianlawyermag.com/practice-areas/esg/quebecs-magpie-river-is-granted-personhood/353752.

*Revisión De Sentencia De Acción De Protección Bosque Protector Los Cedros*, No. Caso 1149-19-JP/21 (Corte Constitucional del Ecuador, 10. November, 2022), http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcnBldGE6J3RyYW1pdGUnLCB1dWlkOic2MmE3MmIxNy1hMzE4LTQyZmMtYjJkOS1mYzYzNWE5ZTAwNGYucGRmJ30=.

*Richard Frederick Wheeler Y Eleanor Geer Huddle C/ Gobierno Provincial De Loja*, No. Juicio 11121-2011-0010 (Provincial Justice Court of Loja, 30. March, 2011), https://www.elaw.org/content/juicio%2011121-2011-0010.

Rockström, Johan, Will Steffen, Kevin Noone, Åsa Persson, F Stuart Chapin III, Eric Lambin, Timothy M. Lenton, *et al.* "Planetary Boundaries: Exploring the Safe Operating Space for Humanity." *Ecology and Society* 14, no. 2 (2009).

Ruddiman, William F. "The Anthropocene." *Annual Review of Earth and Planetary Sciences* 41 (2013): 45-68.

Russell, Ruby. "Rights of Nature: Can Indigenous Traditions Shape Environmental Law?". (02. February, 2020). Accessed 31. March, 2022. https://www.dw.com/en/environment-nature-rights-indigenous-activism-legal-personhood/a-52186866.

Santuber, Joaquin, and Lina Krawietz. "La Sociomaterialidad De La Justicia: Una Ontología Relacional Para El Diseño Legal." *Revista Chilena de Diseño: creación y pensamiento* 6, no. 11 (2021): 1-19.

Sax, Joseph L. *Defending the Environment. A Strategy for Citizen Action.* New York: Alfred A. Knopf, Inc., 1971.

Scharffs, Brett G., and Ewelina U. Ochab. *Dignity and International Human Rights Law.* Routledge, 2021.

Schmidt, Stephen. "Colombian High Court Grants Personhood to Amazon Rainforest in Case against Country's Government." (06. May, 2018). Accessed 15. February, 2022. https://theworld.org/stories/2018-05-06/colombian-high-court-grants-personhood-amazon-rainforest-case-against-country-s.

Schönfeld, Martin. "Who or What Has Moral Standing?". *American Philosophical Quarterly* 29, no. 4 (1992): 353-62.

Siddique, Haroon. "Ecuador Referendum Endorses New Socialist Constitution." (29. September, 2008). Accessed 17. February, 2022. https://www.theguardian.com/global/2008/sep/29/ecuador.

Singer, Peter. *Animal Liberation.* 2nd ed. London: Thorsons, an imprint of HarperCollins, 1991.

———. *Practical Ethics.* 3rd ed.: Cambridge University Press, 2011.

Solón, Pablo. "Chile Approves the Rights of Nature." (17. March, 2022). Accessed 29. March, 2022. https://systemicalternatives.org/2022/03/17/%EF%BF%BCchile-approves-the-rights-of-nature/.

Stone, Christopher D. "Should Trees Have Standing? Toward Legal Rights for Natural Objects." *Southern California Law Review* 45 (1972): 450-501.

Suárez, Sofía. *Defending Nature: Challenges and Obstacles in Defending the Rights of Nature; Case Study of the Vilcabamba River.* No. 9978941401. Friedrich-Ebert-Stiftung (August 2013).

Tănăsescu, Mihnea. *Environment, Political Representation and the Challenge of Rights: Speaking for Nature.* Palgrave Macmillan, 2016.

———. "Interview on Ep, Philosophy,“ by author, over Zoom. 04. April, 2022.

———. "Rights of Nature, Legal Personality, and Indigenous Philosophies." *Transnational Environmental Law* 9, no. 3 (2020): 429-53.

———. *Understanding the Rights of Nature, a Critical Introduction.* Bielefeld: transcript Verlag, 2022.

Taylor, Paul W. *Respect for Nature: A Theory of Environmental Ethics.* Princeton, NJ: Princeton University, 1986.

Te Aho, Linda. "Indigenous Challenges to Enhance Freshwater Governance and Management in Aotearoa New Zealand-the Waikato River Settlement." *Journal of Water Law* 20 (2010).

Te Kawanatanga o Aotearoa - New Zealand Government. "The Treaty of Waitangi." accessed 22. February, 2022, https://www.archives.govt.nz/discover-our-stories/the-treaty-of-waitangi.

Thompson, Suzanne C. Gagnon, and Michelle A. Barton. "Ecocentric and Anthropocentric Attitudes toward the Environment." *Journal of Environmental Psychology* 14, no. 2 (1994): 149-57.

Tobar ZVS. *Ecuador Mining Act.* (Quito). https://www.tzvs.ec/wp-content/uploads/2016/11/LeyMineria-Eng-102016.pdf.

Townsend, Dina L. "A History of Dignity." In *Human Dignity and the Adjudication of Environmental Rights*, 39-67: Edward Elgar Publishing, 2020.

———. *Human Dignity and the Adjudication of Environmental Rights.* Edward Elgar Publishing, 2020.

Tur, Richard. "The "Person" in Law." In *Persons and Personality: A Contemporary Inquiry*, edited by Arthur Peacocke and Grant Gillett, 116-29. Oxford: Basil Blackwell, 1987.

UN Conference on Environment and Development. *Rio Declaration on Environment and Development.* A/CONF.151/26 (Vol. I). (Rio de Janeiro: 12. August, 1992).

UNGA. *Convention on the Law of the Sea.* (10. December, 1982).

———. *In Larger Freedom: Towards Development, Security and Human Rights for All: Report of the Secretary-General.* A/59/2005. (21. March, 2005).

———. *Report of the United Nations Conference on the Human Environment (Stockholm Declaration).* A/RES/2994. (15. December, 1972).

———. *Universal Declaration of Human Rights.* 217 A (III). (10. December, 1948).

Warnock, Mary. "Should Trees Have Standing?". *Journal of Human Rights and the Environment* 3 (2012): 56-67.

Watts, Vanessa. "Indigenous Place-Thought and Agency Amongst Humans and Non Humans (First Woman and Sky Woman Go on a European World Tour!)." *Decolonization: Indigeneity, Education & Society* 2, no. 1 (2013): 20-34.

Westerman, Ashley. "Should Rivers Have Same Legal Rights as Humans? A Growing Number of Voices Say Yes." (03. August, 2019). Accessed 15. February, 2022. https://www.npr.org/2019/08/03/740604142/should-rivers-have-same-legal-rights-as-humans-a-growing-number-of-voices-say-ye.

Whanganui District Council. "Te Awa Tupua - Whanganui River Settlement." accessed 22. February, 2022, https://www.whanganui.govt.nz/About-Whanganui/Our-District/Te-Awa-Tupua-Whanganui-River-Settlement.

Whittemore, Mary Elizabeth. "The Problem of Enforcing Nature's Rights under Ecuador's Constitution: Why the 2008 Environmental Amendments Have No Bite." *Pacific Rim Law and Policy Journal* 20 (2011): 659-391.

Wise, Steven M. *Drawing the Line: Science and the Case for Animal Rights.* Cambridge, Massachusetts: Perseus Books, 2002.

World Commission on Environment and Development. *Report of the World Commission on Environment and Development: Our Common Future (Brundtland Report).* A/42/427. (New York: 04. August, 1987).

World People's Conference on Climate Change. *Universal Declaration of Rights of Mother Earth.* (Cochabamba, Bolivia: 22. April, 2010).