A Tale of Two (and More) Models of Rights of Nature

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In our contemporary world, the rights of nature have become an important legal device for environmental protection. Some of the most influential rights of nature frameworks can be found in non-Western contexts and have been strongly influenced by ecocentric accounts of nature. This article addresses the question of whether rights of nature can be implemented in Western contexts as well, focusing in particular on Europe. It first examines ecocentric justifications of the rights of nature and discusses two possible non-ecocentric alternatives. Second, two models for implementing rights of nature—the nature's rights model and the legal personhood model—are compared to demonstrate how different combinations of elements from both models can fit different socio-cultural contexts, including Western ones.

1) Introduction

In recent decades, the rights of Nature have become an important legal device for protecting vulnerable ecosystems (Stone 1972, Youatt 2017, Kauffman and Martin 2021).[1] Following regional initiatives in the United States, a new constitution in Ecuador granted rights to Nature in 2008. Subsequently, rights of Nature have been incorporated in the legal frameworks of further countries, such as Aotearoa New Zealand, Bangladesh, Bolivia, Canada, Colombia, Mexico, Panama, Spain, Uganda, and the United States at local, regional, and national levels.

Although these legal frameworks differ in many regards, the common denominator is Nature or specific ecosystems are empowered in legal terms. For court procedures, it is no longer necessary for claimants to prove a business proposal or development project could harm their own interests. It is sufficient if there is a risk that Nature or specific ecosystems could be affected negatively.[2] In that

[1] In the remainder of this article, Nature is capitalized to include different conceptualizations from both ecocentric and non-ecocentric perspectives. The capitalization, however, should not be misunderstood as a deification of Nature, an endorsement of the view that there is only one concept of Nature, or as a dogmatic homogenization or essentialization of what constitutes Nature.

[2] Another instrument that enables access to justice is the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters, which was adopted in Aarhus on 25 June 1998. This convention provides to members

case, Nature would have direct access to courts and could defend itself via human representatives. Moreover, eventual relief would go directly to Nature. After a period of primarily negative experiences with rights of Nature jurisprudence in Latin America due to competition with national projects of resource extractivism, in various cases, Nature has successfully defended itself via legal representatives against potentially harmful economic interests (Kauffman and Martin 2017: 134).

To date, some of the most influential rights of Nature frameworks can be found in non-Western contexts and are associated with ecocentric accounts of Nature.[3] In this paper, I explore whether rights of Nature also can be applied in Western contexts. Cases such as the Spanish Mar Menor and various regional initiatives in the United States demonstrate rights of Nature and Western contexts are *de facto* not mutually exclusive. From a philosophical perspective, however, two questions must be addressed: one concerns the justification of rights of Nature frameworks and another concerns the rights of Nature model that is selected. First, can rights of Nature be justified by ecocentric arguments, and are non-ecocentric arguments also possible? Second, what models of rights of Nature exist, and which model would fit best in a Western context?[4]

In this article, I argue not only can rights of Nature be implemented *de facto* in Western contexts, but non-ecocentric arguments can partially justify their implementation, and there are rights of Nature

of the public (individuals and associations that represent them) the right to access environmental information and to participate in decisions made about environmental matters, as well as to seek redress if these rights are not respected. Access to the courts is therefore also possible for environmental organizations under the Aarhus Convention, even if their rights are not directly affected.

[3] While the distinction between non-Western and Western contexts has proven useful for the argumentation of this article, it has its limitations as it downplays the internal diversity within these contexts and functions as a residual category. I will therefore only use this distinction when necessary and refer to more specific contexts whenever possible.

[4] This paper's research question is partly motivated by the recent rejection of a rights of Nature framework for the Dutch Wadden Sea by the then Dutch Minister of Nature and Nitrogen, Christianne van der Wal-Zeggelink. In her rejection, Van der Wal-Zeggelink states rights of Nature would not work in the Dutch context because, among other reasons, there are no Indigenous peoples whose relationship to their territory would justify establishing such rights (Van der Wal-Zeggelink 2022: 4–5). This argument is empirically incorrect, as the Mar Menor case in Spain has demonstrated rights of Nature need not be based on Indigenous philosophies. However, it reflects widely held perceptions of rights of Nature frameworks that consider them to be primarily connected to Indigenous philosophies, Indigenous rights, and territory-related, ecocentric justifications.

models that fit Western contexts. First, I examine both ecocentric and non-ecocentric arguments as attempts to justify rights of Nature. Second, I analyze two models of rights of Nature and show how different combinations of elements from these models fit different socio-cultural contexts.

From a philosophical perspective, ecocentric arguments can be divided into three types of arguments based on metaphysical, relational, and metaethical accounts of Nature. These three types of arguments are introduced in the first section of the article. Subsequently, I discuss two further arguments as candidates for non-ecocentric arguments: Andrew I. Cohen's contractarian account (Cohen 2007) and Visa A. J. Kurki's account of passive legal personhood (Kurki 2019). In the second section, I analyze and compare the two main models in which rights of Nature have been implemented, the Nature's rights model and the legal personhood model, and argue different combinations of elements of both fit different socio-cultural contexts, including Western contexts.

2) Justifying rights of Nature: ecocentric and non-ecocentric arguments

2.1) Ecocentric arguments

In this section, I introduce ecocentric arguments based on three accounts of Nature: metaphysical, relational, and metaethical accounts.[5] The first and the third account draw on certain insights of Western philosophies, whereas the second account attempts to combine Indigenous relational ontologies with a Western notion of legal personhood.

The first account is a metaphysical one: Nature is a living being and therefore should be assigned rights. This claim can be based on the will theory of rights or the interest theory of rights. According to the former, Nature or a specific ecosystem must be capable of determining their own rights and, therefore, of exercising sovereignty. It is therefore more demanding than the interest theory of rights,

[5] I adopt a broad understanding of the category of ecocentric arguments that encompasses all arguments that derive moral or legal claims from a descriptive-cum-normative conceptualization of Nature or individual ecosystems (including or not including humans).

according to which they merely need to be capable of having interests (Wenar 2020).[6] However, applying the concepts of will or interest to Nature or an ecosystem runs the risk of resulting in arbitrariness regarding how Nature or ecosystems are delimited (Cripps 2010: 13),[7] why these interconnected and dynamic systems are treated as one entity (Regan 1992: 171), and how their will or interest is defined and determined (Baard 2021: 160–161). For this argument to work, one would need a metaphysical conceptualization of Nature that includes a clearly defined notion of will or interest.

A second account of Nature is based on Indigenous relational ontologies, according to which the relationships between entities are ontologically more fundamental than the entities themselves. As a consequence, the Western distinction between nature and culture is replaced by understanding Nature as Mother Cosmos, as in Amazonian-Andean ontology (Storini and Quizhpe 2019), or as an ever-emerging network of relationships with ancestors, as in Māori ontology (Ruru 2018).[8] Here, legal personhood could be assigned to Nature or specific ecosystems based on their status as a parent or ancestor. A corresponding legal tradition that assigns legal personhood based on status is the tradition of Roman law, which judges have recently applied to court cases in which non-human animals were involved (Montes Franceschini 2022: 3–4). Although applying this legal tradition to Nature or ecosystems would still require overcoming certain challenges, such as reconceptualizing human-nature relationships in terms of parental or family status, it is in principle conceivable. However, in

[6] An additional strategy would be to refer to the well-being of ecosystems and assign them the interest of maintaining a minimum level of well-being (Schlosberg 2007, Kramm 2020). Moreover, Paul Taylor (2011) has referred to organisms as "teleological centers of life." Teleology implies goal-orientedness and in principle could be related to the interest theory of rights, but it remains questionable whether it can be associated with ecosystems.

[7] However, we do not always need precise definitions with clear boundaries for courts to arrive at legal decisions; most litigation can tolerate some degree of fuzziness and vagueness.

[8] Referring to Amazonian-Andean ontology or Māori ontology always should be accompanied by the caveat that such concepts oversimplify the diversity of ontologies within Andean and Amazonian peoples or Māori iwi. The idea of Pachamama (Mother Cosmos), for example, is an abstraction from the diversity of ways in which Indigenous peoples in Ecuador and Bolivia relate to Nature (Apaza Huanca 2019). For a critique of framing Pachamama as a gendered subject of rights, see Miriam Tola (2018). Furthermore, ecocentric arguments based on Indigenous relational ontologies often struggle to incorporate place-based relationality of one specific community to one specific landscape, since the notion of legal personhood can apply to an entity independently of its place.

many existing legal arrangements—e.g., in the cases of Ecuador and Aotearoa New Zealand—Indigenous ontologies were not considered to justify a rights-based or legal personhood framework. Rather, the legal framework was considered an imperfect approximation that could capture some insights of Indigenous relational ontologies.

The third account of Nature is a metaethical one: Nature has intrinsic value and therefore should be assigned rights. Although this account is metaethical, philosophers who concede will and sovereignty to Nature also can support it, as doing so might lead them to regard Nature as intrinsically valuable insofar as they regard sovereignty as valuable in itself. In contrast, critics argue assigning rights based on intrinsic value is overly permissive because, in this case, rights also could be assigned to beauty, knowledge, and artworks due to their intrinsic value (Baard 2021: 168). However, this objection can be addressed by distinguishing between different conceptions of intrinsic value. Ben Bradley (2006), for example, distinguishes between a "Kantian" and a "Moorean" conception of intrinsic value. Whereas "Mooreans" assign intrinsic value to states of affairs, propositions, and facts, "Kantians" restrict their conception of intrinsic value to a property of beings that demands we treat them as ends in themselves, respect them, and have duties towards them. By defining intrinsic value in a "Kantian" way, an infinite chain of right-holders can be avoided. However, by resorting to a "Kantian" normative framework, another problem emerges, which is Kant's emphasis on reason as a requirement for intrinsic value. Hence, only human beings and "minimally rational animals" would fall under this category (Rocha 2015). A further challenge of the metaethical account is justifying the transition from intrinsic value to moral rights to legal rights.[9] A final problem is this approach requires a form of value realism, although not necessarily the view that values are metaphysical entities.[10]

[9] Though the step from the intrinsic value of ecosystems to moral rights might be relatively uncontroversial, several considerations would have to be discussed before legal rights also can support moral rights. First, should governments enforce rights of Nature and sanction violations against them? Second, can the state promote rights of Nature without imposing a specific conception of the good on its citizens?

[10] For example, John Mackie's critique of values as queer metaphysical entities (1990) does not apply to proponents of value realism, such as John McDowell (1985).

2.2) Non-ecocentric arguments

Following this brief overview of ecocentric arguments, the question arises as to whether rights of Nature also could be justified in contexts in which a non-ecocentric or anthropocentric outlook prevails. Many Western environmental philosophers still shy away from adopting an ecocentric view of Nature because of the conceptual challenges mentioned above and because of the question of how an ecocentric perspective could address cases in which human rights conflict with those of Nature (Guim and Livermore 2021). In this section, I propose two arguments I consider candidates for a non-ecocentric justification of rights of Nature based on legal personhood.

Some scholars have claimed legal personhood can be assigned to any entity, as it is merely a legal fiction and construction. According to Hans Kelsen, the concept of legal personhood is primarily "a heuristic concept created by legal cognition—under the pressure of a personifying, anthropomorphic legal language—in order to illustrate the data to be dealt with" (Kelsen 1992: 46–47). Bart Jansen has recently defended this view of legal personhood as fiction with regard to rights of Nature (Jansen 2024, see also Knauß 2018). However, I argue it should be rejected because of the risk that it will collapse into an "anything-goes" approach. This view might lead to an undesirable dualism between moral rights and legal rights and between moral intuitions and the application of law (Gilbert et al. 2023: 369).[11] Certain objects, such as microorganisms that reside within human bodies, should be excluded from the category of entities that can be assigned legal personhood, as that legal framework would lead us to constantly violate our duties towards these entities (e.g., the duty not to cause harm) and thus undermine the plausibility of the rights of Nature.

[11] My argument against a dualism between moral and legal rights should in no way be misunderstood as an argument in favor of the doctrine of natural law. The doctrine of natural law would require legal rights to be entirely based on moral rights, which in turn would be justified by appealing to an underlying universal (human) nature. However, my concern is primarily that a dualism between moral and legal rights could lead to a situation in which legal rights are no longer morally comprehensible to citizens and are therefore justified solely by the authority to pass legislation.

In this article, I present two non-ecocentric arguments that avoid the fallacies of legal fictionalism by prescribing a minimum set of criteria that an entity must meet to become a legal person. The first argument is based on Andrew I. Cohen's contractarian account of environmental ethics (Cohen 2007) and is partly consequentialist and partly contractarian: Nature can best be defended if it has the same legal powers as other legal persons and should therefore be endowed with rights through a contract between humans. This argument for assigning rights to Nature is based on the consequences of such a legal reform. It would empower Nature to have legal access to courts in the same way as other legal persons, such as corporations or nation-states. Only in this way would Nature attain the legal power that is necessary to defend itself effectively via representatives against economic and socio-political interests.

However, mere consequentialism is insufficient because assigning rights to Nature is not solely an individual act; it requires a recognition of these rights within a community. It therefore requires a contract between various parties who agree to assign rights to an entity based on self-interest (Cohen 2007). According to this line of reasoning, some humans would recognize it is in their self-interest to protect Nature and assigning rights to it is the best way of doing so. Within a contractarian framework, they would then demand others assign moral standing and legal personhood to Nature as a condition of their continued cooperation.[12] This argument is anthropogenic and non-ecocentric because rights are not assigned to Nature because of a specific characteristic it has but rather because of a contract among human beings.[13]

[12] Critics of the consequentialist-contractarian argument could argue such moral standing for Nature is a second-class status, as it depends on a contract among humans that could be rescinded at any time by one of the contracting parties (Cohen 2007: 196–198). However, there are two reasons to assign moral standing and legal personhood to Nature, thereby enabling it to defend itself, that would remain and could become the motivation for a follow-up contract (Tanner 2013: 151–152). First, the dependence of all human beings on Nature for their survival is a strong reason for them to take an interest in it. Second, this strong reason is plausible for all contracting parties, not only to the party that has made it a condition of the contract.

[13] Note this type of argument neither requires that corporate personhood means "anything goes" with regard to legal personhood nor that Nature shares certain features with corporations such that it also should be assigned legal personhood. It merely refers to the legal powers of corporations and the need to empower Nature to become able to defend itself against the economic interests of these corporations.

Contractarianism interprets contracts primarily as something that the contracting parties agree to out of self-interest. Person A can therefore require Person B to grant moral standing and legal personhood to Nature, and Person B would agree to this part of the contract out of self-interest because the contract as a whole would benefit them. Accordingly, it would not be necessary to convince Person B with further reasons (e.g., Nature's intrinsic value) that Nature should be accorded moral standing and legal personhood or that Nature's moral standing and legal personhood should be recognized. According to the consequentialist-contractarian argument, it becomes conceivable to assign claim-rights to Nature as part of a contract.

As human beings depend on Nature for their survival, they have a self-interest in protecting it and can, on this basis, commit to certain duties towards ecosystems or Nature in general.[14] These duties go beyond mere duties *regarding* ecosystems or Nature in general; they are duties *towards* ecosystems or Nature in general, as they are duties that are not only owed to non-human Nature but to a Nature that includes human beings who depend on it for their survival (Pepper 2018).

However, based on Visa Kurki's account of legal personhood (2019), two objections can be raised against this argument. First, even if human beings agree on a contract according to which Nature has legal standing and can become a legal person, this does not automatically imply the concept of legal personhood is applicable to Nature (Kurki 2022: 541). For example, if human beings agree on a contract according to which unicorns become legal persons, this contract would not be valid because it rests on a category mistake. A second, related objection would be, as Nature cannot be wronged, it cannot become the subject of claim-rights (Kurki 2022: 547–551). However, the consequentialist-contractarian argument would no longer require Nature can be wronged, but rather Nature, including human beings who depend on it, can be wronged.

[14] A problem with this argument based on dependence is it could still allow for the exploitation of Nature to the extent that is necessary for human survival (Cohen 2008: 8). It therefore might be advisable to add further arguments that limit such exploitation, such as the metaphysical claim that we are part of Nature and we should treat Nature within us and outside us with respect and thus keep our exploitation to an absolute minimum.

In contrast to a contractarian account, Kurki suggests an alternative non-ecocentric, sentientist argument according to which the collectivity of all sentient beings that depend on an ecosystem in some way could be regarded as a passive legal person (Kurki 2019: 173). According to Kurki, only entities that are 1) ultimately valuable, 2) can hold claim-rights, and 3) can perform acts are candidates for legal personhood (Kurki 2019: 64, 138).

Regarding the first criterion, Kurki adopts the notion of ultimate value from Joseph Raz (1984: 205–206). Raz argues a companion dog derives its value from its relationship with human being X. The companion dog's value is therefore intrinsic but not ultimate; only the wellbeing of human being X has ultimate value. Hence, the intrinsic value of the dog is comparable to the intrinsic value of an artwork, which also derives its value from a specific relationship with human beings (Raz 1984: 206).

Kurki's second criterion, that only entities that can hold claim-rights can be legal persons, requires that others have duties towards them. This criterion is applicable to a collectivity of sentient beings, as they can be wronged. Kurki's third criterion for legal persons is that they can perform acts. However, according to Kurki, Nature is neither an agent, nor can Nature perform acts. Here, Kurki provides a helpful distinction between active and passive legal personhood. Regarding corporate personhood, Kurki argues collective beneficiaries who do "not actually partake in the formation of the collective attitudes of the group" (Kurki 2019: 170) still can be passive legal persons.

To some extent, the collectivity of all sentient beings that depend on an ecosystem fulfils Kurki's first criterion, as some of these sentient beings are human persons of ultimate value. In addition, this collectivity meets Kurki's second criterion and a modified form of his third. Sentient beings who belong to this collectivity can be wronged and therefore hold claim-rights and are—as collective beneficiaries—candidates for passive legal personhood (Kurki 2019: 64, 138). Kurki's argument is

sentientist and non-ecocentric because rights are not assigned to an ecosystem itself but to a collectivity of beings that depends on it.

2.3) Challenges of non-ecocentric arguments

Unfortunately, both non-ecocentric arguments for assigning rights to Nature that I presented above nonetheless struggle to do justice to existing rights of Nature frameworks or to overcome certain objections. For example, the *Te Awa Tupua Act* of Aotearoa New Zealand acknowledges the Whanganui River as an indivisible and living whole with intrinsic value (New Zealand Ministry of Justice 2017: 12–15).[15] Although one should add the caveat that the wording of the legal document is the result of legal negotiations, one could interpret it as employing an ecocentric approach that combines elements of non-Western philosophy with the Western notion of legal personhood.[16] This ecocentric approach would be based on the relational ontology of Māori philosophy (Kramm 2020). According to this justification, the Whanganui River is a living being and an ancestor of Māori iwi, and we should therefore recognize its legal personhood.

In contrast, Kurki rejects the claim that ecosystems can have ultimate value and argues, consequently, they cannot be legal persons. His argument suggests the collectivity of all sentient beings that depends on an ecosystem in some way could be regarded as a passive legal person (Kurki 2019: 173). Accordingly, the representative institution of *Te Pou Tupua* (i.e., "the human face of the river"), which consists of one representative from the government and one from the iwi, would administer a legal platform for the benefit of a passive legal person consisting of a group of sentient individuals and

[15] The *Te Awa Tupua Act* does not distinguish between intrinsic value and ultimate value in the way Raz or Kurki do.

[16] I distinguish here between the process that led to a rights of Nature framework and the resulting legal document itself. I agree with Miriama Cribb et al. (2024) that a complete analysis of the *Te Awa Tupua Act*, encompassing the preceding political process, the resulting document, and its subsequent implementation, demonstrates that it is in many ways related to rights of Nature but should primarily be understood as an Indigenous law model. I was a bit surprised that Cribb et al. considered my intervention in Kramm (2020) as highly critical of the *Te Awa Tupua Act*. My intention was not to criticize the *Act* as such but merely to point out that some notions in the legal document remain normatively underdetermined so that it could become difficult to hold the government accountable.

creatures.[17] However, a difference remains. Kurki's non-ecocentric, sentientist approach allows for a collectivity of sentient beings to be regarded as a legal person but excludes the river from passive legal personhood.

The consequentialist-contractarian argument, on the other hand, provides a non-ecocentric justification for considering the river itself a legal person. Here, the legal discussion is preceded by a moral discussion. Human beings agree on a moral contract and accept certain duties towards the river. External reasons—e.g., the river should be empowered to defend itself against the economic interests of corporate legal persons—can motivate this contract. The contract facilitates treating the river *as if* it had intrinsic or ultimate value and includes a commitment to certain duties towards it. Based on these duties, the river could be seen as holding claim-rights and being a legal person. The consequentialist-contractarian argument therefore seems to be closer to the *Te Awa Tupua Act* than Kurki's proposal.[18] However, it still lacks additional arguments that the concept of legal personhood is applicable to Nature—understood as including human beings who depend on it—and that Nature can be wronged. To counter these objections, it would be necessary to examine whether a conception of Nature could be constructed that includes human beings and unilateral dependence and that could become a legal person and the subject of wronging.

2.4) Justifying rights of Nature from ecocentric and non-ecocentric perspectives

Whereas the first three arguments (metaphysical, relational, metaethical) take an ecocentric stance, the last two arguments (consequentialist-contractarian, passive legal personhood) remain non-ecocentric and consider law a tool that human beings use to balance the legal claims between human,

[17] I follow Mihnea Tănăsescu's distinction between the Western notion of guardianship, which includes a certain degree of paternalism, and the Māori notion of *kaitiakitanga*, which is based on a relational ontology and can be best interpreted as a co-construction of political representation among human and non-human beings (Tănăsescu 2022: 90). I therefore avoid the term "guardianship" in this paper, unless it is a direct translation of the Spanish word "guardián."

[18] A further disadvantage of Kurki's proposal is it does not allow the river to own itself. However, this particular legal arrangement was crucial for the *Te Awa Tupua Act* to overcome the stalemate between the Crown and the iwi regarding their claims to authority over the river (Sanders 2018: 230).

social, or economic agents and Nature.[19] All five arguments still face challenges in fully conceptualizing and justifying rights of Nature, but they provide at least partial argumentative strategies beyond legal fictionalism for the plausibility of rights of Nature frameworks.

In settler colonial states, Indigenous organizations often have been at the forefront of ecological movements, and they have proposed ecocentric policies that were later converted into rights of Nature legislation. This has been the case in the constitution of Ecuador, although non-Indigenous politicians and environmental activists were also heavily involved (Tănăsescu 2013: 857, Gutmann 2021). In these cases, rights of Nature frameworks became an opportunity to approximate Indigenous cosmologies and ontologies from the perspective of a Western legal framework, to identify partial overlaps between Indigenous and Western legal frameworks, or at least to employ rights of Nature frameworks as strategically useful tools to introduce Indigenous concepts and notions at the national level. At the same time, it remains important to monitor whether rights of Nature frameworks actually can do justice to the Indigenous ontologies and cosmologies they aim to represent, as something is always "lost in translation," and power inequalities might distort the dialogue between settler governments and Indigenous peoples (Kramm 2021).[20]

I have examined attempts to justify rights of Nature based on ecocentric arguments and Indigenous ontologies and cosmologies but also based on non-ecocentric arguments. A third alternative would be an overlapping consensus (Rawls 1987) or convergence (Vallier 2011) between proponents of

[19] Tilo Wesche (2023) suggests a third way beyond ecocentrism and anthropocentrism and proposes an argument for rights of Nature that is based on extending the logic of property rights to ecosystems. According to his argument, ecosystems generate certain resources on the basis of which they should be granted property rights to these resources. However, I am not completely convinced his argument transcends the binary of ecocentrism and anthropocentrism, as property rights and their logic are still a human institution; his argument thus assumes an anthropocentric character. See also Kramm (Forthcoming).

[20] An example of a possible translation failure concerns the procedure that would be needed to identify the subjects of legal rights such as rivers, mountains, lakes, and hills (Rawson and Mansfield 2018: 104–105). Such a procedure would incur the risk of being biased and exclusionary because the recognition would be one-sided: human beings determine which parts of Nature are assigned rights of Nature. According to many Indigenous ontologies, such a procedure would not be needed, as all members within a relational network could be considered ancestors and potential subjects of rights.

ecocentric and non-ecocentric perspectives on law. Furthermore, it is important to distinguish between the justification of rights of Nature frameworks, which is either ecocentric or non-ecocentric, and the purpose or motivation for introducing such a framework, which may be, e.g., a political compromise in a treaty dispute or on ownership issues (Tănăsescu 2021: 79).

In at least three US cases (Grant Township, Pennsylvania; Highland Township, Pennsylvania; Santa Monica, California) and one case in Spain (Mar Menor), non-Indigenous local communities promoted rights of Nature frameworks to protect local ecosystems. Anthropogenic and sentientist arguments can provide partial justifications for such frameworks in Western contexts insofar as they are not compatible with ecocentric perspectives on environmental law.[21]

3.) Two models of rights of Nature

After considering different justifications for rights of Nature, this section discusses their implementation in practice. By discussing the two prevailing models of rights of Nature, possible combinations, and their respective advantages and disadvantages, I provide guidelines for selecting a model for Western contexts. I argue the best strategy for doing so is not limiting oneself to choosing between two models, but rather selecting elements from both depending on the socio-cultural context in which they are to be implemented.

Based on the work of Craig Kauffman and Pamela Martin (2021), we can distinguish between two rights of Nature models. The Nature's rights (NR) model has been applied in Ecuador and Bolivia (Tănăsescu 2013, 2022, Barié 2022).[22] According to this model, rights are assigned to Nature as a whole (or recognized).[23] Furthermore, any natural or legal person can speak for Nature but is not obliged to

[21] While it is helpful to explore non-ecocentric justifications of rights of Nature legislation, it remains imperative to listen to the Indigenous voices within Western contexts, such as the voices of the Sámi and Inuit in Europe.
[22] Alex Putzer et al. (2022: 92) have demonstrated that the NR model, in which rights are assigned to Nature indistinctively as a whole, is dominant and accounted for 66.5% of all initiatives in 2022.
[23] The question of whether rights of Nature are assigned to Nature or recognized depends on whether legal naturalism or legal fictionalism is presupposed. According to legal naturalism, rights of Nature are recognized

do so. The NR model is primarily reactive, as rights of Nature are only protected when violations are reported. The alternative model is the legal personhood (LP) model, which has been applied in Aotearoa New Zealand and Colombia (New Zealand Ministry of Justice 2017, Wesche 2021). According to the LP model, specific ecosystems are assigned legal personhood (or their legal personhood is recognized). The LP model introduces specific representational arrangements so specific persons or groups of persons represent the ecosystem before the law. This model is proactive, as the representatives are not only active during court cases, but they are also engaged in environmental decision-making outside of the court.

Erin O'Donnell (2019) and Kauffman and Martin (2021: 220–222) have criticized applying the LP model without substantive rights of Nature for two reasons: first, such a conceptualization of legal personhood would frame Nature as a helpless child and humans as the powerful parent. In reality, though, humans depend on Nature rather than the reverse. Second, this combination would mean Nature—as a legal person—can be held liable for the damage it causes. However, in this way, the regulation would replicate the paradigm that Nature is subject to human will and human laws. My subsequent discussion presupposes an LP model that contains substantive rights for Nature.[24]

Such specific rights could clarify the differences between the application of legal personhood to humans and its application to Nature. First, Nature cannot be held liable for the damage it causes

because they are based on certain characteristics and the moral status of Nature. Legal fictionalism, however, considers rights entirely as a legal construction, such that rights must be assigned to Nature. In this paper, I engage with ecocentric and non-ecocentric arguments based on a legal constructivism, according to which rights are considered a construction but are partially justified by a descriptive-cum-normative conceptualization of Nature, interests, or a contract.

[24] The applications of the LP model in Aotearoa New Zealand are connected to Māori ontology that considers ecosystems ancestors but avoids framing them as children or assigning liability claims to them. A mountain, a river, and a national park can become legal persons because they are ancestors. However, an ancestor can, for example, not be held liable for damage; instead, reciprocity demands humans give back to their ancestors because they have already received from them. A very different case is the legal personhood of the Ganga and Yamuna Rivers in India; there, the Court explicitly referred to the *in loco parentis* doctrine, which compared the river to a child (Tănăsescu 2022: 107). Here, O'Donnell's and Kauffman and Martin's worries were certainly justified.

because Nature is not merely one of many partners in a relationship of rights and duties with human beings; rather, it forms the foundation of these relationships and guarantees they can exist and persist throughout time. Second, the representation of Nature in court should not lead to new forms of paternalism for human beings over Nature. This could, for example, be expressed by the precautionary principle that legal decisions always should be in favor of Nature whenever there is any doubt that human projects could have a negative impact on it. While such a precautionary principle already forms part of some rights of Nature frameworks that employ the NR model, as in article 397 of the Ecuadorian constitution (Republic of Ecuador 2008: article 397, Mariqueo-Russell 2017: 24–25), it also should form part of all rights of Nature frameworks that employ the LP model.

In the remainder of this section, I compare two lists of reasons: one in favor of the NR model and another in favor of the LP model. The two models originated in political science as empirical reconstructions that aim to capture commonalities among different rights of Nature cases. In my evaluation, I discuss them as alternative models for implementing rights of Nature that can be combined in different ways according to the socio-political context.[25]

3.1) Reasons in favor of the NR model

There are four reasons in favor of the NR model. The first is the accessibility argument; one advantage of the NR model is any natural and any legal person can take legal action on behalf of Nature or certain parts of Nature. For example, according to Article 71(2) of the Ecuadorian Constitution, any person may claim rights of Nature (Republic of Ecuador 2008: article 71). Following this argument, every human being should be able to represent Nature, as all human beings depend on Nature and may find themselves in the position of having to defend it. However, there are also criticisms of this argument and the model of open and voluntary representation, which I discuss below, concerning the argument of permanence in favor of the LP model.

[25] Furthermore, I remain agnostic on the underlying empirical conception of Nature.

The second argument is the holism argument, according to which it is crucial to protect Nature as a whole because protecting individual ecosystems (e.g., a river) without protecting their constituents (e.g., sources) fails to account for the interconnectedness of Nature. Pollution that affects the constituents of Nature will eventually affect Nature in general. One example of this interconnectedness is the complex feedback mechanisms within karst terrains (Goldschneider 2019). Though one could object that the LP model could address this critique by implementing a network of legally protected ecosystems, such a network always would run the risk of remaining incomplete.

The third argument is an efficiency argument, which states assigning rights to Nature as a whole is more efficient from a legal perspective. For example, parliament could decide to include rights of Nature in the constitution and implement them in a single operation (Kersten 2022: 51–58). Otherwise, all ecosystems would have to be protected by individual legal frameworks and be added to environmental law individually.

The fourth argument is an effectivity argument, according to which promoting rights of Nature in the NR model is more effective because broad alliances of legal experts, activists, and scholars can promote them, in contrast to the dispersed, bottom-up, community-based, inclusionary procedures of the LP model. The concept of effectivity in this argument remains restricted to promoting rights of Nature. Thus far, no empirical work has compared the NR model and the LP model with regard to the environmental impact of their legal frameworks.[26]

[26] A first step towards such an impact analysis regarding European law has been made by Julián Suárez (2023, see also García Ruales et al. 2024). Other types of impact could be the role of rights of Nature frameworks for deliberation and policy-making or their role for initiating a cultural turn regarding the relationship between human beings and Nature. Such impacts could be valuable even if the use of rights of Nature as legal instruments remained limited and ineffective.

3.2) Reasons in favor of the LP model

On the other hand, four arguments also favor the LP model. The first is a permanence argument: permanent legal representation facilitates the initiation of legal proceedings or even the prior conduct of mediation proceedings. Economic agents have incentives to engage with permanent legal representatives during the planning phase of their projects (Takacs 2021: 571). The institution of legal representation also would make more transparent which ecosystems are represented and defended, whereas the alternative proposal—that any natural or legal person can start legal procedures on behalf of Nature—would fail to specify how and which ecosystems find legal agents who were sufficiently motivated and equipped to represent and defend them.[27] Furthermore, implementing the legal representation of ecosystems adds an institutional layer to the rights of Nature arrangement that can empower environmental activists. Once an institutional body of legal representation is established (e.g., the two representatives who form *Te Pou Tupua* in the Whanganui River case), this institution enjoys legal protection and is less vulnerable to external economic or political pressures than individual persons.

The second argument is an adaptation argument, according to which protecting specific ecosystems allows the legal framework to be adapted to the particular characteristics and requirements of that ecosystem (Wuijts et al. 2019: 664). For example, the measurement criteria for the wellbeing of a forest differ from those concerning the wellbeing of a coastal wetland. Different types of ecosystems (coastal wetlands, forests, mountains, rivers) could have legal frameworks tailored to their individual dynamics. Although the NR model also could elaborate ecosystem-specific criteria, the court or a commission of scientific experts would have to specify them in each individual rights of Nature case.

[27] In many cases, the NR model also would risk disconnecting local communities from local ecosystems, as anyone can assert a claim in the name of a particular ecosystem. This would raise difficult questions, particularly in the context of Indigenous peoples, where land ownership is often contested. Power might ultimately decide who can speak in the name of a particular ecosystem or Nature, thereby ignoring Indigenous place-specific genealogies, relationality, and land claims (Marshall 2020, Tănăsescu 2022: 139).

In the LP model, these criteria could be a constitutive part of the legal text that assigns rights to a specific ecosystem.

The third argument is based on expertise; it states Indigenous and other traditional expertise in terms of ecosystem conservation and ecological representation can contribute to an ecosystem's defense and management (Berkes and Berkes 2009). Indigenous communities currently maintain 80% of Earth's biodiversity, which proves their expertise in terms of ecosystem and biodiversity conservation (Nitah 2021: 907). In the Río Atrato Case, the establishment of a guardianship institution—although the court demanded it in a top-down manner—improved the procedure of developing policies to protect the river's ecosystem, and the resulting procedure is now more inclusive of local communities (Wesche 2021: 534).

The fourth argument centers on mobilization and states the connection between local ecosystems and local people leads to an identification between Nature and its stewards and facilitates the mobilization of the local community and the implementation of further institutional formats, such as co-management systems or the organization of ecosystems as commons. In contrast, the NR model runs the risk of excluding local actors and therefore becoming an elite-driven project (Tănăsescu 2022: 16).

3.3) Choosing a rights of Nature model for different socio-political contexts

While these four reasons in favor of the NR or LP model provide some guidance to environmental law- and policy-makers, the selection of a model for a Western context should not be limited to choosing either the NR or the LP model. A better strategy is to consider the socio-cultural context in which rights of Nature are to be implemented and combine elements of these models to fit that context. In the following, I briefly identify and discuss three factors that characterize a socio-cultural context.

The first is the environmental legislation and ecosystem management system in place in a specific country. In some cases, the existing legislation might allow for the introduction of rights of Nature at the constitutional level (Kersten 2022), whereas in other cases, changing the constitution might be highly problematic, e.g., in countries that accommodate a high diversity of ethnic groups but lack social coherence. The ecosystem management system also can determine which model should be implemented. For example, if all questions of water management are regulated at the national level, it might be impossible to address them locally with the support of the LP model. In this case, rights of Nature instead should be implemented at the national level. However, if water management is organized in a decentralized way, e.g., by delegating it to federal entities, the LP model might be a better option.

A second factor is the question of whether the population as a whole or specific communities support rights of Nature. If the population at large favors such rights, the NR model would be an option; otherwise, the LP model would be preferable, as it can be applied in local and restricted contexts. For example, in the case of the Mar Menor, assigning legal personhood to this saltwater lagoon received considerable support in parliament. However, several months later, fifty-two parliamentarians from the national conservative Vox party lodged a constitutional complaint against the law, arguing its vague concepts created legal uncertainty and it undermined economic freedom and existing private property (Gómez 2023). In this case, the LP model was certainly the better option, as the implementation of the NR model would have met with much more resistance in parliament.

A third factor arises if part of the population supports rights of Nature based on a holistic ontology, according to which rights should be assigned to Nature as a whole. Here, a dilemma would arise: either rights of Nature are assigned to Nature as a whole and also would apply to ecosystems that are located in parts of the country where the population does not support any holistic ontology, or the LP model would be implemented so rights of Nature apply only to ecosystems in specific parts of the country,

but the holistic ontology of the corresponding population would remain unacknowledged. Here, a deliberative process among different segments of the population could help clarify which elements of these models are best applied and how to avoid imposing legal requirements or marginalizing particular philosophies or ontologies.

The following table provides a brief overview of the above arguments and socio-cultural factors. These arguments can offer guidance for combining the most suitable elements of both models for a specific Western socio-cultural context.

Table 1. Overview of the arguments for the Nature's rights model, the legal personhood model, and socio-cultural factors regarding their implementation.

Nature's Rights Model **(e.g., Bolivia, Ecuador, and the United States)**	**Legal Personhood Model** **(e.g., Aotearoa New Zealand and Colombia)**
Arguments	
Accessibility argument	Permanence argument
Holism argument	Adaptation argument
Efficiency argument	Expertise argument
Effectivity argument	Mobilization argument
Socio-cultural factors	
Centralism	De-centralism/federalism
Population-wide support	Partial support
Holistic ontology	Non-holistic ontology

Thus far, I have primarily focused on the NR and the LP models as distinct. However, they are not mutually exclusive. Both the Spanish Mar Menor and the Colombian Río Atrato cases adopted elements from both and combined them (Mar Menor) or connected them with human rights approaches (Río Atrato).

In the case of the Mar Menor (2022), legal representation provides both for general accessibility of the rights of Nature by allowing all natural and legal persons to defend these rights before courts or authorities (Jefatura del Estado 2022: article 6) as well as for permanent representatives that are organized in a so-called *tutoría* (Jefatura del Estado 2022: article 3). This *tutoría* consists of three bodies: the Representatives' Committee, the Monitoring Commission, and the Scientific Committee. The aim of the three bodies is to obtain as concrete a picture as possible of the Mar Menor and its complex social, ecological, as well as economic and political interdependencies to ensure the success of the law (Putzer and Zenetti 2023).

In this way, the Mar Menor case seems to combine the best of both models within a Western context. The legal framework guarantees the accessibility of the rights of Nature to any natural and legal person, permanent representation, and the consultation of internal and external experts. However, one question lingers regarding possible tensions between these two modes of representation: Whether the *tutoría* will succeed in communicating successfully with third parties that go to court remains to be seen in practice. One could, for example, imagine conflicts of interest between the *tutoría* and third parties with regard to the scientific evaluation of rights of Nature claims that would need to be mediated before a lawsuit could be filed.

The Río Atrato case (2016–2017) began as an *acción de tutela* (action for the protection of constitutional rights) that was brought to the Colombian Constitutional Court by the NGO Tierra Digna, which represented various ethnic communities in the department of Chocó. In the case of the Río Atrato, recognizing the river as a legal person was a consequence of recognizing the surrounding ethnic communities' human and *biocultural* rights (MacPherson et al. 2020). The Court combined an ecocentric approach by recognizing the legal personhood of an ecosystem with a relational approach that connected this legal personhood to the collective rights of the surrounding ethnic communities (e.g., the right to culture and territory). In 2018, the Ministry of Environment and Sustainable

Development followed a proposal of the claimants and created the "Commission of Guardians of the Atrato River," a collegial body consisting of fourteen representatives from the local communities that legally represents the river as community guardian together with the Ministry of Environment as guardian on behalf of the state.

By referring to the biocultural rights of ethnic communities, the Río Atrato case succeeds in providing—at least formally—specific protection to ethnic communities and their interest in protecting the environment. Mauricio Guim and Michael Livermore (2021: 1415–1418) have notably argued that protecting the life and health of environmental activists should take priority over introducing rights of Nature frameworks. If violence and repression continually threaten the citizens of a country or the representatives of an ecosystem, it will be difficult for them to defend Nature against external economic interests. In the case of the Río Atrato, the protection of the human rights of the ethnic communities has become part of the rights of Nature framework. Of course, such a ruling still presupposes the representatives agree to their role in the corresponding legal arrangement (Tănăsescu 2022: 113–115) and they are equipped with the necessary financial means to fulfil this role (Wesche 2021: 551). A positive example is the Whanganui River Deed of Settlement, in which significant financial resources were invested in establishing the representative institution of *Te Pou Tupua* (New Zealand Government 2014).

While the Río Atrato case offers an innovative way to address the tension between human rights and rights of Nature by including both in its framework, biocultural rights also present certain challenges. They are only applicable in areas where there are ethnic communities who exhibit a distinct culture and a certain relationship to a territory that needs to be protected.[28] Hence, within a European context, their application only would be possible in Sámi, Inuit, or other Indigenous areas. The

[28] Corrigan (2021) discusses so-called linkage arguments, which examine the extent to which human rights in general—not just the rights of specific communities—support or even require rights of Nature.

tendency of biocultural rights to delegate the responsibility of environmental protection to specific communities and to reframe these communities as sustainable guardians or stewards, thereby relieving other communities of their responsibility, is also problematic (Saveja 2021: 93, Petel 2024).

In sum, the cases of the Mar Menor and the Río Atrato demonstrate that different elements of the NR and LP models can be combined or connected with human rights approaches in innovative ways. While these new combinations have yet to stand the test of time, they can be considered a call to environmental law- and policy-makers to navigate the tensions

- between making rights of Nature accessible to all natural and legal persons and permanent representation by appointed persons or groups, including a procedure that legitimates their appointment,
- between a holistic approach and rights adapted to individual ecosystems,
- between efficient implementation and piecemeal implementation,
- and finally, between effective implementation and long-term, bottom-up, inclusionary procedures and the involvement of local and scientific experts.

How environmental law- and policy-makers should navigate these tensions largely depends on the socio-cultural context; e.g., whether environmental law is organized in a centralized or decentralized way, whether the whole population or merely a part of it supports rights of Nature, and whether a holistic or non-holistic ontology prevails. Hence, the best strategy for selecting a model for Western contexts is not to restrict oneself to either the NR or the LP model but to combine elements of both based on the socio-cultural context in which rights of Nature are to be implemented.

4) Conclusion

In this article, I addressed the question of whether the rights of Nature also can be justified and implemented in Western socio-cultural contexts, focusing in particular on Europe. I first introduced five ways to justify rights of Nature and examined both ecocentric and non-ecocentric arguments. I

then compared the Nature's rights model and the legal personhood model and suggested some guidelines regarding which elements of these models should be chosen for a specific Western socio-cultural context.

I hope my analysis of different justifications for assigning rights to Nature can contribute to considering rights of Nature frameworks in Western contexts in which non-ecocentric and anthropocentric ontologies and cosmologies continue to prevail. Moreover, if my assessment of different models of rights of Nature and various socio-cultural factors for their implementation provide guidance, even in a limited capacity, for environmental law- and policy-making in Western contexts, the goal of this article would be achieved.

Bibliography

Apaza Huanca, Yaneth Katia. 2019. "Non-Western Epistemology and the Understanding of the Pachamama (Environment) within the World(s) of the Aymara Identity." *International Journal for Crime, Justice and Social Democracy* 8(3): 6–22. https://doi.org/10.5204/ijcjsd.v8i3.1241.

Baard, Patrik. 2021. "Fundamental Challenges for Rights of Nature." in *Rights of Nature: A Re-Examination*, ed. Daniel P. Corrigan and Markku Oksanen, 156–175. London, New York: Routledge. https://doi.org/10.4324/9780367479589-10.

Barié, Cletus Gregor. 2022. "Doce Años de Soledad de los Derechos de la Madre Tierra en Bolivia." *Naturaleza y Sociedad. Desafíos Medioambientales* 4: 142–182. https://doi.org/10.53010/nys4.05.

Berkes, Fikret, and Mina Kislalioglu Berkes. 2009. "Ecological Complexity, Fuzzy Logic, and Holism in Indigenous Knowledge." *Futures* 41(1): 6–12. https://doi.org/10.1016/j.futures.2008.07.003.

Bradley, Ben. 2006. "Two Concepts of Intrinsic Value." *Ethical Theory and Moral Practice* 9(2): 111–130. https://doi.org/10.1007/s10677-006-9009-7.

Cohen, Andrew I. 2007. "Contractarianism, Other-Regarding Attitudes, and the Moral Standing of Nonhuman Animals." *Journal of Applied Philosophy* 24 (2): 188–201. https://doi.org/10.1111/j.1468-5930.2007.00362.x.

Cohen, Andrew I. 2008. "Dependent Relationships and the Moral Standing of Nonhuman Animals." *Ethics & the Environment* 13 (2): 1–21. https://www.jstor.org/stable/40339157.

Corrigan, Daniel P. 2021. "Human Rights and Rights of Nature: Prospects for a Linkage Argument." in *Rights of Nature: A Re-Examination*, ed. Daniel P. Corrigan and Markku Oksanen, 101–120. Oxon: Routledge. https://doi.org/10.4324/9780367479589-7.

Cribb, Miriama, Elizabeth Macpherson, and Axel Borchgrevink. 2024. "Beyond legal personhood for the Whanganui River: collaboration and pluralism in implementing the *Te Awa Tupua Act.*" *The International Journal of Human Rights*: 1–24. https://doi.org/10.1080/13642987.2024.2314532.

Cripps, Elizabeth. 2010. "Saving the Polar Bear, Saving the World: Can the Capabilities Approach do Justice to Humans, Animals *and* Ecosystems?" *Res Publica* 16 (1): 1–22. https://doi.org/10.1007/s11158-010-9106-2.

García Ruales, Jenny, Katarina Hovden, Helen Kopnina, Colin D. Robertson, and Hendrik Schoukens. (editors). 2024. *Rights of Nature in Europe: Encounters and Visions*. Oxon, New York: Routledge. https://doi.org/10.4324/9781003318989.

Gilbert, Jérémie, Ilkhom Soliev, Anne Robertson, Saskia Vermeylen, Neil W. Williams, and Robert C. Grabowski. 2023. "Understanding the Rights of Nature: Working Together Across and Beyond Disciplines." *Human Ecology* 51: 363–377. https://doi.org/10.1007/s10745-023-00420-1.

Goldschneider, Nico. 2019. "A Holistic Approach to Groundwater Protection and Ecosystem Services in Karst Terrains." *Carbonates and Evaporites* 34: 1241–1249. https://doi.org/10.1007/s13146-019-00492-5.

Gómez, David. 2023. "Vox lleva al Tribunal Constitucional la ley de Personalidad Jurídica del Mar Menor." *La Verdad*, 2023. https://www.laverdad.es/murcia/lleva-tribunal-constitucional-20230110124310-nt.html. Accessed 2024-01-19.

Guim, Mauricio, and Michael A. Livermore. 2021. "Where Nature's Rights Go Wrong." *Virginia Law Review* 107 (7): 1347–1419.

Gutmann, Andreas. 2021. "Pachamama as a Legal Person? Rights of Nature and Indigenous Thought in Ecuador." in *Rights of Nature: A Re-Examination*, ed. Daniel P. Corrigan and Markku Oksanen, 36–50. Oxon: Routledge. https://doi.org/10.4324/9780367479589-3.

Jansen, Bart. 2024. "The Ontological Indifference of Rights of Nature." *Liverpool Law Review* 45, 171–178. https://doi.org/10.1007/s10991-023-09344-8.

Jefatura del Estado. 2022. "Ley 19/2022, de 30 de Septiembre, Para el Reconocimiento de Personalidad Jurídica a la Laguna del Mar Menor y su Cuenca." *Boletín Oficial Del Estado* 327: 135131–135135. https://www.boe.es/eli/es/l/2022/09/30/19/con. Accessed 2024-01-19.

Kauffman, Craig M., and Pamela L. Martin. 2017. "Can Rights of Nature Make Development More Sustainable? Why Some Ecuadorian Lawsuits Succeed and Others Fail." *World Development* 92 (1): 130–142. https://doi.org/10.1016/j.worlddev.2016.11.017.

Kauffman, Craig M., and Pamela L. Martin. 2021. *The Politics of Rights of Nature: Strategies for Building a More Sustainable Future*. Cambridge, MA: MIT Press. https://doi.org/10.7551/mitpress/13855.001.0001.

Kelsen, Hans. 1992. *Introduction to the Problems of Legal Theory: A Translation of the First Edition of the Reine Rechtslehre or Pure Theory of Law*. Transl. Bonnie Litschewski Paulson and Stanley L. Paulson. New York: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780198265658.001.0001.

Kersten, Jens. 2022. *Das Ökologische Grundgesetz*. München: C. H. Beck.

Knauß, Stefan. 2018. "Conceptualizing Human Stewardship in the Anthropocene: The Rights of Nature in Ecuador, New Zealand and India." *Journal of Agricultural and Environmental Ethics* 31: 703–722. https://doi.org/10.1007/s10806-018-9731-x.

Kramm, Matthias. 2020. "When a River becomes a Person." *Journal of Human Development and Capabilities* 21 (4): 307–319. https://doi.org/10.1080/19452829.2020.1801610.

Kramm, Matthias. 2021. "The Role of Political Ontology for Indigenous Self-Determination." *Critical Review of International Social and Political Philosophy*: 1–22. https://doi.org/10.1080/13698230.2021.1997250.

Kramm, Matthias. Forthcoming. "Book review of Tilo Wesches 'Die Rechte der Natur: Vom nachhaltigen Eigentum'." *Environmental Philosophy*.

Kurki, Visa A. J. 2019. *A Theory of Legal Personhood*. Oxford: Oxford University Press. https://doi.org/10.1093/oso/9780198844037.001.0001.

Kurki, Visa A. J. 2022. "Can Nature hold Rights? It's not as easy as you think." *Transnational Environmental Law* 11 (3): 525–552. https://doi.org/10.1017/S2047102522000358.

Mackie, John. L. 1990. *Ethics: Inventing Right and Wrong*. London: Penguin Books.

MacPherson, Elizabeth, Julia Torres Ventura, and Felipe Clavijo Ospina. 2020. "Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects." *Transnational Environmental Law* 9 (3): 521–540. https://doi.org/10.1017/S204710252000014X.

Mariqueo-Russell, Atus. 2017. "Rights of Nature and the Precautionary Principle." *RCC Perspectives* 6: 21–28. https://www.jstor.org/stable/26268372.

Marshall, Virginia. 2020. "Removing the Veil from the 'Rights of Nature': The Dichotomy between First Nations Customary Rights and Environmental Legal Personhood." *Australian Feminist Journal* 45(2): 233–248. https://doi.org/10.1080/13200968.2019.1802154.

McDowell, John. 1985. "Values and Secondary Qualities." in *Morality and Objectivity*, ed. Ted Honderich, 110–129. London: Routledge. https://doi.org/10.4324/9780203808368.

Montes Franceschini, Macarena. 2022. "Traditional Conceptions of the Legal Person and Nonhuman Animals." *Animals* 12(19): 1–16. https://doi.org/10.3390/ani12192590.

New Zealand Government. 2014. "Whanganui Iwi (Whanganui River) Deed of Settlement Summary 5 August 2014." https://www.govt.nz/assets/Documents/OTS/Whanganui-Iwi/Whanganui-River-Deed-of-Settlement-Ruruku-Whakatupua-Te-Mana-o-Te-Awa-Tupua-5-Aug-2014.pdf. Accessed 2024-01-19.

New Zealand Ministry of Justice. 2017. "Te Awa Tupua (Whanganui River Claims Settlement) Act 2017." Parliamentary Counsel Office. https://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html. Accessed 2024-01-19.

Nitah, Steve. 2021. "Indigenous Peoples proven to sustain Biodiversity and address Climate Change: Now it's Time to recognize and support this Leadership." *One Earth* 4(7): 907–909. https://doi.org/10.1016/j.oneear.2021.06.015.

O'Donnell, Erin. 2019. *Legal Rights for Rivers: Competition, Collaboration and Water Governance*. New York: Routledge.

Pepper, Angie. 2018. "Delimiting Justice: Animal, Vegetable, Ecosystem?" *Les Ateliers de l'éthique* 13 (1): 210–230. https://doi.org/10.7202/1055125ar.

Petel, Matthias. 2024. "The Illusion of Harmony: Power, Politics, and Distributive Implications of Rights of Nature." *Transnational Environmental Law*: 1–23. https://doi.org/10.1017/S2047102523000262.

Putzer, Alex, Tineke Lambooy, Ronald Jeurissen, and Eunsu Kim. 2022. "Putting the Rights of Nature on the Map. A Quantitative Analysis of Rights of Nature Initiatives across the World." *Journal of Maps* 18 (1): 89–96. https://doi.org/10.1080/17445647.2022.2079432.

Putzer, Alex, and Jula Zenetti. 2023. "Die Rechte Des Spanischen Mar Menor." in *Rechte Für Flüsse, Berge und Wälder: Eine neue Perspektive Für Den Naturschutz?* ed. Matthias Kramm, 55–60. München: Oekom Verlag.

Rawls, John. 1987. “The Idea of an Overlapping Consensus.” *Oxford Journal of Legal Studies* 7 (1): 1–25. https://doi.org/10.1093/ojls/7.1.1.

Rawson, Ariel, and Becky Mansfield. 2018. “Producing Juridical Knowledge: ‘Rights of Nature’ or the Naturalization of Rights?” *Environment and Planning E: Nature and Space* 1 (1–2): 99–119. https://doi.org/10.1177/2514848618763807.

Raz, Joseph. 1984. “On the Nature of Rights.” *Mind* 93: 194–214. https://www.jstor.org/stable/2254002.

Regan, Tom. 1992. “Does Environmental Ethics Rest on a Mistake?” *The Monist* 75 (2): 161–182. https://www.jstor.org/stable/27903284.

Republic of Ecuador. 2008. *Constitution of the Republic of Ecuador*. https://pdba.georgetown.edu/Constitutions/Ecuador/english08.html. Accessed 2024-01-19.

Rocha, James. 2015. “Kantian Respect for Minimally Rational Animals.” *Social Theory and Practice* 41 (2): 309–327. https://doi.org/10.5840/soctheorpract201541217.

Ruru, Jacinta. 2018. “Listening to Papatūānuku: A Call to Reform Water Law.” *Journal of the Royal Society of New Zealand* 48 (2–3): 215–224. https://doi.org/10.1080/03036758.2018.1442358.

Sanders, Katherine. 2018. “‘Beyond Human Ownership’? Property, Power and Legal Personality for Nature in Aotearoa New Zealand.” *Journal of Environmental Law* 30(2): 207–234. https://doi.org/10.1093/jel/eqx029.

Saveja, Giulia. 2021. “Environmentally Conditioned Human Rights: A Good Idea?” in *Rights of Nature: A Re-Examination*, ed. Daniel P. Corrigan and Markku Oksanen, 85–100. Oxon: Routledge. https://doi.org/10.4324/9780367479589-6.

Schlosberg, David. 2007. *Defining Environmental Justice: Theories, Movements, and Nature*. Oxford, New York: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199286294.001.0001.

Stone, Christopher. 1972. “Should Trees Have Standing? Toward Legal Rights for Natural Objects.” *Southern California Law Review* 45: 450–501.

Storini, Claudia, and Fausto Quizhpe. 2019. “Hacia otro fundamento de los derechos de la Naturaleza.” in *La Naturaleza como sujeto de derechos en el constitucionalismo democrático*, ed. Liliana Estupiñán Achury, Claudia Storini, Rubén Martínez Dalmau, and Fernando Antonio de Carvalho Dantas, 49–70. Bogotá: Universidad Libre. https://doi.org/10.18041/978-958-5578-09-8.

Suárez Bohorquez, Julián. 2023. “Could rights of nature be overlapping, redundant and conflicting regarding existing environmental protection? An overview of selected European domestic law frameworks.” *Environmental Liability - Law, Policy and Practice* 28(2): 90–107.

Takacs, David. 2021. “We Are the River.” *University of Illinois Law Review* 2: 545–606.

Tănăsescu, Mihnea. 2013. “The Rights of Nature in Ecuador: The Making of an Idea.” *International Journal of Environmental Studies* 70 (6): 846–861. https://doi.org/10.1080/00207233.2013.845715.

Tănăsescu, Mihnea. 2021. “The Rights of Nature as Politics.” in *Rights of Nature: A Re-Examination*, ed. Daniel P. Corrigan and Markku Oksanen, 69–84. Oxon: Routledge. https://doi.org/10.4324/9780367479589-5.

Tănăsescu, Mihnea. 2022. *Understanding the Rights of Nature: A Critical Introduction*. Bielefeld: transcript.

Tanner, Julia. 2013. “Contractarianism and Secondary Direct Moral Standing for Marginal Humans and Animals.” *Res Publica* 19: 141–156. https://doi.org/10.1007/s11158-012-9212-4.

Taylor, Paul W. 2011. *Respect for Nature: A Theory of Environmental Ethics*. Princeton: Princeton University Press.

Tola, Miriam. 2018. “Between Pachamama and Mother Earth: Gender, Political Ontology and the Rights of Nature in Contemporary Bolivia.” *Feminist Review* 118(1): 25–40. https://doi.org/10.1057/s41305-018-0100-4.

United Nations Economic Commission for Europe. 1998. Convention on Access to Information, Public Participation in Decision-Making And Access to Justice in Environmental Matters (Aarhus

Convention). Geneva: UNECE. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A22005A0517%2801%29. Accessed 2024-01-19.

Vallier, Kevin. 2011. "Convergence and Consensus in Public Reason." *Public Affairs Quarterly* 25 (4): 261–279. https://www.jstor.org/stable/23057084.

Van der Wal-Zeggelink, Christianne. 2022. "Kamerbrief DGNV / 22540771." https://open.overheid.nl/documenten/ronl-4a87ddc36f0f5addf93f69b853ddfa97c6b0e001/pdf. Accessed 2024-01-19.

Wenar, Leif. 2020. "Rights." *Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta and Uri Nodelman, Spring 2023 edition. https://plato.stanford.edu/entries/rights/.

Wesche, Philipp. 2021. "Rights of Nature in Practice: A Case Study on the Impacts of the Colombian Atrato River Decision." *Journal of Environmental Law* 33(3): 531–555. https://doi.org/10.1093/jel/eqab021.

Wesche, Tilo. 2023. *Die Rechte der Natur: Vom nachhaltigen Eigentum*. Berlin: Suhrkamp.

Wuijts, Susanne, Jappe Beekman, Bas Van der Wal, Cathy Suykens, Peter P. J. Driessen, and Helena F. M. W. Van Rijswijk. 2019. "An Ecological Perspective on a River's Rights: A Recipe for More Effective Water Quality Governance?" *Water International* 44 (6–7): 647–666. https://doi.org/10.1080/02508060.2019.1615773.

Youatt, Rafi. 2017. "Personhood and the Rights of Nature: The New Subjects of Contemporary Earth Politics." *International Political Sociology* 11(1): 39–54. https://doi.org/10.1093/ips/olw032.