

## INTRODUCTION TO SPECIAL ISSUE ON RETHINKING RIGHTS AND JUSTICE FOR NON-HUMANS

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This Special Issue is an outcome of the lectures and discussions on ‘Cross-cutting Themes and Concepts in Human Rights’, offered as a Seminar Course to the students of the MA Programme, School of International Studies, Jawaharlal Nehru University.<sup>1</sup> As part of the Course, a Webinar on ‘Rethinking Rights and Justice for Non-Humans’ was held in 2022, in which the participants advanced some of the most compelling arguments for the meaningful representation of non-human entities in law and governance. In the three sessions of the webinar, the participants explored the terrain of relevant concepts, emerging norms, and moral justifications that underline the case of non-human entities: (i) The Limits of Animal Rights: Exploring the Case for Multispecies Justice, (ii) Humanist Dimensions of Machines, and (iii) Representing Nature: Rights, Crimes, and Diplomacy.

Scholarly literature on the subject matter sheds light on the gaps in existing legal frameworks concerning the responsibilities of human beings towards the non-human life forms.<sup>2</sup> There is evidence of a growing universal consciousness embedded in the worth and sacredness of non-

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<sup>1</sup> The Seminar Course is offered by the Human Rights Studies Programme of the School of International Studies (JNU) in the Winter Semester. The course instructor is Dr. Deepa Kansra.

<sup>2</sup> See Florian Cord, “Posthumanist Cultural Studies: Taking the Nonhuman Seriously”, 6 *Open Cultural Studies* 25-37 (2022); Mihnea Tănăsescu, *Understanding the Rights of Nature A Critical Introduction* (Verlag 2022); Joana Castro Pereira, André Saramago (Eds.), *Non-Human Nature In World Politics: Theory And Practice* (Springer 2020); Sheena Swemmer, “International Law, Domestic Violence, And The Intersection With Nonhuman Animal Abuse” *Society & Animals* 1-19 (2019); Tomasz Pietrzykowski, The Idea of Non-personal Subjects of Law, in V.A.J. Kurki, T. Pietrzykowski (eds.), *Legal Personhood: Animals, Artificial Intelligence and the Unborn*, Law and Philosophy Library (2017); Wolfgang Hofkirchner, Digital Humanism: Epistemological, Ontological and Praxiological Foundations, in Pieter Verdegem (ed.), *AI for Everyone: Critical Perspectives* (2021); Toby Svoboda, “Why there is no Evidence for the Intrinsic Value of Non-humans”, 16 (2) *Ethics & The Environment* 26 (2011); Editorial, “Animal rights: interconnections with human rights and the environment”, 11:2 *Journal of Human Rights and the Environment* 149-155 (September 2020); Bob Carter and Oliver J. T. Harris, The End of Normal Politics: Assemblages, Non-Humans and International Relations, in Joana Castro Pereira, André Saramago (eds.), *Non-Human Nature in World Politics: Theory and Practice* (Springer 2020); David Plunkett, Justice, Non-Human Animals, and the Methodology of Political Philosophy, *Jurisprudence* 6 (2016); Malte-Christian Gruber, Why Non-Human Rights? 32:2 *Law & Literature* 268 (2020); Jasmine B. Ulmer, “Posthumanism as Research Methodology: Inquiry in the Anthropocene”, *International Journal of Qualitative Studies in Education* 3 (2017).

human life forms.<sup>3</sup> And a series of developments in the fields of technology, philosophy, and other disciplines, have moved the non-human entities to the forefront of legal reforms, domestic and international.<sup>4</sup>

The role of legal and judicial institutions in filling these gaps is also noteworthy in this regard.<sup>5</sup> And new theoretical frameworks across legal and other disciplinary spaces, namely multispecies justice, post humanism, and digital humanism are particularly relevant.<sup>6</sup> In the article *Multispecies Justice: Theories, Challenges, And a Research Agenda for Environmental Politics*, the authors emphasize that “rethinking the subject of justice moves attention from the fiction of individuals to the actual ecological array of relationships that sustain life. As humans and other beings surround, infuse, and support each other, justice for any cannot be divorced from MSJ for all.”<sup>7</sup> Further, it is through the prism of the “multi-species justice” (MSJ) concept that the false assumptions about the supremacy of human beings can be addressed and countered.

The need for greater advocacy for reforms is also reflected in the academia/expert-led declarations and instruments including the Cambridge Declaration on Consciousness (2012)<sup>8</sup>, the Charter on the Law of the Living (2021)<sup>9</sup>, the Toulon Declaration (2019)<sup>10</sup>, the Universal Declaration of Rights of Mother Earth (2010)<sup>11</sup>, Collective Thinking on the Rights of the Pacific Ocean, 2018 (Ocean Rights Statement hereinafter)<sup>12</sup>, the Vienna Manifesto on Digital Humanism<sup>13</sup>, etc. On the

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<sup>3</sup> Deepa Kansra, “Dignity, a regenerative idea”, *ILI Law Review* (Winter 2016).

<sup>4</sup> Deepa Kansra, “Law and the Rights of Non-Humans”, Vol. 8 No. 2 *IILS Law Review* (FORTHCOMING).

<sup>5</sup> *High Court Of Uttarakhand*, Writ Petition No. 126 of 2014 (Dated March 20, 2017) 2016 (116) ALR 619; *High Court of Punjab and Haryana at Chandigarh* (decided on May 31, 2019) CRR-533-2013; *Te Awa Tupua ( Whanganui River Claims Settlement) Act of new Zealand*, 2017.

<sup>6</sup> Danielle Celermajer, David Schlosberg, Lauren Rickards, Makere Stewart Harawira, Mathias Thaler, Petra Tschakert, Blanche Verlie, Christine Winter, “Multispecies Justice: Theories, Challenges, And A Research Agenda For Environmental Politics” 30:1-2 *Environmental Politics* 119-140 (2021).

<sup>7</sup> *Id.*, at 120.

<sup>8</sup> *Animal Ethics, Five Years of the Cambridge Declaration on Consciousness (2017)*, available at: [Five years of the Cambridge Declaration on Consciousness — Animal Ethics \(animal-ethics.org\)](https://www.animal-ethics.org/)

<sup>9</sup> *United Nations Harmony with Nature Programme, The Charter on the Law of the Living, 2021*, available at: [https://www.univ-tln.fr/IMG/pdf/charter\\_on\\_the\\_law\\_of\\_the\\_living\\_-\\_eng.pdf](https://www.univ-tln.fr/IMG/pdf/charter_on_the_law_of_the_living_-_eng.pdf) (last visited on January 12, 2022).

<sup>10</sup> *Declaration of Toulon (2019)*, available at: <https://www.univ-tln.fr/Declaration-de-Toulon.html> (last visited on January 12, 2022).

<sup>11</sup> *Universal Declaration of Rights of Mother Earth (2010)*, available at: <https://declarationproject.org/?p=1164> (last visited on January 12, 2022).

<sup>12</sup> *Collective Thinking on the Rights of the Pacific Ocean, Study on rights of the Pacific Ocean*, New Zealand (2018).

<sup>13</sup> *Vienna Manifesto on Digital Humanism*, available at: <https://dighum.ec.tuwien.ac.at/dighum-manifesto/> (last visited on January 12, 2022).

subject of legal reforms, the Charter on the Law of the Living makes a direct reference to the needed reforms within legal systems and the change in “legal dynamics” for the non-human world. The Ocean Rights Statement writes of “a transformational shift” that is needed in the behavioral, societal, legal, governance and economic relationships to live in harmony with the Ocean.<sup>14</sup>

The key questions that emerge from these developments is who are the non-human entities? And why are they claiming rights?<sup>15</sup> Some would ask whether the law needs new theories. And is it viable to extend the reach of existing frameworks like human rights to the non-human world? What are the challenges in the way of the rights of the non-humans?

In light of the above developments, the articles of this Special Issue discuss eight themes of international and domestic importance, including animal rights and multispecies justice, human rights for future generations, the genocide-ecocide nexus in international law, humanistic dimensions of machines, rights of nature and role of indigenous communities, and reforms for criminalizing ecocide in international law.

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<sup>14</sup> *Supra* note 5.

<sup>15</sup> *Ibid.*